

By: Senator(s) Browning, Williamson,
Dawkins, Thomas, Jackson (32nd), Wilemon, Lee
(35th), Harvey

To: Appropriations

SENATE BILL NO. 2263

1 AN ACT TO AMEND SECTION 27-104-13, MISSISSIPPI CODE OF 1972,
2 TO EXEMPT FUNDS OF THE DIVISION OF STATE AID ROAD CONSTRUCTION OF
3 THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION FROM ANY SPECIAL FUND
4 TRANSFERS AUTHORIZED BY THE DEPARTMENT OF FINANCE AND
5 ADMINISTRATION OR THE LEGISLATURE; TO AMEND SECTION 27-65-75,
6 MISSISSIPPI CODE OF 1972, TO CLARIFY THAT STATE AID ROAD MONIES
7 ALLOCATED TO THE COUNTIES UNDER THE FORMULA SHALL BE CONSIDERED
8 ENCUMBERED AND PLEDGED BY THE STATE FOR THE EXCLUSIVE USE OF THE
9 COUNTIES; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 27-104-13, Mississippi Code of 1972, is
12 amended as follows:

13 27-104-13. (1) The State Fiscal Officer shall have the
14 right to disapprove or reduce and revise such estimates of general
15 funds and state-source special funds for any general fund or
16 special fund agency, and for the "administration and other
17 expenses" budget of the Mississippi Department of Transportation,
18 in an amount not to exceed five percent (5%) if he finds that
19 funds will not be available within the period for which the budget
20 is drawn, or if he finds that the requested expenditures, or any
21 part thereof, are not authorized by law, and such action shall be
22 reported to the Legislative Budget Office. The State Fiscal
23 Officer may, upon his determination of need based upon a finding
24 that funds will not be available within the period for which the
25 budget is drawn, transfer funds as provided in Section 27-103-203,
26 from the Working Cash-Stabilization Reserve Fund to the General
27 Fund to supplement the general fund revenue. In the event that
28 the estimates of general funds and state-source special funds of
29 all general fund and special fund agencies, and of the
30 "administration and other expenses" budget of the Mississippi

31 Department of Transportation, have been reduced by five percent
32 (5%), additional reductions may be made but shall consist of a
33 uniform percentage reduction of general funds and state-source
34 special funds to all general fund and special fund agencies, and
35 to the "administration and other expenses" budget of the
36 Mississippi Department of Transportation. Any state-source
37 special funds reduced under the provisions of this section shall
38 be transferred to the State General Fund upon requisitions for
39 warrants signed by the respective agency head and said transfer
40 shall be made within a reasonable period to be determined by the
41 State Fiscal Officer.

42 (2) For the purpose of this section, "state-source special
43 funds" shall be construed to mean any special funds in any agency
44 derived from any source, but shall not include the following
45 special funds: special funds derived from federal sources, from
46 local or regional political subdivisions, or from donations;
47 special funds held in a fiduciary capacity for the benefit of
48 specific persons or classes of persons; self-generated special
49 funds of the state institutions of higher learning or the state
50 junior colleges; special funds of Mississippi Industries for the
51 Blind, the State Port at Gulfport, Yellow Creek Inland Port, Pat
52 Harrison Waterway District, Pearl River Basin Development
53 District, Pearl River Valley Water Management District, Tombigbee
54 River Valley Water Management District, Yellow Creek Watershed
55 Authority, or Coast Coliseum Commission; special funds of the
56 Department of Wildlife, Fisheries and Parks derived from the
57 issuance of hunting or fishing licenses; and special funds
58 generated by agencies whose primary function includes the
59 establishment of standards and the issuance of licenses for the
60 practice of a profession within the State of Mississippi.

61 (3) Effective upon passage of this act, and effective in
62 each fiscal year thereafter, the funds of the Division of State
63 Aid Road Construction of the Mississippi Department of

64 Transportation shall be exempt from any transfer of special funds
65 into the State General Fund or the Budget Contingency Fund created
66 in Section 27-103-301, which is directed or authorized by the
67 Department of Finance and Administration under authority of this
68 section or by general act of the Legislature.

