

By: Senator(s) Posey

To: Judiciary, Division A;  
Finance

SENATE BILL NO. 2999

1 AN ACT TO AMEND SECTION 45-1-2, MISSISSIPPI CODE OF 1972, TO  
2 REVISE THE AUTHORITY OF THE COMMISSIONER OF PUBLIC SAFETY TO  
3 APPOINT THE DIRECTOR OF THE MISSISSIPPI CRIME LABORATORY; TO AMEND  
4 SECTION 45-1-25, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE  
5 DIRECTOR OF THE CRIME LABORATORY SHALL BE A MEMBER OF THE STATE  
6 SERVICE AND SHALL ONLY BE DISMISSED FOR CAUSE; TO AMEND SECTION  
7 45-1-29, MISSISSIPPI CODE OF 1972, TO ALLOW THE COMMISSIONER OF  
8 PUBLIC SAFETY TO PRESENT MONETARY CLAIMS AGAINST COUNTIES AND  
9 MUNICIPALITIES THAT HAVE NOT PAID FOR CRIME LAB SERVICES AGAINST  
10 OTHER FUNDS DUE TO THEM UNDER SECTIONS 27-5-101 AND 27-5-103,  
11 MISSISSIPPI CODE OF 1972; TO AMEND SECTIONS 27-5-101 AND 27-5-103,  
12 MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** Section 45-1-2, Mississippi Code of 1972, is  
15 amended as follows:

16 45-1-2. (1) The Executive Director of the Department of  
17 Public Safety shall be the Commissioner of Public Safety.

18 (2) The Commissioner of Public Safety shall establish the  
19 organizational structure of the Department of Public Safety, which  
20 shall include the creation of any units necessary to implement the  
21 duties assigned to the department and consistent with specific  
22 requirements of law including, but not limited to:

- 23 (a) Office of Public Safety Planning;
- 24 (b) Office of Medical Examiner;
- 25 (c) Office of Mississippi Highway Safety Patrol;
- 26 (d) Office of Crime Laboratories;
- 27 (e) Office of Law Enforcement Officers' Training  
28 Academy;
- 29 (f) Office of Support Services;
- 30 (g) Office of Narcotics, which shall be known as the  
31 Bureau of Narcotics; and
- 32 (h) Office of Homeland Security.

33           (3) The department shall be headed by a commissioner, who  
34 shall be appointed by and serve at the pleasure of the Governor.  
35 The appointment of the commissioner shall be made with the advice  
36 and consent of the Senate. The commissioner may assign to the  
37 appropriate offices such powers and duties as deemed appropriate  
38 to carry out the department's lawful functions.

39           (4) The commissioner of the department shall appoint heads  
40 of offices, who shall serve at the pleasure of the commissioner,  
41 except the head of the Office of Crime Laboratories, who shall be  
42 selected and removed as provided in Section 45-1-25. The  
43 commissioner shall have the authority to organize the offices  
44 established by subsection (2) of this section as deemed  
45 appropriate to carry out the responsibilities of the department.  
46 The organization charts of the department shall be presented  
47 annually with the budget request of the Governor for review by the  
48 Legislature.

49           (5) The commissioner of the department shall appoint, from  
50 within the Department of Public Safety, a statewide safety  
51 training officer who shall serve at the pleasure of the  
52 commissioner and whose duty it shall be to perform public training  
53 for both law enforcement and private persons throughout the state  
54 concerning proper emergency response to the mentally ill,  
55 terroristic threats or acts, domestic conflict, other conflict  
56 resolution, and such other matters as the commissioner may direct.

57           **SECTION 2.** Section 45-1-25, Mississippi Code of 1972, is  
58 amended as follows:

59           45-1-25. The Director of the Mississippi Crime Laboratory  
60 which has been established by the Commissioner of Public Safety  
61 under the authority of Section 45-1-17 shall be a person who is  
62 experienced in crime laboratory operations, knowledgeable of the  
63 criminal justice system, and who shall have the following minimum  
64 qualifications:

65 (a) Graduation from an accredited four-year college or  
66 university with major course work in forensic science, chemistry,  
67 biology, commercial science or physics.

68 (b) At least five (5) years' full-time employment in a  
69 crime laboratory, with supervisory or administrative  
70 responsibility.

71 (c) Thorough knowledge of the utilization of crime  
72 laboratory services and their relation to the investigating law  
73 enforcement officers.

74 (d) Thorough knowledge of techniques employed in  
75 processing of physical evidence.

76 (e) Membership in professional organizations promoting  
77 advancement of forensic science.

78 (f) Proven effectiveness as a manager and  
79 administrator.

80 Unusual strength in one or more of the above qualifications  
81 may compensate for failure to exactly satisfy paragraph (b) of  
82 this section.

83 The Director of the Crime Laboratory shall be a member of the  
84 state service, and may only be removed by the Commissioner of  
85 Public Safety for cause.

