

By: Chaney, Gordon, Burton, King, Harvey

To: Finance

SENATE BILL NO. 2423
(As Passed the Senate)

1 AN ACT TO AMEND SECTIONS 27-65-75 AND 27-67-31, MISSISSIPPI
2 CODE OF 1972, TO REVISE THE AMOUNT OF SALES AND USE TAX REVENUE
3 DIVERTED TO THE SCHOOL AD VALOREM TAX REDUCTION FUND TO PROVIDE
4 THAT THE AMOUNT DIVERTED TO SUCH FUND SHALL NOT EXCEED THE FISCAL
5 YEAR 1999 APPROPRIATED LEVEL; TO PROVIDE THAT AMOUNTS IN EXCESS OF
6 THE FISCAL YEAR 1999 APPROPRIATED LEVEL THAT WOULD HAVE OTHERWISE
7 BEEN DIVERTED TO THE SCHOOL AD VALOREM TAX REDUCTION FUND SHALL BE
8 DEPOSITED INTO THE EDUCATION ENHANCEMENT FUND FOR APPROPRIATION BY
9 THE LEGISLATURE AS OTHER EDUCATION NEEDS; AND FOR RELATED
10 PURPOSES.

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

12 SECTION 1. Section 27-65-75, Mississippi Code of 1972, is
13 amended as follows:[WAN1]

14 * * *

15 27-65-75. On or before the fifteenth day of each month, the
16 revenue collected under the provisions of this chapter during the
17 preceding month shall be paid and distributed as follows:

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

31 corporation shall be allocated for distribution to such
32 municipality and paid to such municipal corporation.

33 A municipal corporation, for the purpose of distributing the
34 tax under this subsection, shall mean and include all incorporated
35 cities, towns and villages.

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

42 In any county having a county seat which is not an
43 incorporated municipality, the distribution provided hereunder
44 shall be made as though the county seat was an incorporated
45 municipality; however, the distribution to such municipality shall
46 be paid to the county treasury wherein the municipality is located
47 and such funds shall be used for road, bridge and street
48 construction or maintenance therein.

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

68 percentage allocation of funds under this subsection for the
69 fiscal year beginning July 1, 1987, and ending June 30, 1988, the
70 State Tax Commission may consider gallons of gasoline and diesel
71 fuel sold for a period of less than one (1) fiscal year. For the
72 purposes of this subsection, the term "fiscal year" means the
73 fiscal year beginning July 1 of a year.

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

86 (4) On or before August 15, 1994, and on or before the
87 fifteenth day of each succeeding month through July 15, 1999, from
88 the proceeds of gasoline, diesel fuel or kerosene taxes as
89 provided in Section 27-5-101(a)(ii)1, Four Million Dollars
90 (\$4,000,000.00) shall be deposited in the State Treasury to the
91 credit of a special fund designated as the "State Aid Road Fund,"
92 created by Section 65-9-17. On or before August 15, 1999, and on
93 or before the fifteenth day of each succeeding month, from the
94 total amount of the proceeds of gasoline, diesel fuel or kerosene
95 taxes apportioned by Section 27-5-101(a)(ii), Four Million Dollars
96 (\$4,000,000.00) or an amount equal to twenty-three and one-fourth
97 percent (23.25%) of such funds, whichever is the greater amount,
98 shall be deposited in the State Treasury to the credit of the
99 "State Aid Road Fund," created by Section 65-9-17. Such funds
100 shall be pledged to pay the principal of and interest on state aid

101 road bonds heretofore issued under Sections 19-9-51 through
102 19-9-77, in lieu of and in substitution for the funds heretofore
103 allocated to counties under this section. Such funds may not be
104 pledged for the payment of any state aid road bonds issued after
105 April 1, 1981; however, this prohibition against the pledging of
106 any such funds for the payment of bonds shall not apply to any
107 bonds for which intent to issue such bonds has been published, for
108 the first time, as provided by law prior to March 29, 1981. From
109 the amount of taxes paid into the special fund pursuant to this
110 subsection and subsection (9) of this section, there shall be
111 first deducted and paid the amount necessary to pay the expenses
112 of the Office of State Aid Road Construction, as authorized by the
113 Legislature for all other general and special fund agencies. The
114 remainder of the fund shall be allocated monthly to the several
115 counties in accordance with the following formula:

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

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

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

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

129 The amount of funds allocated to any county under this
130 subsection for any fiscal year after fiscal year 1994 shall not be
131 less than the amount allocated to such county for fiscal year
132 1994. Monies allocated to a county from the State Aid Road Fund
133 for fiscal year 1995 or any fiscal year thereafter that exceed the

134 amount of funds allocated to that county from the State Aid Road
135 Fund for fiscal year 1994, first must be expended by the county
136 for replacement or rehabilitation of bridges on the state aid road
137 system that have a sufficiency rating of less than twenty-five
138 (25), according to National Bridge Inspection standards before
139 such monies may be approved for expenditure by the State Aid Road
140 Engineer on other projects that qualify for the use of state aid
141 road funds.

142 Any reference in the general laws of this state or the
143 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
144 construed to refer and apply to subsection (4) of Section
145 27-65-75.

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

152 (6) An amount each month beginning August 15, 1983, through
153 November 15, 1986, as specified in Section 6 of Chapter 542, Laws
154 of 1983, shall be paid into the special fund known as the
155 Correctional Facilities Construction Fund created in Section 6 of
156 Chapter 542, Laws of 1983.

157 (7) On or before August 15, 1992, and each succeeding month
158 thereafter through July 15, 2000, two and two hundred sixty-six
159 one-thousandths percent (2.266%) of the total sales tax revenue
160 collected during the preceding month under the provisions of this
161 chapter, except that collected under the provisions of Section
162 27-65-17(2) shall be deposited by the commission into the School
163 Ad Valorem Tax Reduction Fund created pursuant to Section
164 37-61-35. On or before August 15, 2000, and each succeeding month
165 thereafter, two and two hundred sixty-six one-thousandths percent
166 (2.266%) of the total sales tax revenue collected during the

167 preceding month under the provisions of this chapter, except that
168 collected under the provisions of Section 27-65-17(2), shall be
169 deposited as follows:

170 (a) An amount not to exceed the fiscal year 1999
171 appropriated level shall be deposited into the School Ad Valorem
172 Tax Reduction Fund created pursuant to Section 37-61-35, and

173 (b) The remainder shall be deposited into the Education
174 Enhancement Fund created under Section 37-61-33 for appropriation
175 by the Legislature as other education needs and shall not be
176 subject to the percentage appropriation requirements set forth in
177 Section 37-61-33.

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

185 (9) On or before August 15, 1994, and each succeeding month
186 thereafter, from the revenue collected under this chapter during
187 the preceding month, Two Hundred Fifty Thousand Dollars
188 (\$250,000.00) shall be paid into the State Aid Road Fund.

189 (10) On or before August 15, 1994, and each succeeding month
190 thereafter through August 15, 1995, from the revenue collected
191 under this chapter during the preceding month, Two Million Dollars
192 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
193 Valorem Tax Reduction Fund established in Section 27-51-105.

194 (11) Notwithstanding any other provision of this section to
195 the contrary, on or before February 15, 1995, and each succeeding
196 month thereafter, the sales tax revenue collected during the
197 preceding month under the provisions of Section 27-65-17(2) and
198 the corresponding levy in Section 27-65-23 on the rental or lease
199 of private carriers of passengers and light carriers of property

200 as defined in Section 27-51-101 shall be deposited, without
201 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund
202 established in Section 27-51-105.