69 **SECTION 2.** Section 27-65-75, Mississippi Code of 1972, is
70 amended as follows:

71 27-65-75. On or before the fifteenth day of each month, the
72 revenue collected under the provisions of this chapter during the
73 preceding month shall be paid and distributed as follows:

74 (1) On or before August 15, 1992, and each succeeding month
75 thereafter through July 15, 1993, eighteen percent (18%) of the
76 total sales tax revenue collected during the preceding month under
77 the provisions of this chapter, except that collected under the
78 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
79 business activities within a municipal corporation shall be
80 allocated for distribution to the municipality and paid to the
81 municipal corporation. On or before August 15, 1993, and each
82 succeeding month thereafter, eighteen and one-half percent
83 (18-1/2%) of the total sales tax revenue collected during the
84 preceding month under the provisions of this chapter, except that
85 collected under the provisions of Sections 27-65-15, 27-65-19(3)
86 and 27-65-21, on business activities within a municipal
87 corporation shall be allocated for distribution to the
88 municipality and paid to the municipal corporation.

89 A municipal corporation, for the purpose of distributing the
90 tax under this subsection, shall mean and include all incorporated
91 cities, towns and villages.

92 Monies allocated for distribution and credited to a municipal
93 corporation under this subsection may be pledged as security for
94 any loan received by the municipal corporation for the purpose of
95 capital improvements as authorized under Section 57-1-303, or

96 loans as authorized under Section 57-44-7, or water systems
97 improvements as authorized under Section 41-3-16.

98 In any county having a county seat that is not an
99 incorporated municipality, the distribution provided under this
100 subsection shall be made as though the county seat was an
101 incorporated municipality; however, the distribution to the
102 municipality shall be paid to the county treasury in which the
103 municipality is located, and those funds shall be used for road,
104 bridge and street construction or maintenance in the county.

105 (2) On or before September 15, 1987, and each succeeding
106 month thereafter, from the revenue collected under this chapter
107 during the preceding month One Million One Hundred Twenty-five
108 Thousand Dollars (\$1,125,000.00) shall be allocated for
109 distribution to municipal corporations as defined under subsection
110 (1) of this section in the proportion that the number of gallons
111 of gasoline and diesel fuel sold by distributors to consumers and
112 retailers in each such municipality during the preceding fiscal
113 year bears to the total gallons of gasoline and diesel fuel sold
114 by distributors to consumers and retailers in municipalities
115 statewide during the preceding fiscal year. The State Tax
116 Commission shall require all distributors of gasoline and diesel
117 fuel to report to the commission monthly the total number of
118 gallons of gasoline and diesel fuel sold by them to consumers and
119 retailers in each municipality during the preceding month. The
120 State Tax Commission shall have the authority to promulgate such
121 rules and regulations as is necessary to determine the number of
122 gallons of gasoline and diesel fuel sold by distributors to
123 consumers and retailers in each municipality. In determining the
124 percentage allocation of funds under this subsection for the
125 fiscal year beginning July 1, 1987, and ending June 30, 1988, the
126 State Tax Commission may consider gallons of gasoline and diesel
127 fuel sold for a period of less than one (1) fiscal year. For the

128 purposes of this subsection, the term "fiscal year" means the
129 fiscal year beginning July 1 of a year.

130 (3) On or before September 15, 1987, and on or before the
131 fifteenth day of each succeeding month, until the date specified
132 in Section 65-39-35, the proceeds derived from contractors' taxes
133 levied under Section 27-65-21 on contracts for the construction or
134 reconstruction of highways designated under the highway program
135 created under Section 65-3-97 shall, except as otherwise provided
136 in Section 31-17-127, be deposited into the State Treasury to the
137 credit of the State Highway Fund to be used to fund that highway
138 program. The Mississippi Department of Transportation shall
139 provide to the State Tax Commission such information as is
140 necessary to determine the amount of proceeds to be distributed
141 under this subsection.

