

By: Representative Busby

To: Transportation; Ways and
Means

HOUSE BILL NO. 1071

1 AN ACT TO BRING FORWARD SECTIONS 27-55-11, 27-55-12, 27-55-19
2 AND 27-55-23, MISSISSIPPI CODE OF 1972, WHICH ARE SECTIONS OF THE
3 GASOLINE EXCISE TAX LAW, FOR THE PURPOSES OF POSSIBLE AMENDMENT;
4 TO BRING FORWARD SECTIONS 27-55-519, 27-55-521, 27-55-523 AND
5 27-55-533, MISSISSIPPI CODE OF 1972, WHICH ARE SECTIONS OF THE
6 MISSISSIPPI SPECIAL FUEL TAX LAW, FOR THE PURPOSES OF POSSIBLE
7 AMENDMENT; TO BRING FORWARD SECTION 27-5-101, MISSISSIPPI CODE OF
8 1972, WHICH PROVIDES FOR THE DISTRIBUTION OF FUEL TAXES, FOR THE
9 PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 65-39-35,
10 MISSISSIPPI CODE OF 1972, WHICH PROVIDES THE DATES UPON WHICH THE
11 RATES OF CERTAIN TAXES WILL BE REDUCED UPON THE COMPLETION OF
12 CERTAIN TRANSPORTATION PROJECTS; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** Section 27-55-11, Mississippi Code of 1972, is
15 brought forward as follows:

16 27-55-11. Any person in business as a distributor of
17 gasoline or who acts as a distributor of gasoline, as defined in
18 this article, shall pay for the privilege of engaging in such
19 business or acting as such distributor an excise tax equal to
20 Eighteen Cents (18¢) per gallon until the date specified in
21 Section 65-39-35, and Fourteen and Four-tenths Cents (14.4¢) per
22 gallon thereafter, on all gasoline and blend stock stored, sold,
23 distributed, manufactured, refined, distilled, blended or



24 compounded in this state or received in this state for sale, use
25 on the highways, storage, distribution, or for any purpose.

26 Any person in business as a distributor of aviation gasoline,
27 or who acts as a distributor of aviation gasoline, shall pay for
28 the privilege of engaging in such business or acting as such
29 distributor an excise tax equal to Six and Four-tenths Cents
30 (6.4¢) per gallon on all aviation gasoline stored, sold,
31 distributed, manufactured, refined, distilled, blended or
32 compounded in this state or received in this state for sale,
33 storage, distribution or for any purpose.

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

36 The tax herein imposed and assessed shall be collected and
37 paid to the State of Mississippi but once in respect to any
38 gasoline. The basis for determining the tax liability shall be
39 the correct invoiced gallons, adjusted to sixty (60) degrees
40 Fahrenheit at the refinery or point of origin of shipment when
41 such shipment is made by tank car or by motor carrier. The point
42 of origin of shipment of gasoline transported into this state by
43 pipelines shall be deemed to be that point in this state where
44 such gasoline is withdrawn from the pipeline for storage or
45 distribution, and adjustment to sixty (60) degrees Fahrenheit
46 shall there be made. The basis for determining the tax liability
47 on gasoline shipped into this state in barge cargoes and by
48 pipeline shall be the actual number of gallons adjusted to sixty



49 (60) degrees Fahrenheit unloaded into storage tanks or other
50 containers in this state, such gallonage to be determined by
51 measurement and/or gauge of storage tank or tanks or by any other
52 method authorized by the commission. The tank or tanks into which
53 barge cargoes of gasoline are discharged, or into which gasoline
54 transported by pipeline is discharged, shall have correct gauge
55 tables listing capacity, such gauge tables to be prepared by some
56 recognized calibrating agency and to be approved by the
57 commission.

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

68 Gasoline imported by common carrier shall be deemed to be
69 received by the distributor of gasoline, and the tax levied herein
70 shall accrue, when the car or tank truck containing such gasoline
71 is unloaded by the carrier.

72 With respect to distributors or other persons who bring,
73 ship, have transported, or have brought into this state gasoline



74 by means other than through a common carrier, the tax accrues and
75 the tax liability attaches on the distributor or other person for
76 each gallon of gasoline brought into the state at the time when
77 and at the point where such gasoline is brought into the state.

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

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

89 27-55-12. (1) The United States government, the State of
90 Mississippi, counties, municipalities, school districts and all
91 other political subdivisions of the state, and volunteer fire
92 departments chartered under the laws of the State of Mississippi
93 as nonprofit corporations shall be exempt from excise taxes on
94 gasoline, special fuel and compressed gas as follows:

95 (a) From the excise tax rate in excess of Nine Cents
96 (9¢) per gallon of gasoline and from the excise tax rate in excess
97 of One Cent (1¢) per gallon of aviation gasoline levied under
98 Section 27-55-11, Mississippi Code of 1972, Five and Four-tenths



Cents (5.4¢) thereof shall be exempt as provided in Section 27-55-19, Mississippi Code of 1972.

(b) From the excise tax rate in excess of Ten Cents (10¢) per gallon of special fuel levied at Eighteen Cents (18¢) per gallon under Sections 27-55-519 and 27-55-521, Four and Three-fourths Cents (4.75¢) thereof shall be exempt.

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

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

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

(3) The exemption provided in subsection (1) of this section for sales of gasoline, special fuel and compressed gas also shall apply to sales of gasoline, special fuel and compressed gas to an entity described in Section 27-51-41(2)(u) for use in buses and



other motor vehicles that are exempt from ad valorem taxation under Section 27-51-41(2) (u) .

(4) Any person other than a bonded distributor of gasoline, bonded distributor of special fuel or bonded distributor of compressed gas who sells or delivers any gasoline, special fuel or compressed gas, subject to the exemption set forth in this section, is required to obtain credit for such exemption from a bonded distributor of gasoline, special fuel or compressed gas.

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

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

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

(b) Sold to the United States government for use of the Armed Forces only, and delivered in quantities of not less than four thousand (4,000) gallons. Any exemption provided in this paragraph (b) may be deducted without the prior approval of the department, provided that satisfactory proof of such exemption



149 shall be furnished to the department. However, such exemption may
150 be disallowed by the department if the distributor fails to
151 furnish satisfactory proof of such exemption to the department.