86 **SECTION 3.** Section 45-1-29, Mississippi Code of 1972, is  
87 amended as follows:

88 45-1-29. (1) The Mississippi Crime Laboratory shall be  
89 funded separately from the Department of Public Safety. Any  
90 appropriated funds shall be maintained in an account separate from  
91 any funds of the Department of Public Safety and shall never be  
92 commingled with any funds of said department. However, nothing in  
93 this section shall be construed to prohibit the utilization of the  
94 combined resources of the Mississippi Crime Laboratory, the  
95 Division of Support Services of the Department of Public Safety or  
96 the Mississippi Justice Information Center to efficiently carry  
97 out the mission of the Department of Public Safety.

98           (2) Grants and donations to the crime laboratory may be  
99 accepted from individuals, the federal government, firms,  
100 corporations, foundations and other interested organizations and  
101 societies.

102           (3) The Commissioner of Public Safety shall establish and  
103 the Division of Support Services of the Department of Public  
104 Safety shall collect for services rendered proper fees  
105 commensurate with the services rendered by the crime laboratory.  
106 Those fees shall be deposited into a special fund in the State  
107 Treasury to the credit of the crime laboratory and expended in  
108 accordance with applicable rules and regulations of the Department  
109 of Finance and Administration. Those fees may be used for any  
110 authorized expenditure of the crime laboratory except expenditures  
111 for salaries, wages and fringe benefits.

112           (4) In instances where any county has failed to pay any fee  
113 owed to the Crime Laboratory within sixty (60) days of the invoice  
114 date, the commissioner shall notify the Chairman of the State Tax  
115 Commission of the amount owed and the chairman shall deduct the  
116 amount owed to the Crime Laboratory from the next scheduled  
117 payment due to the delinquent county from the motor fuel tax  
118 distribution provided in Section 27-5-101 and transmit the amount  
119 to the Department of Public Safety.

120           (5) In instances where any municipality has failed to pay  
121 any fee owed to the Crime Laboratory within sixty (60) days of the  
122 invoice date, the commissioner shall notify the Chairman of the  
123 State Tax Commission of the amount owed and the chairman shall  
124 deduct the amount owed to the Crime Laboratory from the next  
125 scheduled payment due to the delinquent municipality from the  
126 motor fuel tax distribution provided in Section 27-5-103(2) and  
127 transmit the amount to the Department of Public Safety.

128           **SECTION 4.** Section 27-5-101, Mississippi Code of 1972, is  
129 amended as follows:

130           **[With regard to any county which is exempt from the**  
131 **provisions of Section 19-2-3, this section shall read as follows:]**

132           27-5-101. Unless otherwise provided in this section, on or  
133 before the fifteenth day of each month, all gasoline, diesel fuel  
134 or kerosene taxes which are levied under the laws of this state  
135 and collected during the previous month shall be paid and  
136 apportioned by the State Tax Commission as follows:

137           (a) (i) Except as otherwise provided in Section  
138 31-17-127, from the gross amount of gasoline, diesel fuel or  
139 kerosene taxes produced by the state, there shall be deducted an  
140 amount equal to one-sixth (1/6) of principal and interest  
141 certified by the State Treasurer to the State Tax Commission to be  
142 due on the next semiannual bond and interest payment date, as  
143 required under the provisions of Chapter 130, Laws of 1938, and  
144 subsequent acts authorizing the issuance of bonds payable from  
145 gasoline, diesel fuel or kerosene tax revenue on a parity with the  
146 bonds issued under authority of said Chapter 130. The State  
147 Treasurer shall certify to the State Tax Commission on or before  
148 the fifteenth day of each month the amount to be paid to the  
149 "Highway Bonds Sinking Fund" as provided by said Chapter 130, Laws  
150 of 1938, and subsequent acts authorizing the issuance of bonds  
151 payable from gasoline, diesel fuel or kerosene tax revenue, on a  
152 parity with the bonds issued under authority of said Chapter 130;  
153 and the State Tax Commission shall, on or before the twenty-fifth  
154 day of each month, pay into the State Treasury for credit to the  
155 "Highway Bonds Sinking Fund" the amount so certified to him by the  
156 State Treasurer due to be paid into such fund each month. The  
157 payments to the "Highway Bonds Sinking Fund" shall be made out of  
158 gross gasoline, diesel fuel or kerosene tax collections before  
159 deductions of any nature are considered; however, such payments  
160 shall be deducted from the allocation to the Mississippi  
161 Department of Transportation under paragraph (c) of this section.