142 (4) On or before August 15, 1994, and on or before the
143 fifteenth day of each succeeding month through July 15, 1999, from
144 the proceeds of gasoline, diesel fuel or kerosene taxes as
145 provided in Section 27-5-101(a)(ii)1, Four Million Dollars
146 (\$4,000,000.00) shall be deposited in the State Treasury to the
147 credit of a special fund designated as the "State Aid Road Fund,"
148 created by Section 65-9-17. On or before August 15, 1999, and on
149 or before the fifteenth day of each succeeding month, from the
150 total amount of the proceeds of gasoline, diesel fuel or kerosene
151 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million
152 Dollars (\$4,000,000.00) or an amount equal to twenty-three and
153 one-fourth percent (23.25%) of those funds, whichever is the
154 greater amount, shall be deposited in the State Treasury to the
155 credit of the "State Aid Road Fund," created by Section 65-9-17.
156 Those funds shall be pledged to pay the principal of and interest
157 on state aid road bonds heretofore issued under Sections 19-9-51
158 through 19-9-77, in lieu of and in substitution for the funds
159 previously allocated to counties under this section. Those funds
160 may not be pledged for the payment of any state aid road bonds

161 issued after April 1, 1981; however, this prohibition against the
162 pledging of any such funds for the payment of bonds shall not
163 apply to any bonds for which intent to issue those bonds has been
164 published, for the first time, as provided by law before March 29,
165 1981. From the amount of taxes paid into the special fund under
166 this subsection and subsection (9) of this section, there shall be
167 first deducted and paid the amount necessary to pay the expenses
168 of the Office of State Aid Road Construction, as authorized by the
169 Legislature for all other general and special fund agencies. The
170 remainder of the fund shall be allocated monthly to the several
171 counties in accordance with the following formula:

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

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

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

182 The monies in the fund that are required to be allocated to
183 the counties under the formula shall be considered encumbered and
184 pledged for the exclusive use of the counties in accordance with
185 the provisions of Section 65-9-17, and may not be transferred,
186 expended or used for any other purpose.

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

190 The amount of funds allocated to any county under this
191 subsection for any fiscal year after fiscal year 1994 shall not be
192 less than the amount allocated to the county for fiscal year 1994.
193 Monies allocated to a county from the State Aid Road Fund for

194 fiscal year 1995 or any fiscal year thereafter that exceed the
195 amount of funds allocated to that county from the State Aid Road
196 Fund for fiscal year 1994, first must be expended by the county
197 for replacement or rehabilitation of bridges on the state aid road
198 system that have a sufficiency rating of less than twenty-five
199 (25), according to National Bridge Inspection standards before
200 the monies may be approved for expenditure by the State Aid Road
201 Engineer on other projects that qualify for the use of state aid
202 road funds.

203 Any reference in the general laws of this state or the
204 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
205 construed to refer and apply to subsection (4) of Section
206 27-65-75.

207 (5) One Million Six Hundred Sixty-six Thousand Six Hundred
208 Sixty-six Dollars (\$1,666,666.00) each month shall be paid into
209 the special fund known as the "State Public School Building Fund"
210 created and existing under the provisions of Sections 37-47-1
211 through 37-47-67. Those payments into that fund are to be made on
212 the last day of each succeeding month hereafter.

213 (6) An amount each month beginning August 15, 1983, through
214 November 15, 1986, as specified in Section 6 of Chapter 542, Laws
215 of 1983, shall be paid into the special fund known as the
216 Correctional Facilities Construction Fund created in Section 6 of
217 Chapter 542, Laws of 1983.

218 (7) On or before August 15, 1992, and each succeeding month
219 thereafter through July 15, 2000, two and two hundred sixty-six
220 one-thousandths percent (2.266%) of the total sales tax revenue
221 collected during the preceding month under the provisions of this
222 chapter, except that collected under the provisions of Section
223 27-65-17(2) shall be deposited by the commission into the School
224 Ad Valorem Tax Reduction Fund created under Section 37-61-35. On
225 or before August 15, 2000, and each succeeding month thereafter,
226 two and two hundred sixty-six one-thousandths percent (2.266%) of