152 (c) Exported to a destination beyond the borders of
153 this state by a bonded distributor of gasoline when the tax on
154 such gasoline has been paid or on which the tax liability imposed
155 by this article has accrued against such bonded distributor. Any
156 exemption provided in this paragraph (c) may be deducted without
157 the prior approval of the department, provided that satisfactory
158 proof of such exemption shall be furnished to the department;
159 however, such exemption may be disallowed by the department if the
160 distributor fails to furnish satisfactory proof of such exemption
161 to the department within ninety (90) days from the sale or
162 delivery of the gasoline.

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

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

171 (f) Sold to any manufacturer for blending or
172 compounding to the end that it becomes a component part of any
173 manufactured product, or where used as a processing agent in the



treatment of raw material in manufacturing a product which does not fall within the meaning of the term "gasoline" as defined in this article.

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

Except as provided in paragraphs (b) and (c) above, evidence of exempt transactions provided in this section and subsections thereof, satisfactory to the department, shall be submitted by the distributor desiring an allowance of said exemptions to the department with the payment of the excise tax on the gasoline on which the exemption is claimed. If the department decides that the distributor is entitled to the exemption and allowance claimed, it shall notify said distributor in writing of such allowance. The distributor shall then be allowed to deduct from the payments made in his next monthly report, after said allowance, the amount of tax which he paid on this exempted gasoline which amount shall be arrived at by taking the amount of exempted gasoline minus two percent (2%) allowed for evaporation, shrinkage and other losses on gasoline, and multiplying the remainder by the amount of excise tax per gallon. In cases where the amount of such tax cannot be absorbed on the estimated tax liability of the person making such payments during the next six (6) months, the amount shall be refunded to the taxpayer. Such amount shall be certified to the State Auditor of Public Accounts by the department. The said Auditor is hereby authorized to make



199 such investigation and audit of the claim as he finds necessary.
200 If he finds that the department is correct in its determination,
201 the Auditor may issue his warrant to the State Treasurer in favor
202 of the taxpayer for the amount of tax erroneously paid, such
203 refunds to be made from current gasoline, or special fuel tax
204 collections.

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

210 In case gasoline and special fuel on which the tax has been
211 previously paid are accidentally mixed, the distributor of
212 gasoline or other person owning such mixture may ship the mixture
213 out of the State of Mississippi, or to a Mississippi refinery, and
214 may claim credit for the gasoline and/or special fuel tax on the
215 gasoline and special fuel so mixed. The distributor of gasoline
216 or other person may also ship the mixture to a barge or pipeline
217 storage terminal within the State of Mississippi to be brought up
218 to gasoline specifications, or lowered to special fuel
219 specifications, as the case might be, under the supervision of a
220 representative of the department. It shall be the duty of the
221 distributor of gasoline or other person to whom the mixed product
222 belongs to notify the department immediately after knowledge that
223 the mixture has occurred.



224 In case the distributor of gasoline or other person elects to
225 ship the mixture to a barge or pipeline terminal for storage
226 within this state, the department shall supervise the unloading of
227 the mixture.

228 In order to perfect a claim for credit for the tax on the
229 gasoline and special fuel constituting any such mixture, the
230 distributor of gasoline or other person making the claim shall do
231 so in writing and shall furnish proof satisfactory to the
232 department that the mixture was either shipped out of this state
233 or to a refinery or other approved place of storage within this
234 state. The department shall notify the claimant, in writing,
235 whether or not his claim is approved, and, if approved, the
236 claimant may deduct the amount of the claim from his next tax
237 report. No such claim shall be allowed unless filed within three
238 (3) years after the date of such accidental mixture. Bonded
239 distributors of gasoline having no gasoline tax liability with the
240 department may assign such tax credit to a bonded distributor of
241 gasoline having such tax liability.

242 No tax liability shall accrue against the operator of a
243 refinery when shipments of gasoline are made from such refinery,
244 either by common carrier or by tank trucks owned and operated by
245 the operator of said refinery, to a tax-exempt account within this
246 state or to another refinery within this state.

247 Provided, however, that when gasoline is withdrawn from the
248 storage tank of a refiner or processor on which the tax is paid on



249 such gasoline and it or any part thereof cannot be delivered to a
250 purchaser, said refiner or processor may deduct the tax on all or
251 that portion of such gasoline not delivered to a purchaser from
252 its next gasoline distributor's tax report; provided that such
253 refiner or processor submits with such tax report: (1) a written
254 report setting forth the reasons why such delivery could not be
255 made, and (2) proof or evidence satisfactory to the department
256 that the tax in question had theretofore been paid to the
257 department, and (3) proof or evidence satisfactory to the
258 department that the nondelivered gasoline was actually returned to
259 the refinery or processor from which it was taken for the purpose
260 of delivering it to a purchaser; and provided further, that
261 immediately upon ascertainment by the refiner or processor that
262 said gasoline cannot be delivered, he or it shall immediately
263 notify the department of this fact and before moving his or its
264 truck or other means of transporting said gasoline from the
265 intended point of delivery; and should the department desire to
266 inspect said truck, or other means of conveyance, such refiner or
267 processor shall arrange for such inspection at the point or at
268 such other point that may be designated by the department.

269 The United States government, the State of Mississippi,
270 counties, municipalities, school districts and all other political
271 subdivisions of the state, and entities described in Section
272 27-55-12(3) shall be exempt from Five and Four-tenths Cents (5.4¢)
273 of the portion of the gasoline excise tax rate which exceeds Nine



Cents (9¢) per gallon. Any exemption provided in this paragraph may be deducted without the prior approval of the department.

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

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



298 or any department or political subdivision of either will be
299 allowed.

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

305 The granting of a refund privilege to any claimant under the
306 provisions of this article is declared to be a matter of grace
307 rather than a matter of right, and in all cases arising under this
308 section the burden shall be on the claimant to make proof
309 sufficient to convince the department of the claimant's compliance
310 with the provisions of this article; otherwise, the refund claim
311 shall be denied or the claimant's permit cancelled by the
312 department, as the case may be.

313 Before any person shall be entitled to claim refund of any
314 tax paid on gasoline under the provisions of this section, he
315 shall file an information blank for a refund permit with the
316 department. Such information blank shall be made on forms
317 furnished by the department and shall give a detailed description
318 of the equipment and such other information as the department may
319 require with respect to the equipment or machinery in which refund
320 gasoline is to be used. If such gasoline is not to be used in
321 equipment or machinery, the purpose for which such gasoline is to
322 be used shall be stated. The information blank and supplements



thereto shall be signed by the person desiring to use refund gasoline or his authorized agent and filed under the penalty of perjury.

