

By: Fleming

To: Ways and Means

HOUSE BILL NO. 6

1 AN ACT TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972,
2 TO INCREASE FROM 18.5% TO 26% THE DIVERSION OF STATE SALES TAX
3 REVENUE ALLOCATED FOR DISTRIBUTION TO ALL MUNICIPALITIES; AND FOR
4 RELATED PURPOSES.

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

6 SECTION 1. Section 27-65-75, Mississippi Code of 1972, is
7 amended as follows:

8 **[Until July 1, 2002, this section reads as follows:]**

9 27-65-75. On or before the fifteenth day of each month, the
10 revenue collected under the provisions of this chapter during the
11 preceding month shall be paid and distributed as follows:

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

23 collected under the provisions of Sections 27-65-15, 27-65-19(3)
24 and 27-65-21, on business activities within a municipal
25 corporation shall be allocated for distribution to such
26 municipality and paid to such municipal corporation.

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

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

36 In any county having a county seat which is not an
37 incorporated municipality, the distribution provided hereunder
38 shall be made as though the county seat was an incorporated
39 municipality; however, the distribution to such municipality shall
40 be paid to the county treasury wherein the municipality is located
41 and such funds shall be used for road, bridge and street
42 construction or maintenance therein.

43 (2) On or before September 15, 1987, and each succeeding
44 month thereafter, from the revenue collected under this chapter
45 during the preceding month One Million One Hundred Twenty-five
46 Thousand Dollars (\$1,125,000.00) shall be allocated for
47 distribution to municipal corporations as defined under subsection
48 (1) of this section in the proportion that the number of gallons
49 of gasoline and diesel fuel sold by distributors to consumers and
50 retailers in each such municipality during the preceding fiscal
51 year bears to the total gallons of gasoline and diesel fuel sold
52 by distributors to consumers and retailers in municipalities
53 statewide during the preceding fiscal year. The State Tax

54 Commission shall require all distributors of gasoline and diesel
55 fuel to report to the commission monthly the total number of
56 gallons of gasoline and diesel fuel sold by them to consumers and
57 retailers in each municipality during the preceding month. The
58 State Tax Commission shall have the authority to promulgate such
59 rules and regulations as is necessary to determine the number of
60 gallons of gasoline and diesel fuel sold by distributors to
61 consumers and retailers in each municipality. In determining the
62 percentage allocation of funds under this subsection for the
63 fiscal year beginning July 1, 1987, and ending June 30, 1988, the
64 State Tax Commission may consider gallons of gasoline and diesel
65 fuel sold for a period of less than one (1) fiscal year. For the
66 purposes of this subsection, the term "fiscal year" means the
67 fiscal year beginning July 1 of a year.

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

80 (4) On or before August 15, 1994, and on or before the
81 fifteenth day of each succeeding month through July 15, 1999, from

82 the proceeds of gasoline, diesel fuel or kerosene taxes as
83 provided in Section 27-5-101(a)(ii)1, Four Million Dollars
84 (\$4,000,000.00) shall be deposited in the State Treasury to the
85 credit of a special fund designated as the "State Aid Road Fund,"
86 created by Section 65-9-17. On or before August 15, 1999, and on
87 or before the fifteenth day of each succeeding month, from the
88 total amount of the proceeds of gasoline, diesel fuel or kerosene
89 taxes apportioned by Section 27-5-101(a)(ii), Four Million Dollars
90 (\$4,000,000.00) or an amount equal to twenty-three and one-fourth
91 percent (23.25%) of such funds, whichever is the greater amount,
92 shall be deposited in the State Treasury to the credit of the
93 "State Aid Road Fund," created by Section 65-9-17. Such funds
94 shall be pledged to pay the principal of and interest on state aid
95 road bonds heretofore issued under Sections 19-9-51 through
96 19-9-77, in lieu of and in substitution for the funds heretofore
97 allocated to counties under this section. Such funds may not be
98 pledged for the payment of any state aid road bonds issued after
99 April 1, 1981; however, this prohibition against the pledging of
100 any such funds for the payment of bonds shall not apply to any
101 bonds for which intent to issue such bonds has been published, for
102 the first time, as provided by law prior to March 29, 1981. From
103 the amount of taxes paid into the special fund pursuant to this
104 subsection and subsection (9) of this section, there shall be
105 first deducted and paid the amount necessary to pay the expenses
106 of the Office of State Aid Road Construction, as authorized by the
107 Legislature for all other general and special fund agencies. The
108 remainder of the fund shall be allocated monthly to the several
109 counties in accordance with the following formula:

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

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

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

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

123 The amount of funds allocated to any county under this
124 subsection for any fiscal year after fiscal year 1994 shall not be
125 less than the amount allocated to such county for fiscal year
126 1994. Monies allocated to a county from the State Aid Road Fund
127 for fiscal year 1995 or any fiscal year thereafter that exceed the
128 amount of funds year 1994, first must be expended by the county
129 for replacement or rehabilitation of bridges on the state aid road
130 system that have a sufficiency rating of less than twenty-five
131 (25), according to National Bridge Inspection standards before
132 such monies may be approved for expenditure by the State Aid Road
133 Engineer on other projects that qualify for the use of state aid
134 road funds.

135 Any reference in the general laws of this state or the
136 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
137 construed to refer and apply to subsection (4) of Section

138 27-65-75.

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

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

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

157 (8) On or before August 15, 1992, and each succeeding month
158 thereafter, nine and seventy-three one-thousandths percent
159 (9.073%) of the total sales tax revenue collected during the
160 preceding month under the provisions of this chapter, except that
161 collected under the provisions of Section 27-65-17(2) shall be
162 deposited into the Education Enhancement Fund created pursuant to
163 Section 37-61-33.

164 (9) On or before August 15, 1994, and each succeeding month
165 thereafter, from the revenue collected under this chapter during

166 the preceding month, Two Hundred Fifty Thousand Dollars
167 (\$250,000.00) shall be paid into the State Aid Road Fund.

168 (10) On or before August 15, 1994, and each succeeding month
169 thereafter through August 15, 1995, from the revenue collected
170 under this chapter during the preceding month, Two Million Dollars
171 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
172 Valorem Tax Reduction Fund established in Section 27-51-105.

173 (11) Notwithstanding any other provision of this section to
174 the contrary, on or before February 15, 1995, and each succeeding
175 month thereafter, the sales tax revenue collected during the
176 preceding month under the provisions of Section 27-65-17(2) and
177 the corresponding levy in Section 27-65-23 on the rental or lease
178 of private carriers of passengers and light carriers of property
179 as defined in Section 27-51-101 shall be deposited, without
180 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund
181 established in Section 27-51-105.

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

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

194 derived from activities held on the Mississippi state fairgrounds
195 complex, shall be paid into a special fund hereby created in the
196 State Treasury and shall be expended pursuant to legislative
197 appropriations solely to defray the costs of repairs and
198 renovation at such Trade Mart and Coliseum.

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

206 (15) The remainder of the amounts collected under the
207 provisions of this chapter shall be paid into the State Treasury
208 to the credit of the General Fund.

209 (16) It shall be the duty of the municipal officials of any
210 municipality which expands its limits, or of any community which
211 incorporates as a municipality, to notify the commissioner of such
212 action thirty (30) days before the effective date. Failure to so
213 notify the commissioner shall cause such municipality to forfeit
214 the revenue which it would have been entitled to receive during
215 this period of time when the commissioner had no knowledge of the
216 action. If any funds have been erroneously disbursed to any
217 municipality or any overpayment of tax is recovered by the
218 taxpayer, the commissioner may make correction and adjust the
219 error or overpayment with such municipality by withholding the
220 necessary funds from any subsequent payment to be made to the
221 municipality.

