

By: Representative Nettles

To: Ways and Means

HOUSE BILL NO. 368

1 AN ACT TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE FOR THE PAYMENT OF A PERCENTAGE OF SALES TAX REVENUES
3 GENERATED FROM BUSINESS ACTIVITIES OUTSIDE MUNICIPALITIES TO THE
4 COUNTIES IN WHICH SUCH BUSINESS ACTIVITIES OCCURRED; TO AMEND
5 SECTION 27-65-53, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO;
6 AND FOR RELATED PURPOSES.

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

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

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

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



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

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

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

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



61 gallons of gasoline and diesel fuel sold by distributors to
62 consumers and retailers in each municipality. In determining the
63 percentage allocation of funds under this subsection for the
64 fiscal year beginning July 1, 1987, and ending June 30, 1988, the
65 State Tax Commission may consider gallons of gasoline and diesel
66 fuel sold for a period of less than one (1) fiscal year. For the
67 purposes of this subsection, the term "fiscal year" means the
68 fiscal year beginning July 1 of a year.

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

81 (4) On or before August 15, 1994, and on or before the
82 fifteenth day of each succeeding month through July 15, 1999, from
83 the proceeds of gasoline, diesel fuel or kerosene taxes as
84 provided in Section 27-5-101(a)(ii)1, Four Million Dollars
85 (\$4,000,000.00) shall be deposited in the State Treasury to the
86 credit of a special fund designated as the "State Aid Road Fund,"
87 created by Section 65-9-17. On or before August 15, 1999, and on
88 or before the fifteenth day of each succeeding month, from the
89 total amount of the proceeds of gasoline, diesel fuel or kerosene
90 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million
91 Dollars (\$4,000,000.00) or an amount equal to twenty-three and
92 one-fourth percent (23.25%) of such funds, whichever is the
93 greater amount, shall be deposited in the State Treasury to the



94 credit of the "State Aid Road Fund," created by Section 65-9-17.
95 Such funds shall be pledged to pay the principal of and interest
96 on state aid road bonds heretofore issued under Sections 19-9-51
97 through 19-9-77, in lieu of and in substitution for the funds
98 heretofore allocated to counties under this section. Such funds
99 may not be pledged for the payment of any state aid road bonds
100 issued after April 1, 1981; however, this prohibition against the
101 pledging of any such funds for the payment of bonds shall not
102 apply to any bonds for which intent to issue such bonds has been
103 published, for the first time, as provided by law prior to March
104 29, 1981. From the amount of taxes paid into the special fund
105 pursuant to this subsection and subsection (9) of this section,
106 there shall be first deducted and paid the amount necessary to pay
107 the expenses of the Office of State Aid Road Construction, as
108 authorized by the Legislature for all other general and special
109 fund agencies. The remainder of the fund shall be allocated
110 monthly to the several counties in accordance with the following
111 formula:

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

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

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

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

125 The amount of funds allocated to any county under this
126 subsection for any fiscal year after fiscal year 1994 shall not be



127 less than the amount allocated to such county for fiscal year
128 1994. Monies allocated to a county from the State Aid Road Fund
129 for fiscal year 1995 or any fiscal year thereafter that exceed the
130 amount of funds allocated to that county from the State Aid Road
131 Fund for fiscal year 1994, first must be expended by the county
132 for replacement or rehabilitation of bridges on the state aid road
133 system that have a sufficiency rating of less than twenty-five
134 (25), according to National Bridge Inspection standards before
135 such monies may be approved for expenditure by the State Aid Road
136 Engineer on other projects that qualify for the use of state aid
137 road funds.

138 Any reference in the general laws of this state or the
139 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
140 construed to refer and apply to subsection (4) of Section
141 27-65-75.

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

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

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



160 37-61-35. On or before August 15, 2000, and each succeeding month
161 thereafter, two and two hundred sixty-six one-thousandths percent
162 (2.266%) of the total sales tax revenue collected during the
163 preceding month under the provisions of this chapter, except that
164 collected under the provisions of Section 27-65-17(2), shall be
165 deposited into the School Ad Valorem Tax Reduction Fund created
166 under Section 37-61-35 until such time that the total amount
167 deposited into the fund during a fiscal year equals Forty-two
168 Million Dollars (\$42,000,000.00). Thereafter, the amounts
169 diverted under this subsection (7) during the fiscal year in
170 excess of Forty-two Million Dollars (\$42,000,000.00) shall be
171 deposited into the Education Enhancement Fund created under
172 Section 37-61-33 for appropriation by the Legislature as other
173 education needs and shall not be subject to the percentage
174 appropriation requirements set forth in Section 37-61-33.