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

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



348 completed, the department shall forward to such refund user the
349 file number and certificate book. Should the department refuse to
350 issue a file number and refund certificate book, or refuse to pay
351 any refund alleged to be due, the applicant or user may, within
352 sixty (60) days from the date of the notice of the refusal by the
353 department, appeal to the board of review of the Department of
354 Revenue as hereinafter provided.

355 It shall be the duty of the consumer of gasoline for which
356 refund application is to be made, including any distributor of
357 gasoline using his own gasoline for a refund purpose, to have
358 storage facilities available for delivery of refund gasoline.
359 Such storage facilities shall be plainly marked "refund gasoline"
360 in lettering of contrasting color and not less than four (4)
361 inches in height. Where refund gasoline is delivered directly
362 into the fuel tank of equipment belonging to or used by the refund
363 user, such equipment shall be plainly marked "refund gasoline" in
364 lettering of contrasting color as near to the fuel tank as
365 possible. Such lettering shall not be less than four (4) inches
366 in height. It shall also be the duty of the distributor of
367 gasoline delivering gasoline into the tanks to dye the refund
368 gasoline a distinctive mahogany color at the time of delivery.
369 However, in no case shall dye be added to gasoline to be used in
370 aircraft.

371 The department is authorized to waive the requirement that
372 refund gasoline be dyed in any case where damage to equipment or



373 machinery would result from the addition of such dye, or where
374 addition of dye would otherwise render gasoline unfit for its
375 intended use. It shall be the obligation of the user to obtain
376 the aforementioned waiver from the department.

377 Any person desiring a refund on any gasoline purchased shall
378 make claim to the department, on forms provided by the department,
379 within three (3) years from the date the gasoline was purchased.
380 No refund shall be allowed on any gasoline which shall not have
381 been already used or consumed by the purchaser thereof before the
382 filing of the claim; provided, however, when a claim is filed and
383 there is an unused part of any purchase to be carried forward to
384 the next claim, the dating of this carry-over shall take the same
385 date of the first purchase entered on the next claim. No person
386 shall file more than one (1) claim during any one (1) month. The
387 claim shall be personally signed by the purchaser or his duly
388 authorized agent. The claimant shall in the claim, state that the
389 refund claim has not and will not be assigned. The original and
390 duplicate of the certificate shall be retained by the claimant, at
391 the time of purchase. The original certificate with vendor's
392 invoices shall be attached to the refund claim, and the duplicate
393 shall remain in the certificate book of the claimant and shall be
394 subject to inspection by the department at all reasonable hours.
395 The claimant shall preserve the duplicate certificates for three
396 (3) years from date of purchase. The claim shall be in the name
397 of the purchaser and shall show the purchaser's refund file



398 number. Supporting invoices shall state that dye has been added
399 to refund gasoline or that the requirement that dye be added has
400 been waived by the department. The claim shall be certified under
401 the penalty of perjury.

402 Any person who shall file a claim for refund under the
403 provisions of this article shall show on each refund claim filed:
404 the names and addresses of the person or persons from whom the
405 claimant customarily purchases motor fuel for use in propelling
406 motor vehicles owned or operated by the claimant on the highways
407 of this state. Until the provisions of this paragraph are
408 complied with, the refund claim shall not be allowed.

409 Upon receipt of the claim, the department shall determine the
410 amount of refund due to the claimant and the amount shall be
411 refunded to the claimant as provided in Section 27-55-19. If for
412 any reason the department should determine that an erroneous claim
413 has been paid, it may deduct such erroneous payment from any legal
414 claim subsequently filed by the claimant to whom erroneous payment
415 was made.

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

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



423 **SECTION 5.** Section 27-55-519, Mississippi Code of 1972, is
424 brought forward as follows:

425 27-55-519. (1) Any person engaged in business as a
426 distributor of special fuel or who acts as a distributor of
427 special fuel, as defined in this article, shall pay for the
428 privilege of engaging in such business or acting as such
429 distributor an excise tax on all special fuel stored, used, sold,
430 distributed, manufactured, refined, distilled, blended or
431 compounded in this state or received in this state for sale,
432 storage, distribution or for any purpose, adjusted to sixty (60)
433 degrees Fahrenheit.

434 The excise tax shall become due and payable when:

435 (a) Special fuel is withdrawn from storage at a
436 refinery, marine or pipeline terminal, except when withdrawal is
437 by barge or pipeline.

438 (b) Special fuel imported by a common carrier is
439 unloaded by that carrier unless the special fuel is unloaded
440 directly into the storage tanks of a refinery, marine or pipeline
441 terminal.

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

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



448 (e) Special fuel is acquired tax free.

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

450 (a) Eighteen Cents (18¢) per gallon on undyed diesel
451 fuel until the date specified in Section 65-39-35 and Fourteen and
452 Three-fourths Cents (14.75¢) per gallon thereafter;

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

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

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

460 27-55-521. (1) An excise tax at the rate of Eighteen Cents
461 (18¢) per gallon until the date specified in Section 65-39-35,
462 Mississippi Code of 1972, and Fourteen and Three-fourths Cents
463 (14.75¢) per gallon thereafter is levied on any person engaged in
464 business as a distributor of special fuel or who acts as such who
465 sells:

466 (a) Special fuel for use in performing contracts for
467 construction, reconstruction, maintenance or repairs, where such
468 contracts are entered into with the State of Mississippi, any
469 political subdivision of the State of Mississippi, or any
470 department, agency, institution of the State of Mississippi or any
471 political subdivision thereof.



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

(c) Special fuel for use on the highway.

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

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

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

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

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

27-55-523. For the purpose of determining the amount of his liability for the tax imposed by this article, each bonded distributor of special fuel shall, not later than the twentieth day of the month next following the month in which this article becomes effective, and not later than the twentieth day of each month thereafter, file with the department a monthly report which shall include a statement of the number of gallons of special fuel received and sold by such distributor of special fuel within this



497 state during the preceding calendar month, and such other
498 information as may be reasonably necessary for the proper
499 administration of this article.