227 the total sales tax revenue collected during the preceding month
228 under the provisions of this chapter, except that collected under
229 the provisions of Section 27-65-17(2), shall be deposited into the
230 School Ad Valorem Tax Reduction Fund created under Section
231 37-61-35 until such time that the total amount deposited into the
232 fund during a fiscal year equals Forty-two Million Dollars
233 (\$42,000,000.00). Thereafter, the amounts diverted under this
234 subsection (7) during the fiscal year in excess of Forty-two
235 Million Dollars (\$42,000,000.00) shall be deposited into the
236 Education Enhancement Fund created under Section 37-61-33 for
237 appropriation by the Legislature as other education needs and
238 shall not be subject to the percentage appropriation requirements
239 set forth in Section 37-61-33.

240 (8) On or before August 15, 1992, and each succeeding month
241 thereafter, nine and seventy-three one-thousandths percent
242 (9.073%) of the total sales tax revenue collected during the
243 preceding month under the provisions of this chapter, except that
244 collected under the provisions of Section 27-65-17(2), shall be
245 deposited into the Education Enhancement Fund created under
246 Section 37-61-33.

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

251 (10) On or before August 15, 1994, and each succeeding month
252 thereafter through August 15, 1995, from the revenue collected
253 under this chapter during the preceding month, Two Million Dollars
254 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
255 Valorem Tax Reduction Fund established in Section 27-51-105.

256 (11) Notwithstanding any other provision of this section to
257 the contrary, on or before February 15, 1995, and each succeeding
258 month thereafter, the sales tax revenue collected during the
259 preceding month under the provisions of Section 27-65-17(2) and

260 the corresponding levy in Section 27-65-23 on the rental or lease
261 of private carriers of passengers and light carriers of property
262 as defined in Section 27-51-101 shall be deposited, without
263 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund
264 established in Section 27-51-105.

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

274 (13) On or before July 15, 1994, and on or before the
275 fifteenth day of each succeeding month thereafter, that portion of
276 the avails of the tax imposed in Section 27-65-22 that is derived
277 from activities held on the Mississippi state fairgrounds complex,
278 shall be paid into a special fund that is created in the State
279 Treasury and shall be expended upon legislative appropriation
280 solely to defray the costs of repairs and renovation at the Trade
281 Mart and Coliseum.

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

289 (15) Notwithstanding any other provision of this section to
290 the contrary, on or before September 15, 2000, and each succeeding
291 month thereafter, the sales tax revenue collected during the
292 preceding month under the provisions of Section 27-65-19(1)(f) and

293 (g)(i)2, shall be deposited, without diversion, into the
294 Telecommunications Ad Valorem Tax Reduction Fund established in
295 Section 27-38-7.

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

303 (17) Notwithstanding any other provision of this section to
304 the contrary, on or before April 15, 2002, and each succeeding
305 month thereafter, the sales tax revenue collected during the
306 preceding month under Section 27-65-23 on sales of parking
307 services of parking garages and lots at airports shall be
308 deposited, without diversion, into the special fund created under
309 Section 27-5-101(d).

310 (18) On or before August 15, 2005, and each succeeding month
311 thereafter through July 15, 2006, from the sales tax revenue
312 collected during the preceding month under the provisions of this
313 chapter, Two Million Five Hundred Thousand Dollars (\$2,500,000.00)
314 shall be deposited into the Special Funds Transfer Fund created in
315 Section 4 of Chapter 556, Laws of 2003.

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

319 (20) It shall be the duty of the municipal officials of any
320 municipality that expands its limits, or of any community that
321 incorporates as a municipality, to notify the commissioner of
322 that action thirty (30) days before the effective date. Failure
323 to so notify the commissioner shall cause the municipality to
324 forfeit the revenue that it would have been entitled to receive
325 during this period of time when the commissioner had no knowledge

326 of the action. If any funds have been erroneously disbursed to
327 any municipality or any overpayment of tax is recovered by the
328 taxpayer, the commissioner may make correction and adjust the
329 error or overpayment with the municipality by withholding the
330 necessary funds from any later payment to be made to the
331 municipality.

332 **SECTION 3.** This act shall take effect and be in force from
333 and after its passage.