

By: Representatives McCoy, Morris, Smith  
(39th)

To: Ways and Means

HOUSE BILL NO. 1038  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE FOR THE DEPOSIT OF A PORTION OF THE STATE SALES TAX  
3 REVENUE INTO THE SPECIAL FUNDS TRANSFER FUND IN THE STATE  
4 TREASURY; AND FOR 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, eighteen and one-half percent  
20 (18-1/2%) of the total sales tax revenue collected during the  
21 preceding month under the provisions of this chapter, except that  
22 collected under the provisions of Sections 27-65-15, 27-65-19(3)  
23 and 27-65-21, on business activities within a municipal  
24 corporation shall be allocated for distribution to such  
25 municipality and paid to such municipal corporation.

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



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

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

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



62 fiscal year beginning July 1, 1987, and ending June 30, 1988, the  
63 State Tax Commission may consider gallons of gasoline and diesel  
64 fuel sold for a period of less than one (1) fiscal year. For the  
65 purposes of this subsection, the term "fiscal year" means the  
66 fiscal year beginning July 1 of a year.

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

79 (4) On or before August 15, 1994, and on or before the  
80 fifteenth day of each succeeding month through July 15, 1999, from  
81 the proceeds of gasoline, diesel fuel or kerosene taxes as  
82 provided in Section 27-5-101(a)(ii)1, Four Million Dollars  
83 (\$4,000,000.00) shall be deposited in the State Treasury to the  
84 credit of a special fund designated as the "State Aid Road Fund,"  
85 created by Section 65-9-17. On or before August 15, 1999, and on  
86 or before the fifteenth day of each succeeding month, from the  
87 total amount of the proceeds of gasoline, diesel fuel or kerosene  
88 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million  
89 Dollars (\$4,000,000.00) or an amount equal to twenty-three and  
90 one-fourth percent (23.25%) of such funds, whichever is the  
91 greater amount, shall be deposited in the State Treasury to the  
92 credit of the "State Aid Road Fund," created by Section 65-9-17.  
93 Such funds shall be pledged to pay the principal of and interest  
94 on state aid road bonds heretofore issued under Sections 19-9-51



95 through 19-9-77, in lieu of and in substitution for the funds  
96 heretofore allocated to counties under this section. Such funds  
97 may not be pledged for the payment of any state aid road bonds  
98 issued after April 1, 1981; however, this prohibition against the  
99 pledging of any such funds for the payment of bonds shall not  
100 apply to any bonds for which intent to issue such bonds has been  
101 published, for the first time, as provided by law prior to March  
102 29, 1981. From the amount of taxes paid into the special fund  
103 pursuant to this subsection and subsection (9) of this section,  
104 there shall be first deducted and paid the amount necessary to pay  
105 the expenses of the Office of State Aid Road Construction, as  
106 authorized by the Legislature for all other general and special  
107 fund agencies. The remainder of the fund shall be allocated  
108 monthly to the several counties in accordance with the following  
109 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 allocated to that county from the State Aid Road  
129 Fund for fiscal year 1994, first must be expended by the county  
130 for replacement or rehabilitation of bridges on the state aid road  
131 system that have a sufficiency rating of less than twenty-five  
132 (25), according to National Bridge Inspection standards before  
133 such monies may be approved for expenditure by the State Aid Road  
134 Engineer on other projects that qualify for the use of state aid  
135 road funds.

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

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

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

151 (7) On or before August 15, 1992, and each succeeding month  
152 thereafter through July 15, 2000, two and two hundred sixty-six  
153 one-thousandths percent (2.266%) of the total sales tax revenue  
154 collected during the preceding month under the provisions of this  
155 chapter, except that collected under the provisions of Section  
156 27-65-17(2) shall be deposited by the commission into the School  
157 Ad Valorem Tax Reduction Fund created pursuant to Section  
158 37-61-35. On or before August 15, 2000, and each succeeding month  
159 thereafter, two and two hundred sixty-six one-thousandths percent  
160 (2.266%) of the total sales tax revenue collected during the



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

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

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

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

189 (11) Notwithstanding any other provision of this section to  
190 the contrary, on or before February 15, 1995, and each succeeding  
191 month thereafter, the sales tax revenue collected during the  
192 preceding month under the provisions of Section 27-65-17(2) and  
193 the corresponding levy in Section 27-65-23 on the rental or lease



194 of private carriers of passengers and light carriers of property  
195 as defined in Section 27-51-101 shall be deposited, without  
196 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund  
197 established in Section 27-51-105.

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

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

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

222 (15) Notwithstanding any other provision of this section to  
223 the contrary, on or before September 15, 2000, and each succeeding  
224 month thereafter, the sales tax revenue collected during the  
225 preceding month under the provisions of Section 27-65-19(1)(f) and  
226 (g)(i)2, shall be deposited, without diversion, into the



227 Telecommunications Ad Valorem Tax Reduction Fund established in  
228 Section 27-38-7.

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

236 (17) Notwithstanding any other provision of this section to  
237 the contrary, on or before April 15, 2002, and each succeeding  
238 month thereafter, the sales tax revenue collected during the  
239 preceding month under Section 27-65-23 on sales of parking  
240 services of parking garages and lots at airports shall be  
241 deposited, without diversion, into the special fund created  
242 pursuant to Section 27-5-101(d).

243 (18) On or before August 15, 2004, and each succeeding month  
244 thereafter through July 15, 2005, from the sales tax revenue  
245 collected during the preceding month under the provisions of this  
246 chapter, Two Million Five Hundred Thousand Dollars (\$2,500,000.00)  
247 shall be deposited into the Special Funds Transfer Fund created in  
248 House Bill No. 1036, 2003 Regular Session.

249 (19) The remainder of the amounts collected under the  
250 provisions of this chapter shall be paid into the State Treasury  
251 to the credit of the General Fund.

252 (20) It shall be the duty of the municipal officials of any  
253 municipality which expands its limits, or of any community which  
254 incorporates as a municipality, to notify the commissioner of such  
255 action thirty (30) days before the effective date. Failure to so  
256 notify the commissioner shall cause such municipality to forfeit  
257 the revenue which it would have been entitled to receive during  
258 this period of time when the commissioner had no knowledge of the  
259 action. If any funds have been erroneously disbursed to any





260 municipality or any overpayment of tax is recovered by the  
261 taxpayer, the commissioner may make correction and adjust the  
262 error or overpayment with such municipality by withholding the  
263 necessary funds from any subsequent payment to be made to the  
264 municipality.

265           **SECTION 2.** This act shall take effect and be in force from  
266 and after July 1, 2003.