500 At the time of filing each monthly report with the
501 department, a distributor may take a credit for the number of
502 gallons of special fuel that he purchased during the preceding
503 calendar month from a distributor who pays the excise tax imposed
504 by this article on such special fuel.

505 At the time of filing each monthly report with the
506 department, each distributor of special fuel shall pay to the
507 department the full amount of the special fuel tax due from such
508 distributor for the preceding calendar month.

509 Reports and payments must be filed electronically by the due
510 date in order to be considered timely filed, except when the due
511 date falls on a weekend or holiday, in which case such reports and
512 payments must be filed electronically by the first working day
513 following the due date in order to be considered timely filed.

514 The monthly report of the distributor of special fuel shall
515 be prepared and filed with the department on forms prescribed by
516 the department, or the distributor of special fuel may, with the
517 approval of the department, furnish the required information on
518 machine-prepared schedules. Such monthly reports or schedules
519 shall be signed by the distributor or his duly authorized agent
520 and shall contain a declaration that the statements contained in



such report are true and correct and are made under the penalty of perjury.

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

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

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

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

(2) When dyed special fuel and undyed special fuel are accidentally mixed and the mixture is converted to nonhighway use



546 special fuel, the distributor of special fuel or other person
547 owning such mixture may claim credit for any taxes exceeding Five
548 and Three-fourths Cents (5.75¢) per gallon which have been paid on
549 such mixture.

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

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

556 (5) Upon receipt of the claim for credit, the commission
557 shall determine the amount of refund or tax credit due the
558 claimant and, in the case of a refund, the amount shall be
559 refunded as provided in Section 27-55-19, Mississippi Code of
560 1972.

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

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

565 27-5-101. Unless otherwise provided in this section, on or
566 before the fifteenth day of each month, all gasoline, diesel fuel
567 or kerosene taxes which are levied under the laws of this state
568 and collected during the previous month shall be paid and
569 apportioned by the State Tax Commission as follows:



570 (a) (i) Except as otherwise provided in Section
571 31-17-127, from the gross amount of gasoline, diesel fuel or
572 kerosene taxes produced by the state, there shall be deducted an
573 amount equal to one-sixth (1/6) of principal and interest
574 certified by the State Treasurer to the State Tax Commission to be
575 due on the next semiannual bond and interest payment date, as
576 required under the provisions of Chapter 130, Laws of 1938, and
577 subsequent acts authorizing the issuance of bonds payable from
578 gasoline, diesel fuel or kerosene tax revenue on a parity with the
579 bonds issued under authority of said Chapter 130. The State
580 Treasurer shall certify to the State Tax Commission on or before
581 the fifteenth day of each month the amount to be paid to the
582 "Highway Bonds Sinking Fund" as provided by said Chapter 130, Laws
583 of 1938, and subsequent acts authorizing the issuance of bonds
584 payable from gasoline, diesel fuel or kerosene tax revenue, on a
585 parity with the bonds issued under authority of said Chapter 130;
586 and the State Tax Commission shall, on or before the twenty-fifth
587 day of each month, pay into the State Treasury for credit to the
588 "Highway Bonds Sinking Fund" the amount so certified to him by the
589 State Treasurer due to be paid into such fund each month. The
590 payments to the "Highway Bonds Sinking Fund" shall be made out of
591 gross gasoline, diesel fuel or kerosene tax collections before
592 deductions of any nature are considered; however, such payments
593 shall be deducted from the allocation to the Mississippi
594 Department of Transportation under paragraph (c) of this section.



595 (ii) From collections derived from the portion of
596 the gasoline excise tax that exceeds Seven Cents (7¢) per gallon,
597 from the portion of the tax on aviation gas under Section 27-55-11
598 that exceeds Six and Four-tenths Cents (6.4¢) per gallon, from the
599 portion of the special fuel tax levied under Sections 27-55-519
600 and 27-55-521, at Eighteen Cents (18¢) per gallon that exceeds Ten
601 Cents (10¢) per gallon, from the portion of the taxes levied under
602 Section 27-55-519, at Five and Three-fourths Cents (5.75¢) per
603 gallon that exceeds One Cent (1¢) per gallon on special fuel and
604 Five and One-fourth Cents (5.25¢) per gallon on special fuel used
605 as aircraft fuel, from the portion of the excise tax on compressed
606 gas used as a motor fuel that exceeds the rate of tax in effect on
607 June 30, 1987, and from the portion of the gasoline excise tax in
608 excess of Seven Cents (7¢) per gallon and the diesel excise tax in
609 excess of Ten Cents (10¢) per gallon under Section 27-61-5 there
610 shall be deducted:

611 1. An amount as provided in Section
612 27-65-75(4) to the credit of a special fund designated as the
613 "Office of State Aid Road Construction."

614 2. An amount equal to the tax collections
615 derived from Two Cents (2¢) per gallon of the gasoline excise tax
616 for distribution to the State Highway Fund to be used exclusively
617 for the construction, reconstruction and maintenance of highways
618 of the State of Mississippi or the payment of interest and



619 principal on bonds when specifically authorized by the Legislature
620 for that purpose.

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

623 (b) Subject to the provisions that said basis of
624 distribution shall in nowise affect adversely the amount
625 specifically pledged in paragraph (a) of this section to be paid
626 into the "Highway Bonds Sinking Fund," the following shall be
627 deducted from the amount produced by the state tax on gasoline,
628 diesel fuel or kerosene tax collections, excluding collections
629 derived from the portion of the gasoline excise tax that exceeds
630 Seven Cents (7¢) per gallon, from the portion of the tax on
631 aviation gas under Section 27-55-11 that exceeds Six and
632 Four-tenths Cents (6.4¢) per gallon, from the portion of the
633 special fuel tax levied under Sections 27-55-519 and 27-55-521, at
634 Eighteen Cents (18¢) per gallon that exceeds Ten Cents (10¢) per
635 gallon, from the portion of the taxes levied under Section
636 27-55-519, at Five and Three-fourths Cents (5.75¢) per gallon that
637 exceeds One Cent (1¢) per gallon on special fuel and Five and
638 One-fourth Cents (5.25¢) per gallon on special fuel used as
639 aircraft fuel, from the portion of the excise tax on compressed
640 gas used as a motor fuel that exceeds the rate of tax in effect on
641 June 30, 1987, and from the portion of the gasoline excise tax in
642 excess of Seven Cents (7¢) per gallon and the diesel excise tax in
643 excess of Ten Cents (10¢) per gallon under Section 27-61-5:



644 (i) Twenty percent (20%) of such amount which
645 shall be earmarked and set aside for the construction,
646 reconstruction and maintenance of the highways and roads of the
647 state, provided that if such twenty percent (20%) should reduce
648 any county to a lesser amount than that received in the fiscal
649 year ending June 30, 1966, then such twenty percent (20%) shall be
650 reduced to a percentage to provide that no county shall receive
651 less than its portion for the fiscal year ending June 30, 1966;

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

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

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

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

662 (vi) The remainder shall be divided on a basis of
663 nine-fourteenths ($9/14$) and five-fourteenths ($5/14$) (being the
664 same basis as Four and One-half Cents ($4-1/2\text{¢}$) and Two and
665 One-half Cents ($2-1/2\text{¢}$) is to Seven Cents (7¢) on gasoline, and
666 six and forty-three one-hundredths (6.43) and three and
667 fifty-seven one-hundredths (3.57) is to Ten Cents (10¢) on diesel
668 fuel or kerosene). The amount produced by the nine-fourteenths



669 (9/14) division shall be allocated to the Transportation
670 Department and paid into the State Treasury as provided in this
671 section and in Section 27-5-103 and the five-fourteenths (5/14)
672 division shall be returned to the counties of the state on the
673 following basis:

674 1. In each fiscal year, each county shall be
675 paid each month the same percentage of the monthly total to be
676 distributed as was paid to that county during the same month in
677 the fiscal year which ended April 9, 1960, until the county
678 receives One Hundred Ninety Thousand Dollars (\$190,000.00) in such
679 fiscal year, at which time funds shall be distributed under the
680 provisions of paragraph (b)(vi)4 of this section.

681 2. If after payments in 1 above, any county
682 has not received a total of One Hundred Ninety Thousand Dollars
683 (\$190,000.00) at the end of the fiscal year ending June 30, 1961,
684 and each fiscal year thereafter, then any available funds not
685 distributed under 1 above shall be used to bring such county or
686 counties up to One Hundred Ninety Thousand Dollars (\$190,000.00)
687 or such funds shall be divided equally among such counties not
688 reaching One Hundred Ninety Thousand Dollars (\$190,000.00) if
689 there is not sufficient money to bring all the counties to said
690 One Hundred Ninety Thousand Dollars (\$190,000.00).

691 3. When a county has been paid an amount
692 equal to the total which was paid to the same county during the
693 fiscal year ended April 9, 1960, such county shall receive no



694 further payments during the then current fiscal year until the
695 last month of such current fiscal year, at which time distribution
696 will be made under 2 above, except as set out in 4 below.

697 4. During the last month of the current
698 fiscal year, should it be determined that there are funds
699 available in excess of the amount distributed for the year under 1
700 and 2 above, then such excess funds shall be distributed among the
701 various counties as follows:

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

704 One-third (1/3) of such excess to be paid
705 to the counties in the proportion which the population of each
706 county bears to the total population of the state according to the
707 last federal census;

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

711 5. It is the declared purpose and intent of
712 the Legislature that no county shall be paid less than was paid
713 during the year ended April 9, 1960, unless the amount to be
714 distributed to all counties in any year is less than the amount
715 distributed to all counties during the year ended April 9, 1960.

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



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

720 In any county having countywide road or bridge bonds, or
721 supervisors district or district road or bridge bonds outstanding,
722 which exceed, in the aggregate, twelve percent (12%) of the
723 assessed valuation of the taxable property of the county or
724 district, it shall be the duty of the board of supervisors to set
725 aside not less than sixty percent (60%) of such county's share or
726 district's share of the gasoline, diesel fuel or kerosene taxes to
727 be used in paying the principal and interest on such road or
728 bridge bonds as they mature.

729 In any county having such countywide road or bridge bonds or
730 district road or bridge bonds outstanding which exceed, in the
731 aggregate, eight percent (8%) of the assessed valuation of the
732 taxable property of the county, but which do not exceed, in the
733 aggregate, twelve percent (12%) of the assessed valuation of the
734 taxable property of the county, it shall be the duty of the board
735 of supervisors to set aside not less than thirty-five percent
736 (35%) of such county's share of the gasoline, diesel fuel or
737 kerosene taxes to be used in paying the principal and interest of
738 such road or bridge bonds as they mature.

739 In any county having such countywide road or bridge bonds or
740 district road or bridge bonds outstanding which exceed, in the
741 aggregate, five percent (5%) of the assessed valuation of the
742 taxable property of the county, but which do not exceed, in the



743 aggregate, eight percent (8%) of the assessed valuation of the
744 taxable property of the county, it shall be the duty of the board
745 of supervisors to set aside not less than twenty percent (20%) of
746 such county's share of the gasoline, diesel fuel or kerosene taxes
747 to be used in paying the principal and interest of such road and
748 bridge bonds as they mature.

749 In any county having such countywide road or bridge bonds or
750 district road or bridge bonds outstanding which do not exceed, in
751 the aggregate, five percent (5%) of the assessed valuation of the
752 taxable property of the county, it shall be the duty of the board
753 of supervisors to set aside not less than ten percent (10%) of
754 such county's share of the gasoline, diesel fuel or kerosene taxes
755 to be used in paying the principal and interest on such road or
756 bridge bonds as they mature.

757 The portion of any such county's share of the gasoline,
758 diesel fuel or kerosene taxes thus set aside for the payment of
759 the principal and interest of road or bridge bonds, as provided
760 for in this section, shall be used first in paying the currently
761 maturing installments of the principal and interest of such
762 countywide road or bridge bonds, if there be any such countywide
763 road or bridge bonds outstanding, and secondly, in paying the
764 currently maturing installments of principal and interest of
765 district road or bridge bonds outstanding. It shall be the duty
766 of the board of supervisors to pay bonds and interest maturing in



each supervisors district out of the supervisors district's share of the gasoline, diesel fuel or kerosene taxes of such district.