222 **[From and after July 1, 2002, this section reads as follows:]**

223 27-65-75. On or before the fifteenth day of each month, the
224 revenue collected under the provisions of this chapter during the
225 preceding month shall be paid and distributed as follows:

226 (1) On or before August 15, 1992, and each succeeding month
227 thereafter through July 15, 1993, eighteen percent (18%) of the
228 total sales tax revenue collected during the preceding month under
229 the provisions of this chapter, except that collected under the
230 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
231 business activities within a municipal corporation shall be
232 allocated for distribution to such municipality and paid to such
233 municipal corporation. On or before August 15, 1993, and each
234 succeeding month thereafter, through July 15, 2002, eighteen and
235 one-half percent (18-1/2%) of the total sales tax revenue
236 collected during the preceding month under the provisions of this
237 chapter, except that collected under the provisions of Sections
238 27-65-15, 27-65-19(3) and 27-65-21, on business activities within
239 a municipal corporation shall be allocated for distribution to
240 such municipality and paid to such municipal corporation. On or
241 before August 15, 2002, and each succeeding month thereafter,
242 twenty-six percent (26%) of the total sales tax revenue collected
243 during the preceding month under the provisions of this chapter,
244 except that collected under the provisions of Sections 27-65-15,
245 27-65-17(2), 27-65-19(3), and 27-65-21, on business activities
246 within a municipal corporation shall be allocated for distribution
247 to such municipality and paid to such municipal corporation.

248 A municipal corporation, for the purpose of distributing the
249 tax under this subsection, shall mean and include all incorporated

250 cities, towns and villages.

251 Monies allocated for distribution and credited to a municipal
252 corporation under this subsection may be pledged as security for
253 any loan received by the municipal corporation for the purpose of
254 capital improvements as authorized under Section 57-1-303, or
255 loans as authorized under Section 57-44-7, or water systems
256 improvements as authorized under Section 41-3-16.

257 In any county having a county seat which is not an
258 incorporated municipality, the distribution provided hereunder
259 shall be made as though the county seat was an incorporated
260 municipality; however, the distribution to such municipality shall
261 be paid to the county treasury wherein the municipality is located
262 and such funds shall be used for road, bridge and street
263 construction or maintenance therein.

264 (2) On or before September 15, 1987, and each succeeding
265 month thereafter, from the revenue collected under this chapter
266 during the preceding month One Million One Hundred Twenty-five
267 Thousand Dollars (\$1,125,000.00) shall be allocated for
268 distribution to municipal corporations as defined under subsection
269 (1) of this section in the proportion that the number of gallons
270 of gasoline and diesel fuel sold by distributors to consumers and
271 retailers in each such municipality during the preceding fiscal
272 year bears to the total gallons of gasoline and diesel fuel sold
273 by distributors to consumers and retailers in municipalities
274 statewide during the preceding fiscal year. The State Tax
275 Commission shall require all distributors of gasoline and diesel
276 fuel to report to the commission monthly the total number of
277 gallons of gasoline and diesel fuel sold by them to consumers and

278 retailers in each municipality during the preceding month. The
279 State Tax Commission shall have the authority to promulgate such
280 rules and regulations as is necessary to determine the number of
281 gallons of gasoline and diesel fuel sold by distributors to
282 consumers and retailers in each municipality. In determining the
283 percentage allocation of funds under this subsection for the
284 fiscal year beginning July 1, 1987, and ending June 30, 1988, the
285 State Tax Commission may consider gallons of gasoline and diesel
286 fuel sold for a period of less than one (1) fiscal year. For the
287 purposes of this subsection, the term "fiscal year" means the
288 fiscal year beginning July 1 of a year.