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

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

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

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

230 (16) It shall be the duty of the municipal officials of any
231 municipality which expands its limits, or of any community which
232 incorporates as a municipality, to notify the commissioner of such

233 action thirty (30) days before the effective date. Failure to so
234 notify the commissioner shall cause such municipality to forfeit
235 the revenue which it would have been entitled to receive during
236 this period of time when the commissioner had no knowledge of the
237 action. If any funds have been erroneously disbursed to any
238 municipality or any overpayment of tax is recovered by the
239 taxpayer, the commissioner may make correction and adjust the
240 error or overpayment with such municipality by withholding the
241 necessary funds from any subsequent payment to be made to the
242 municipality.

243 * * *

244 SECTION 2. Section 27-67-31, Mississippi Code of 1972, is
245 amended as follows:[LR2]

246 27-67-31. All administrative provisions of the sales tax
247 law, and amendments thereto, including those which fix damages,
248 penalties and interest for failure to comply with the provisions
249 of said sales tax law, and all other requirements and duties
250 imposed upon taxpayer, shall apply to all persons liable for use
251 taxes under the provisions of this article. The commissioner
252 shall exercise all power and authority and perform all duties with
253 respect to taxpayers under this article as are provided in said
254 sales tax law, except where there is conflict, then the provisions
255 of this article shall control.

256 The commissioner may require transportation companies to
257 permit the examination of waybills, freight bills, or other
258 documents covering shipments of tangible personal property into
259 this state.

260 On or before the fifteenth day of each month, the amount
261 received from taxes, damages and interest under the provisions of
262 this article during the preceding month shall be paid and
263 distributed as follows:

264 (a) On or before July 15, 1994, through July 15, 2000,
265 and each succeeding month thereafter, two and two hundred

266 sixty-six one-thousandths percent (2.266%) of the total use tax
267 revenue collected during the preceding month under the provisions
268 of this article shall be deposited in the School Ad Valorem Tax
269 Reduction Fund created pursuant to Section 37-61-35. On or before
270 August 15, 2000, and each succeeding month thereafter, two and two
271 hundred sixty-six one-thousandths percent (2.266%) of the total
272 use tax revenue collected during the preceding month under the
273 provisions of this chapter shall be deposited as follows:

274 (a) An amount not to exceed the fiscal year 1999
275 appropriated level shall be deposited into the School Ad Valorem
276 Tax Reduction Fund created pursuant to Section 37-61-35, and

277 (b) The remainder shall be deposited into the Education
278 Enhancement Fund created under Section 37-61-33 for appropriation
279 by the Legislature as other education needs and shall not be
280 subject to the percentage appropriation requirements set forth in
281 Section 37-61-33.

282 (b) On or before July 15, 1994, and each succeeding
283 month thereafter, nine and seventy-three one thousandths percent
284 (9.073%) of the total use tax revenue collected during the
285 preceding month under the provisions of this article shall be
286 deposited into the Education Enhancement Fund created pursuant to
287 Section 37-61-33.

288 (c) On or before July 15, 1997, and on or before the
289 fifteenth day of each succeeding month thereafter, the revenue
290 collected under the provisions of this article imposed and levied
291 as a result of Section 27-65-17(2) and the corresponding levy in
292 Section 27-65-23 on the rental or lease of private carriers of
293 passengers and light carriers of property as defined in Section
294 27-51-101 shall be deposited into the Motor Vehicle Ad Valorem Tax
295 Reduction Fund created pursuant to Section 27-51-105.

296 (d) On or before July 15, 1997, and on or before the
297 fifteenth day of each succeeding month thereafter and after the
298 deposits required by paragraphs (a) and (b) of this section are

299 made, the remaining revenue collected under the provisions of this
300 article imposed and levied as a result of Section 27-65-17(1) and
301 the corresponding levy in Section 27-65-23 on the rental or lease
302 of private carriers of passengers and light carriers of property
303 as defined in Section 27-51-101 shall be deposited into the Motor
304 Vehicle Ad Valorem Tax Reduction Fund created pursuant to Section
305 27-51-105.

306 (e) The remainder of the amount received from taxes,
307 damages and interest under the provisions of this article shall be
308 paid into the General Fund of the State Treasury by the
309 commissioner.

310 SECTION 3. This act shall take effect and be in force from
311 and after July 1, 2000.