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

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

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

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



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

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

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

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



Nothing contained in this section shall be construed to reduce the amount of such gasoline, diesel fuel or kerosene excise taxes levied by the state, allotted under the provisions of Title 65, Chapter 33, Mississippi Code of 1972, to counties in which there are outstanding bonds issued for seawall or road protection purposes issued under the provisions of Chapter 319, Laws of 1924, and amendments thereto; the amount of said gasoline, diesel fuel or kerosene excise taxes designated in this section for the payment of bonds and interest authorized and issued or to be issued under the provisions of Chapter 130, Laws of 1938, and subsequent acts authorizing the issuance of bonds payable from gasoline, diesel fuel or kerosene tax revenue, shall, in such counties, be considered as being paid "into the State Treasury to the credit of the State Highway Fund" within the meaning of Section 65-33-45 in computing the amount to be paid to such counties under the provisions of said section, and this section shall be administered in connection with Title 65, Chapter 33, Mississippi Code of 1972, and Sections 65-33-45, 65-33-47 and 65-33-49 dealing with seawalls, as if made a part of this section.

(d) The proceeds of the Five and One-fourth Cents (5.25¢) of the tax per gallon on oils used as a propellant for jet aircraft engines, and Six and Four-tenths Cents (6.4¢) of the tax per gallon on aviation gasoline and the tax of One Cent (1¢) per gallon for each gallon of gasoline for which a refund has been made pursuant to Section 27-55-23 because such gasoline was used



for aviation purposes, shall be paid to the State Treasury into a special fund to be used exclusively, pursuant to legislative appropriation, for the support and development of aeronautics as defined in Section 61-1-3.

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

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

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

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



864 (a) (i) Except as otherwise provided in Section
865 31-17-127, from the gross amount of gasoline, diesel fuel or
866 kerosene taxes produced by the state, there shall be deducted an
867 amount equal to one-sixth (1/6) of principal and interest
868 certified by the State Treasurer to the State Tax Commission to be
869 due on the next semiannual bond and interest payment date, as
870 required under the provisions of Chapter 130, Laws of 1938, and
871 subsequent acts authorizing the issuance of bonds payable from
872 gasoline, diesel fuel or kerosene tax revenue on a parity with the
873 bonds issued under authority of said Chapter 130. The State
874 Treasurer shall certify to the State Tax Commission on or before
875 the fifteenth day of each month the amount to be paid to the
876 "Highway Bonds Sinking Fund" as provided by said Chapter 130, Laws
877 of 1938, and subsequent acts authorizing the issuance of bonds
878 payable from gasoline, diesel fuel or kerosene tax revenue, on a
879 parity with the bonds issued under authority of said Chapter 130;
880 and the State Tax Commission shall, on or before the twenty-fifth
881 day of each month, pay into the State Treasury for credit to the
882 "Highway Bonds Sinking Fund" the amount so certified to him by the
883 State Treasurer due to be paid into such fund each month. The
884 payments to the "Highway Bonds Sinking Fund" shall be made out of
885 gross gasoline, diesel fuel or kerosene tax collections before
886 deductions of any nature are considered; however, such payments
887 shall be deducted from the allocation to the Transportation
888 Department under paragraph (c) of this section.



889 (ii) From collections derived from the portion of
890 the gasoline excise tax that exceeds Seven Cents (7¢) per gallon,
891 from the portion of the tax on aviation gas under Section 27-55-11
892 that exceeds Six and Four-tenths Cents (6.4¢) per gallon, from the
893 portion of the special fuel tax levied under Sections 27-55-519
894 and 27-55-521, at Eighteen Cents (18¢) per gallon that exceeds Ten
895 Cents (10¢) per gallon, from the portion of the taxes levied under
896 Section 27-55-519, at Five and Three-fourths Cents (5.75¢) per
897 gallon that exceeds One Cent (1¢) per gallon on special fuel and
898 Five and One-fourth Cents (5.25¢) per gallon on special fuel used
899 as aircraft fuel, from the portion of the excise tax on compressed
900 gas used as a motor fuel that exceeds the rate of tax in effect on
901 June 30, 1987, and from the portion of the gasoline excise tax in
902 excess of Seven Cents (7¢) per gallon and the diesel excise tax in
903 excess of Ten Cents (10¢) per gallon under Section 27-61-5 there
904 shall be deducted:

905 1. An amount as provided in Section
906 27-65-75(4) to the credit of a special fund designated as the
907 "Office of State Aid Road Construction."

908 2. An amount equal to the tax collections
909 derived from Two Cents (2¢) per gallon of the gasoline excise tax
910 for distribution to the State Highway Fund to be used exclusively
911 for the construction, reconstruction and maintenance of highways
912 of the State of Mississippi or the payment of interest and



913 principal on bonds when specifically authorized by the Legislature
914 for that purpose.

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

917 (b) Subject to the provisions that said basis of
918 distribution shall in nowise affect adversely the amount
919 specifically pledged in paragraph (a) of this section to be paid
920 into the "Highway Bonds Sinking Fund," the following shall be
921 deducted from the amount produced by the state tax on gasoline,
922 diesel fuel or kerosene tax collections, excluding collections
923 derived from the portion of the gasoline excise tax that exceeds
924 Seven Cents (7¢) per gallon, from the portion of the tax on
925 aviation gas under Section 27-55-11 that exceeds Six and
926 Four-tenths Cents (6.4¢) per gallon, from the portion of the
927 special fuel tax levied under Sections 27-55-519 and 27-55-521, at
928 Eighteen Cents (18¢) per gallon, that exceeds Ten Cents (10¢) per
929 gallon, from the portion of the taxes levied under Section
930 27-55-519, at Five and Three-fourths Cents (5.75¢) that exceeds
931 One Cent (1¢) per gallon on special fuel and Five and One-fourth
932 Cents (5.25¢) per gallon on special fuel used as aircraft fuel,
933 from the portion of the excise tax on compressed gas used as a
934 motor fuel that exceeds the rate of tax in effect on June 30,
935 1987, and from the portion of the gasoline excise tax in excess of
936 Seven Cents (7¢) per gallon and the diesel excise tax in excess of
937 Ten Cents (10¢) per gallon under Section 27-61-5:



938 (i) Twenty percent (20%) of such amount which
939 shall be earmarked and set aside for the construction,
940 reconstruction and maintenance of the highways and roads of the
941 state, provided that if such twenty percent (20%) should reduce
942 any county to a lesser amount than that received in the fiscal
943 year ending June 30, 1966, then such twenty percent (20%) shall be
944 reduced to a percentage to provide that no county shall receive
945 less than its portion for the fiscal year ending June 30, 1966;
946 (ii) The amount allowed as refund on gasoline or
947 as tax credit on diesel fuel or kerosene used for agricultural,
948 maritime, industrial, domestic and nonhighway purposes;
949 (iii) Five percent (5%) of such amount shall be
950 paid to the State Highway Fund;
951 (iv) The amount or portion thereof authorized by
952 legislative appropriation to the Fisheries and Wildlife Fund
953 created under Section 59-21-25;
954 (v) The amount for deposit into the special
955 aviation fund under paragraph (d) of this section; and
956 (vi) The remainder shall be divided on a basis of
957 nine-fourteenths (9/14) and five-fourteenths (5/14) (being the
958 same basis as Four and One-half Cents (4-1/2¢) and Two and
959 One-half Cents (2-1/2¢) is to Seven Cents (7¢) on gasoline, and
960 six and forty-three one-hundredths (6.43) and three and
961 fifty-seven one-hundredths (3.57) is to Ten Cents (10¢) on diesel
962 fuel or kerosene). The amount produced by the nine-fourteenths



963 (9/14) division shall be allocated to the Transportation
964 Department and paid into the State Treasury as provided in this
965 section and in Section 27-5-103 and the five-fourteenths (5/14)
966 division shall be returned to the counties of the state on the
967 following basis:

968 1. In each fiscal year, each county shall be
969 paid each month the same percentage of the monthly total to be
970 distributed as was paid to that county during the same month in
971 the fiscal year which ended April 9, 1960, until the county
972 receives One Hundred Ninety Thousand Dollars (\$190,000.00) in such
973 fiscal year, at which time funds shall be distributed under the
974 provisions of paragraph (b)(vi)4 of this section.

975 2. If after payments in 1 above, any county
976 has not received a total of One Hundred Ninety Thousand Dollars
977 (\$190,000.00) at the end of the fiscal year ending June 30, 1961,
978 and each fiscal year thereafter, then any available funds not
979 distributed under 1 above shall be used to bring such county or
980 counties up to One Hundred Ninety Thousand Dollars (\$190,000.00)
981 or such funds shall be divided equally among such counties not
982 reaching One Hundred Ninety Thousand Dollars (\$190,000.00) if
983 there is not sufficient money to bring all the counties to said
984 One Hundred Ninety Thousand Dollars (\$190,000.00).

985 3. When a county has been paid an amount
986 equal to the total which was paid to the same county during the
987 fiscal year ended April 9, 1960, such county shall receive no



988 further payments during the then current fiscal year until the
989 last month of such current fiscal year, at which time distribution
990 will be made under 2 above, except as set out in 4 below.

991 4. During the last month of the current
992 fiscal year, should it be determined that there are funds
993 available in excess of the amount distributed for the year under 1
994 and 2 above, then such excess funds shall be distributed among the
995 various counties as follows:

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

998 One-third (1/3) of such excess to be paid
999 to the counties in the proportion which the population of each
1000 county bears to the total population of the state according to the
1001 last federal census;

1002 One-third (1/3) of such excess to be paid
1003 to the counties in the proportion which the number of square miles
1004 of each county bears to the total square miles in the state.

1005 5. It is the declared purpose and intent of
1006 the Legislature that no county shall be paid less than was paid
1007 during the year ended April 9, 1960, unless the amount to be
1008 distributed to all counties in any year is less than the amount
1009 distributed to all counties during the year ended April 9, 1960.

1010 The Municipal Aid Fund as established by Section 27-5-103
1011 shall not participate in any portion of any funds allocated to any



1012 county hereunder over and above One Hundred Ninety Thousand
1013 Dollars (\$190,000.00).

1014 In any county having road or bridge bonds outstanding which
1015 exceed, in the aggregate, twelve percent (12%) of the assessed
1016 valuation of the taxable property of the county, it shall be the
1017 duty of the board of supervisors to set aside not less than sixty
1018 percent (60%) of such county's share of the gasoline, diesel fuel
1019 or kerosene taxes to be used in paying the principal and interest
1020 on such road or bridge bonds as they mature.

1021 In any county having such road or bridge bonds outstanding
1022 which exceed, in the aggregate, eight percent (8%) of the assessed
1023 valuation of the taxable property of the county, but which do not
1024 exceed, in the aggregate, twelve percent (12%) of the assessed
1025 valuation of the taxable property of the county, it shall be the
1026 duty of the board of supervisors to set aside not less than
1027 thirty-five percent (35%) of such county's share of the gasoline,
1028 diesel fuel or kerosene taxes to be used in paying the principal
1029 and interest of such road or bridge bonds as they mature.

1030 In any county having such road or bridge bonds outstanding
1031 which exceed, in the aggregate, five percent (5%) of the assessed
1032 valuation of the taxable property of the county, but which do not
1033 exceed, in the aggregate, eight percent (8%) of the assessed
1034 valuation of the taxable property of the county, it shall be the
1035 duty of the board of supervisors to set aside not less than twenty
1036 percent (20%) of such county's share of the gasoline, diesel fuel



1037 or kerosene taxes to be used in paying the principal and interest
1038 of such road and bridge bonds as they mature.

1039 In any county having such road or bridge bonds outstanding
1040 which do not exceed, in the aggregate, five percent (5%) of the
1041 assessed valuation of the taxable property of the county, it shall
1042 be the duty of the board of supervisors to set aside not less than
1043 ten percent (10%) of such county's share of the gasoline, diesel
1044 fuel or kerosene taxes to be used in paying the principal and
1045 interest on such road or bridge bonds as they mature.

1046 The portion of any such county's share of the gasoline,
1047 diesel fuel or kerosene taxes thus set aside for the payment of
1048 the principal and interest of road or bridge bonds, as provided
1049 for in this section, shall be used in paying the currently
1050 maturing installments of the principal and interest of such road
1051 or bridge bonds, if there be any such road or bridge bonds
1052 outstanding.

1053 The remaining portion of such county's share of the gasoline,
1054 diesel fuel or kerosene taxes, after setting aside the portion
1055 above provided for the payment of the principal and interest of
1056 bonds, shall be used in the construction and maintenance of any
1057 public highways, bridges or culverts of the county, in the
1058 discretion of the board of supervisors.