289 (3) On or before September 15, 1987, and on or before the
290 fifteenth day of each succeeding month, until the date specified
291 in Section 65-39-35, the proceeds derived from contractors' taxes
292 levied under Section 27-65-21 on contracts for the construction or
293 reconstruction of highways designated under the Four-Lane Highway
294 Program created under Section 65-3-97 shall, except as otherwise
295 provided in Section 31-17-127, be deposited into the State
296 Treasury to the credit of the State Highway Fund to be used to
297 fund such Four-Lane Highway Program. The Mississippi Department
298 of Transportation shall provide to the State Tax Commission such
299 information as is necessary to determine the amount of proceeds to
300 be distributed under this subsection.

301 (4) On or before August 15, 1994, and on or before the
302 fifteenth day of each succeeding month through July 15, 1999, from
303 the proceeds of gasoline, diesel fuel or kerosene taxes as
304 provided in Section 27-5-101(a)(ii)1, Four Million Dollars
305 (\$4,000,000.00) shall be deposited in the State Treasury to the

306 credit of a special fund designated as the "State Aid Road Fund,"
307 created by Section 65-9-17. On or before August 15, 1999, and on
308 or before the fifteenth day of each succeeding month, from the
309 total amount of the proceeds of gasoline, diesel fuel or kerosene
310 taxes apportioned by Section 27-5-101(a)(ii), Four Million Dollars
311 (\$4,000,000.00) or an amount equal to twenty-three and one-fourth
312 percent (23.25%) of such funds, whichever is the greater amount,
313 shall be deposited in the State Treasury to the credit of the
314 "State Aid Road Fund," created by Section 65-9-17. Such funds
315 shall be pledged to pay the principal of and interest on state aid
316 road bonds heretofore issued under Sections 19-9-51 through
317 19-9-77, in lieu of and in substitution for the funds heretofore
318 allocated to counties under this section. Such funds may not be
319 pledged for the payment of any state aid road bonds issued after
320 April 1, 1981; however, this prohibition against the pledging of
321 any such funds for the payment of bonds shall not apply to any
322 bonds for which intent to issue such bonds has been published, for
323 the first time, as provided by law prior to March 29, 1981. From
324 the amount of taxes paid into the special fund pursuant to this
325 subsection and subsection (9) of this section, there shall be
326 first deducted and paid the amount necessary to pay the expenses
327 of the Office of State Aid Road Construction, as authorized by the
328 Legislature for all other general and special fund agencies. The
329 remainder of the fund shall be allocated monthly to the several
330 counties in accordance with the following formula:

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

333 (b) One-third (1/3) shall be allocated to counties

334 based on the proportion that the total number of rural road miles
335 in a county bears to the total number of rural road miles in all
336 counties of the state; and

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

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

344 The amount of funds allocated to any county under this
345 subsection for any fiscal year after fiscal year 1994 shall not be
346 less than the amount allocated to such county for fiscal year
347 1994. Monies allocated to a county from the State Aid Road Fund
348 for fiscal year 1995 or any fiscal year thereafter that exceed the
349 amount of funds allocated to that county from the State Aid Road
350 Fund for fiscal year 1994, first must be expended by the county
351 for replacement or rehabilitation of bridges on the state aid road
352 system that have a sufficiency rating of less than twenty-five
353 (25), according to National Bridge Inspection standards before
354 such monies may be approved for expenditure by the State Aid Road
355 Engineer on other projects that qualify for the use of state aid
356 road funds.

357 Any reference in the general laws of this state or the
358 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
359 construed to refer and apply to subsection (4) of Section
360 27-65-75.

361 (5) One Million Six Hundred Sixty-six Thousand Six Hundred

362 Sixty-six Dollars (\$1,666,666.00) each month shall be paid into
363 the special fund known as the "State Public School Building Fund"
364 created and existing under the provisions of Sections 37-47-1
365 through 37-47-67. Such payments into said fund are to be made on
366 the last day of each succeeding month hereafter.

367 (6) An amount each month beginning August 15, 1983, through
368 November 15, 1986, as specified in Section 6 of Chapter 542, Laws
369 of 1983, shall be paid into the special fund known as the
370 Correctional Facilities Construction Fund created in Section 6 of
371 Chapter 542, Laws of 1983.

