

By: Senator(s) Johnson (19th)

To: Finance

SENATE BILL NO. 2698

1 AN ACT TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972,
2 TO INCREASE FROM 18.5% TO 20.5% THE DIVERSION OF STATE SALES TAX
3 REVENUE ALLOCATED FOR DISTRIBUTION TO 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 27-65-75. On or before the fifteenth day of each month, the
9 revenue collected under the provisions of this chapter during the
10 preceding month shall be paid and distributed as follows:

11 (1) On or before August 15, 1992, and each succeeding month
12 thereafter through July 15, 1993, eighteen percent (18%) of the
13 total sales tax revenue collected during the preceding month under
14 the provisions of this chapter, except that collected under the
15 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
16 business activities within a municipal corporation shall be
17 allocated for distribution to such municipality and paid to such
18 municipal corporation. On or before August 15, 1993, and each
19 succeeding month thereafter through July 15, 2001, eighteen and
20 one-half percent (18-1/2%) of the total sales tax revenue
21 collected during the preceding month under the provisions of this
22 chapter, except that collected under the provisions of Sections
23 27-65-15, 27-65-19(3) and 27-65-21, on business activities within
24 a municipal corporation shall be allocated for distribution to
25 such municipality and paid to such municipal corporation. On or
26 before August 15, 2001, and each succeeding month thereafter,
27 twenty and one-half percent (20-1/2%) of the total sales tax

28 revenue collected during the preceding month under the provisions
29 of this chapter, except that collected under the provisions of
30 Sections 27-65-15, 27-65-19(3) and 27-65-21, and that collected
31 under the provisions of Section 27-65-17(2) and the corresponding
32 levy in Section 27-65-23 on the rental or lease of private
33 carriers of passengers and light carriers of property as defined
34 in Section 27-51-101, on business activities within a municipal
35 corporation shall be allocated for distribution to such
36 municipality and paid to such municipal corporation.

37 A municipal corporation, for the purpose of distributing the
38 tax under this subsection, shall mean and include all incorporated
39 cities, towns and villages.

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

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

53 (2) On or before September 15, 1987, and each succeeding
54 month thereafter, from the revenue collected under this chapter
55 during the preceding month One Million One Hundred Twenty-five
56 Thousand Dollars (\$1,125,000.00) shall be allocated for
57 distribution to municipal corporations as defined under subsection
58 (1) of this section in the proportion that the number of gallons
59 of gasoline and diesel fuel sold by distributors to consumers and
60 retailers in each such municipality during the preceding fiscal

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

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

90 (4) On or before August 15, 1994, and on or before the
91 fifteenth day of each succeeding month through July 15, 1999, from
92 the proceeds of gasoline, diesel fuel or kerosene taxes as
93 provided in Section 27-5-101(a)(ii)1, Four Million Dollars

94 (\$4,000,000.00) shall be deposited in the State Treasury to the
95 credit of a special fund designated as the "State Aid Road Fund,"
96 created by Section 65-9-17. On or before August 15, 1999, and on
97 or before the fifteenth day of each succeeding month, from the
98 total amount of the proceeds of gasoline, diesel fuel or kerosene
99 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million
100 Dollars (\$4,000,000.00) or an amount equal to twenty-three and
101 one-fourth percent (23.25%) of such funds, whichever is the
102 greater amount, shall be deposited in the State Treasury to the
103 credit of the "State Aid Road Fund," created by Section 65-9-17.
104 Such funds shall be pledged to pay the principal of and interest
105 on state aid road bonds heretofore issued under Sections 19-9-51
106 through 19-9-77, in lieu of and in substitution for the funds
107 heretofore allocated to counties under this section. Such funds
108 may not be pledged for the payment of any state aid road bonds
109 issued after April 1, 1981; however, this prohibition against the
110 pledging of any such funds for the payment of bonds shall not
111 apply to any bonds for which intent to issue such bonds has been
112 published, for the first time, as provided by law prior to March
113 29, 1981. From the amount of taxes paid into the special fund
114 pursuant to this subsection and subsection (9) of this section,
115 there shall be first deducted and paid the amount necessary to pay
116 the expenses of the Office of State Aid Road Construction, as
117 authorized by the Legislature for all other general and special
118 fund agencies. The remainder of the fund shall be allocated
119 monthly to the several counties in accordance with the following
120 formula:

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

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

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

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

134 The amount of funds allocated to any county under this
135 subsection for any fiscal year after fiscal year 1994 shall not be
136 less than the amount allocated to such county for fiscal year
137 1994. Monies allocated to a county from the State Aid Road Fund
138 for fiscal year 1995 or any fiscal year thereafter that exceed the
139 amount of funds allocated to that county from the State Aid Road
140 Fund for fiscal year 1994, first must be expended by the county
141 for replacement or rehabilitation of bridges on the state aid road
142 system that have a sufficiency rating of less than twenty-five
143 (25), according to National Bridge Inspection standards before
144 such monies may be approved for expenditure by the State Aid Road
145 Engineer on other projects that qualify for the use of state aid
146 road funds.