175 (8) On or before August 15, 1992, and each succeeding month
176 thereafter, nine and seventy-three one-thousandths percent
177 (9.073%) of the total sales tax revenue collected during the
178 preceding month under the provisions of this chapter, except that
179 collected under the provisions of Section 27-65-17(2) shall be
180 deposited into the Education Enhancement Fund created pursuant to
181 Section 37-61-33.

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

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

191 (11) Notwithstanding any other provision of this section to
192 the contrary, on or before February 15, 1995, and each succeeding



193 month thereafter, the sales tax revenue collected during the
194 preceding month under the provisions of Section 27-65-17(2) and
195 the corresponding levy in Section 27-65-23 on the rental or lease
196 of private carriers of passengers and light carriers of property
197 as defined in Section 27-51-101 shall be deposited, without
198 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund
199 established in Section 27-51-105.

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

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

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

224 (15) Notwithstanding any other provision of this section to
225 the contrary, on or before September 15, 2000, and each succeeding



226 month thereafter, the sales tax revenue collected during the
227 preceding month under the provisions of Section 27-65-19(1)(f),
228 shall be deposited, without diversion, into the Telecommunications
229 Ad Valorem Tax Reduction Fund established in Section 27-38-7.

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

237 (17) On or before August 15, 2001, and each succeeding month
238 thereafter, eighteen and one-half percent (18 1/2%) of the total
239 sales tax revenue collected during the preceding month under the
240 provisions of this chapter, except that collected under the
241 provisions of Sections 27-65-15, 27-65-19(1)(f), 27-65-19(3) and
242 27-65-21, and that collected under the provisions of Section
243 27-65-17(2) and the corresponding levy in Section 27-65-23 on the
244 rental or lease of private carriers of passengers and light
245 carriers of property as defined in Section 27-51-101, on business
246 activities within a county but outside any municipal corporation,
247 as defined in subsection (1) of this section, shall be allocated
248 for distribution to such county and paid to such county. The
249 amount paid to each county under this subsection (15) shall be in
250 addition to any other funds allocated for distribution to the
251 various counties under this section.

252 (18) The remainder of the amounts collected under the
253 provisions of this chapter shall be paid into the State Treasury
254 to the credit of the General Fund.

255 (19) It shall be the duty of the municipal officials of any
256 municipality which expands its limits, or of any community which
257 incorporates as a municipality, to notify the commissioner of such
258 action thirty (30) days before the effective date. Failure to so



259 notify the commissioner shall cause such municipality to forfeit
260 the revenue which it would have been entitled to receive during
261 this period of time when the commissioner had no knowledge of the
262 action. If any funds have been erroneously disbursed to any
263 municipality or county or any overpayment of tax is recovered by
264 the taxpayer, the commissioner may make correction and adjust the
265 error or overpayment with such municipality or county by
266 withholding the necessary funds from any subsequent payment to be
267 made to the municipality or county.

268 SECTION 2. Section 27-65-53, Mississippi Code of 1972, is
269 amended as follows:

270 27-65-53. If the commissioner finds that the taxpayer has
271 overpaid his tax for any reason and the taxpayer has discontinued
272 business and there is no subsequent liability upon which the
273 excess may be credited, or if the amount of the excess so paid
274 shall exceed the estimated liability for the next twelve (12)
275 months, the excess shall be refunded to the taxpayer. Such amount
276 shall be certified to the State Auditor of Public Accounts by the
277 commission. The * * * auditor may make such investigation and
278 audit of the claim as he finds necessary. If he finds that the
279 commissioner is correct in his determination, the auditor may
280 issue his warrant to the State Treasurer in favor of the taxpayer
281 for the amount of tax erroneously paid into the State Treasury,
282 such refunds to be made from current sales tax collections. If
283 part of the overpayment has been disbursed to any municipality or
284 county, under authority of Section 27-65-75, the municipality or
285 county having erroneously received the money shall adjust the
286 amount with the commissioner, or the overpayment may be withheld
287 by the state from any funds due by the state to the municipality
288 or county.

289 * * * Where the taxpayer has overpaid his tax, the
290 commissioner may give credit for same and allow the taxpayer to
291 take credit on a subsequent return or, if necessary, in his



292 discretion, have the taxpayer file for a refund as provided
293 herein.

294 If any overpayment of tax as reflected in an application or
295 amended return, or both, filed by the taxpayer, and verified by
296 the commissioner or otherwise determined to be due by the
297 commissioner or commission, is not refunded or credited to a
298 taxpayer's account within ninety (90) days after the application
299 or amended return is filed or the date the commission or
300 commissioner determines a refund is due, whichever is later,
301 interest at the rate of one percent (1%) per month shall be
302 allowed on such overpayment computed for the period after
303 expiration of the ninety-day period provided herein to the date of
304 payment.

305 SECTION 3. This act shall take effect and be in force from
306 and after July 1, 2001.