372 (7) On or before August 15, 1992, and each succeeding month
373 thereafter, two and two hundred sixty-six one-thousandths percent
374 (2.266%) of the total sales tax revenue collected during the
375 preceding month under the provisions of this chapter, except that
376 collected under the provisions of Section 27-65-17(2), not to
377 exceed the fiscal year 1997 appropriated level shall be deposited
378 by the commission into the School Ad Valorem Tax Reduction Fund
379 created pursuant to Section 37-61-35, with the balance to be
380 transferred to the Education Enhancement Fund created under
381 Section 37-61-33 for appropriation by the Legislature as other
382 education needs and not subject to the percentage set asides set
383 forth in Section 37-61-33.

384 (8) On or before August 15, 1992, and each succeeding month
385 thereafter, nine and seventy-three one-thousandths percent
386 (9.073%) of the total sales tax revenue collected during the
387 preceding month under the provisions of this chapter, except that
388 collected under the provisions of Section 27-65-17(2) shall be
389 deposited into the Education Enhancement Fund created pursuant to

390 Section 37-61-33.

391 (9) On or before August 15, 1994, and each succeeding month
392 thereafter, from the revenue collected under this chapter during
393 the preceding month, Two Hundred Fifty Thousand Dollars
394 (\$250,000.00) shall be paid into the State Aid Road Fund.

395 (10) On or before August 15, 1994, and each succeeding month
396 thereafter through August 15, 1995, from the revenue collected
397 under this chapter during the preceding month, Two Million Dollars
398 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
399 Valorem Tax Reduction Fund established in Section 27-51-105.

400 (11) Notwithstanding any other provision of this section to
401 the contrary, on or before February 15, 1995, and each succeeding
402 month thereafter, the sales tax revenue collected during the
403 preceding month under the provisions of Section 27-65-17(2) shall
404 be deposited, without diversion, into the Motor Vehicle Ad Valorem
405 Tax Reduction Fund established in Section 27-51-105.

406 (12) Notwithstanding any other provision of this section to
407 the contrary, on or before August 15, 1995, and each succeeding
408 month thereafter, the sales tax revenue collected during the
409 preceding month under the provisions of Section 27-65-17(1) on
410 retail sales of private carriers of passengers and light carriers
411 of property, as defined in Section 27-51-101, shall be deposited,
412 after diversion, into the Motor Vehicle Ad Valorem Tax Reduction
413 Fund established in Section 27-51-105.

414 (13) On or before July 15, 1994, and on or before the
415 fifteenth day of each succeeding month thereafter, that portion of
416 the avails of the tax imposed in Section 27-65-22, which is
417 derived from activities held on the Mississippi state fairgrounds

418 complex, shall be paid into a special fund hereby created in the
419 State Treasury and shall be expended pursuant to legislative
420 appropriations solely to defray the costs of repairs and
421 renovation at such Trade Mart and Coliseum.

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

429 (15) The remainder of the amounts collected under the
430 provisions of this chapter shall be paid into the State Treasury
431 to the credit of the General Fund.

432 (16) It shall be the duty of the municipal officials of any
433 municipality which expands its limits, or of any community which
434 incorporates as a municipality, to notify the commissioner of such
435 action thirty (30) days before the effective date. Failure to so
436 notify the commissioner shall cause such municipality to forfeit
437 the revenue which it would have been entitled to receive during
438 this period of time when the commissioner had no knowledge of the
439 action. If any funds have been erroneously disbursed to any
440 municipality or any overpayment of tax is recovered by the
441 taxpayer, the commissioner may make correction and adjust the
442 error or overpayment with such municipality by withholding the
443 necessary funds from any subsequent payment to be made to the
444 municipality.

445 SECTION 2. This act shall take effect and be in force from

446 and after July 1, 2000.