147 Any reference in the general laws of this state or the
148 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
149 construed to refer and apply to subsection (4) of Section
150 27-65-75.

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

157 (6) An amount each month beginning August 15, 1983, through
158 November 15, 1986, as specified in Section 6 of Chapter 542, Laws
159 of 1983, shall be paid into the special fund known as the

160 Correctional Facilities Construction Fund created in Section 6 of
161 Chapter 542, Laws of 1983.

162 (7) On or before August 15, 1992, and each succeeding month
163 thereafter through July 15, 2000, two and two hundred sixty-six
164 one-thousandths percent (2.266%) of the total sales tax revenue
165 collected during the preceding month under the provisions of this
166 chapter, except that collected under the provisions of Section
167 27-65-17(2) shall be deposited by the commission into the School
168 Ad Valorem Tax Reduction Fund created pursuant to Section
169 37-61-35. On or before August 15, 2000, and each succeeding month
170 thereafter, two and two hundred sixty-six one-thousandths percent
171 (2.266%) of the total sales tax revenue collected during the
172 preceding month under the provisions of this chapter, except that
173 collected under the provisions of Section 27-65-17(2), shall be
174 deposited into the School Ad Valorem Tax Reduction Fund created
175 under Section 37-61-35 until such time that the total amount
176 deposited into the fund during a fiscal year equals Forty-two
177 Million Dollars (\$42,000,000.00). Thereafter, the amounts
178 diverted under this subsection (7) during the fiscal year in
179 excess of Forty-two Million Dollars (\$42,000,000.00) shall be
180 deposited into the Education Enhancement Fund created under
181 Section 37-61-33 for appropriation by the Legislature as other
182 education needs and shall not be subject to the percentage
183 appropriation requirements set forth in Section 37-61-33.

184 (8) On or before August 15, 1992, and each succeeding month
185 thereafter, nine and seventy-three one-thousandths percent
186 (9.073%) of the total sales tax revenue collected during the
187 preceding month under the provisions of this chapter, except that
188 collected under the provisions of Section 27-65-17(2) shall be
189 deposited into the Education Enhancement Fund created pursuant to
190 Section 37-61-33.

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

193 the preceding month, Two Hundred Fifty Thousand Dollars
194 (\$250,000.00) shall be paid into the State Aid Road Fund.

195 (10) On or before August 15, 1994, and each succeeding month
196 thereafter through August 15, 1995, from the revenue collected
197 under this chapter during the preceding month, Two Million Dollars
198 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
199 Valorem Tax Reduction Fund established in Section 27-51-105.

200 (11) Notwithstanding any other provision of this section to
201 the contrary, on or before February 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(2) and
204 the corresponding levy in Section 27-65-23 on the rental or lease
205 of private carriers of passengers and light carriers of property
206 as defined in Section 27-51-101 shall be deposited, without
207 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund
208 established in Section 27-51-105.

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

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

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

233 (15) Notwithstanding any other provision of this section to
234 the contrary, on or before September 15, 2000, and each succeeding
235 month thereafter, the sales tax revenue collected during the
236 preceding month under the provisions of Section 27-65-19(f), shall
237 be deposited, without diversion, into the Telecommunications Ad
238 Valorem Tax Reduction Fund established in Section 27-38-7.

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

246 (17) The remainder of the amounts collected under the
247 provisions of this chapter shall be paid into the State Treasury
248 to the credit of the General Fund.

249 (18) It shall be the duty of the municipal officials of any
250 municipality which expands its limits, or of any community which
251 incorporates as a municipality, to notify the commissioner of such
252 action thirty (30) days before the effective date. Failure to so
253 notify the commissioner shall cause such municipality to forfeit
254 the revenue which it would have been entitled to receive during
255 this period of time when the commissioner had no knowledge of the
256 action. If any funds have been erroneously disbursed to any
257 municipality or any overpayment of tax is recovered by the
258 taxpayer, the commissioner may make correction and adjust the

259 error or overpayment with such municipality by withholding the
260 necessary funds from any subsequent payment to be made to the
261 municipality.

262 SECTION 2. This act shall take effect and be in force from
263 and after July 1, 2001.