1059 In any county having no road or bridge bonds outstanding, all
1060 such county's share of the gasoline, diesel fuel or kerosene taxes
1061 shall be used in the construction, reconstruction and maintenance



1062 of the public highways, bridges or culverts of the county, as the
1063 board of supervisors may determine.

1064 In every county in which there are county road bonds or
1065 seawall or road protection bonds outstanding which were issued for
1066 the purpose of building bridges or constructing public roads or
1067 seawalls, such funds shall be used in the manner provided by law.

1068 (c) From the amount produced by the nine-fourteenths
1069 (9/14) division allocated to the Transportation Department, there
1070 shall be deducted:

1071 (i) The amount paid to the State Treasurer for the
1072 "Highway Bonds Sinking Fund" under paragraph (a) of this section;

1073 (ii) Any amounts due counties in accordance with
1074 Section 65-33-45 which have outstanding bonds issued for seawall
1075 or road protection purposes, issued under provisions of Chapter
1076 319, Laws of 1924, and amendments thereto; and

1077 (iii) Except as otherwise provided in Section
1078 31-17-127, the remainder shall be paid by the State Tax Commission
1079 to the State Treasurer on the fifteenth day of each month next
1080 succeeding the month in which the gasoline, diesel fuel or
1081 kerosene taxes were collected to the credit of the State Highway
1082 Fund.

1083 The funds allocated for the construction, reconstruction and
1084 improvement of state highways, bridges and culverts, or so much
1085 thereof as may be necessary, shall first be used in conjunction
1086 with funds supplied by the federal government for such purposes



1087 and allocated to the Transportation Department to be expended on
1088 the state highway system. It is specifically provided hereby that
1089 the necessary portion of such funds hereinabove allocated to the
1090 Transportation Department may be used for the prompt payment of
1091 principal and interest on highway bonds heretofore issued,
1092 including such bonds issued or to be issued under the provisions
1093 of Chapter 312, Laws of 1956, and amendments thereto.

1094 Nothing contained in this section shall be construed to
1095 reduce the amount of such gasoline, diesel fuel or kerosene excise
1096 taxes levied by the state, allotted under the provisions of Title
1097 65, Chapter 33, Mississippi Code of 1972, to counties in which
1098 there are outstanding bonds issued for seawall or road protection
1099 purposes issued under the provisions of Chapter 319, Laws of 1924,
1100 and amendments thereto; the amount of said gasoline, diesel fuel
1101 or kerosene excise taxes designated in this section for the
1102 payment of bonds and interest authorized and issued or to be
1103 issued under the provisions of Chapter 130, Laws of 1938, and
1104 subsequent acts authorizing the issuance of bonds payable from
1105 gasoline, diesel fuel or kerosene tax revenue, shall, in such
1106 counties, be considered as being paid "into the State Treasury to
1107 the credit of the State Highway Fund" within the meaning of
1108 Section 65-33-45 in computing the amount to be paid to such
1109 counties under the provisions of said section, and this section
1110 shall be administered in connection with Title 65, Chapter 33,



1111 Mississippi Code of 1972, and Sections 65-33-45, 65-33-47 and
1112 65-33-49 dealing with seawalls, as if made a part of this section.

1113 (d) The proceeds of the Five and One-fourth Cents
1114 (5.25¢) of the tax per gallon on oils used as a propellant for jet
1115 aircraft engines, and Six and Four-tenths Cents (6.4¢) of the tax
1116 per gallon on aviation gasoline and the tax of One Cent (1¢) per
1117 gallon for each gallon of gasoline for which a refund has been
1118 made pursuant to Section 27-55-23 because such gasoline was used
1119 for aviation purposes, shall be paid to the State Treasury into a
1120 special fund to be used exclusively, pursuant to legislative
1121 appropriation, for the support and development of aeronautics as
1122 defined in Section 61-1-3.

1123 (e) State highway funds in an amount equal to the
1124 difference between Forty-two Million Dollars (\$42,000,000.00) and
1125 the annual debt service payable on the state's highway revenue
1126 refunding bonds, Series 1985, shall be expended for the
1127 construction or reconstruction of highways designated under the
1128 highway program created under Section 65-3-97.

1129 (f) "Gasoline, diesel fuel or kerosene taxes" as used
1130 in this section shall be deemed to mean and include state
1131 gasoline, diesel fuel or kerosene taxes levied and imposed on
1132 distributors of gasoline, diesel fuel or kerosene, and all state
1133 excise taxes derived from any fuel used to propel vehicles upon
1134 the highways of this state, when levied by any statute.



1135 **SECTION 10.** Section 65-39-35, Mississippi Code of 1972, is
1136 brought forward as follows:

1137 65-39-35. The date upon which the taxes and fees levied and
1138 charged under the provisions of Sections 27-55-11, 27-57-37,
1139 27-59-11, 27-19-43, 27-19-309, 27-65-75, and Sections 27-55-519
1140 and 27-55-521 are reduced under such sections shall be the first
1141 day of the month immediately following the date upon which:

1142 (a) The Mississippi Transportation Commission certifies
1143 to the State Tax Commission that:

1144 (i) The highway program created under Section
1145 65-3-97 and the Gaming Counties Infrastructure Program created
1146 under Section 65-39-3, are completed and no funds are any longer
1147 necessary to pay the costs of such programs; and

1148 (ii) The Mississippi Transportation Commission
1149 will not declare the necessity for additional borrowings under
1150 Section 65-9-27, or for additional bonds under Sections 65-39-5
1151 through 65-39-33; and

1152 (b) The State Treasurer certifies:

1153 (i) That the amount on deposit in the Gaming
1154 Counties Bond Sinking Fund, together with earnings on investments
1155 to accrue to such fund, is equal to or greater than the aggregate
1156 of the entire principal, redemption premium (if any), and interest
1157 due and to become due (until the final maturity date or earlier
1158 scheduled redemption date) on all general obligation bonds issued
1159 under Sections 65-39-5 through 65-39-33; and



1160 (ii) That all principal, interest, cost and other
1161 expenses for all bonds, notes or other borrowings under Section
1162 65-9-27 and Section 31-17-127 (including redemption notes, if any)
1163 have been paid and are completely satisfied.

1164 **SECTION 11.** This act shall take effect and be in force from
1165 and after July 1, 2022.