162 (ii) From collections derived from the portion of  
163 the gasoline excise tax that exceeds Seven Cents (7¢) per gallon,  
164 from the portion of the tax on aviation gas under Section 27-55-11  
165 that exceeds Six and Four-tenths Cents (6.4¢) per gallon, from the  
166 portion of the special fuel tax levied under Sections 27-55-519  
167 and 27-55-521, at Eighteen Cents (18¢) per gallon that exceeds Ten  
168 Cents (10¢) per gallon, from the portion of the taxes levied under  
169 Section 27-55-519, at Five and Three-fourths Cents (5.75¢) per  
170 gallon that exceeds One Cent (1¢) per gallon on special fuel and  
171 Five and One-fourth Cents (5.25¢) per gallon on special fuel used  
172 as aircraft fuel, from the portion of the excise tax on compressed  
173 gas used as a motor fuel that exceeds the rate of tax in effect on  
174 June 30, 1987, and from the portion of the gasoline excise tax in  
175 excess of Seven Cents (7¢) per gallon and the diesel excise tax in  
176 excess of Ten Cents (10¢) per gallon under Section 27-61-5 there  
177 shall be deducted:

178 1. An amount as provided in Section  
179 27-65-75(4) to the credit of a special fund designated as the  
180 "Office of State Aid Road Construction."

181 2. An amount equal to the tax collections  
182 derived from Two Cents (2¢) per gallon of the gasoline excise tax  
183 for distribution to the State Highway Fund to be used exclusively  
184 for the construction, reconstruction and maintenance of highways  
185 of the State of Mississippi or the payment of interest and  
186 principal on bonds when specifically authorized by the Legislature  
187 for that purpose.

188 3. The balance shall be deposited in the  
189 State Treasury to the credit of the State Highway Fund.

190 (b) Subject to the provisions that said basis of  
191 distribution shall in nowise affect adversely the amount  
192 specifically pledged in paragraph (a) of this section to be paid  
193 into the "Highway Bonds Sinking Fund," the following shall be  
194 deducted from the amount produced by the state tax on gasoline,

195 diesel fuel or kerosene tax collections, excluding collections  
196 derived from the portion of the gasoline excise tax that exceeds  
197 Seven Cents (7¢) per gallon, from the portion of the tax on  
198 aviation gas under Section 27-55-11 that exceeds Six and  
199 Four-tenths Cents (6.4¢) per gallon, from the portion of the  
200 special fuel tax levied under Sections 27-55-519 and 27-55-521, at  
201 Eighteen Cents (18¢) per gallon that exceeds Ten Cents (10¢) per  
202 gallon, from the portion of the taxes levied under Section  
203 27-55-519, at Five and Three-fourths Cents (5.75¢) per gallon that  
204 exceeds One Cent (1¢) per gallon on special fuel and Five and  
205 One-fourth Cents (5.25¢) per gallon on special fuel used as  
206 aircraft fuel, from the portion of the excise tax on compressed  
207 gas used as a motor fuel that exceeds the rate of tax in effect on  
208 June 30, 1987, and from the portion of the gasoline excise tax in  
209 excess of Seven Cents (7¢) per gallon and the diesel excise tax in  
210 excess of Ten Cents (10¢) per gallon under Section 27-61-5:

211           (i) Twenty percent (20%) of such amount which  
212 shall be earmarked and set aside for the construction,  
213 reconstruction and maintenance of the highways and roads of the  
214 state, provided that if such twenty percent (20%) should reduce  
215 any county to a lesser amount than that received in the fiscal  
216 year ending June 30, 1966, then such twenty percent (20%) shall be  
217 reduced to a percentage to provide that no county shall receive  
218 less than its portion for the fiscal year ending June 30, 1966;

219           (ii) The amount allowed as refund on gasoline or  
220 as tax credit on diesel fuel or kerosene used for agricultural,  
221 maritime, industrial, domestic, and nonhighway purposes;

222           (iii) Five percent (5%) of such amount shall be  
223 paid to the State Highway Fund;

224           (iv) The amount or portion thereof authorized by  
225 legislative appropriation to the Fisheries and Wildlife Fund  
226 created under Section 59-21-25;

227 (v) The amount for deposit into the special  
228 aviation fund under paragraph (d) of this section; and

229 (vi) The remainder shall be divided on a basis of  
230 nine-fourteenths (9/14) and five-fourteenths (5/14) (being the  
231 same basis as Four and One-half Cents (4-1/2¢) and Two and  
232 One-half Cents (2-1/2¢) is to Seven Cents (7¢) on gasoline, and  
233 six and forty-three one-hundredths (6.43) and three and  
234 fifty-seven one-hundredths (3.57) is to Ten Cents (10¢) on diesel  
235 fuel or kerosene). The amount produced by the nine-fourteenths  
236 (9/14) division shall be allocated to the Transportation  
237 Department and paid into the State Treasury as provided in this  
238 section and in Section 27-5-103 and the five-fourteenths (5/14)  
239 division shall be returned to the counties of the state on the  
240 following basis:

241 1. In each fiscal year, each county shall be  
242 paid each month the same percentage of the monthly total to be  
243 distributed as was paid to that county during the same month in  
244 the fiscal year which ended April 9, 1960, until the county  
245 receives One Hundred Ninety Thousand Dollars (\$190,000.00) in such  
246 fiscal year, at which time funds shall be distributed under the  
247 provisions of paragraph (b)(vi)4 of this section. Payments shall  
248 be subject to claims of the Mississippi Crime Laboratory as  
249 provided in Section 45-1-29.

250 2. If after payments in 1 above, any county  
251 has not received a total of One Hundred Ninety Thousand Dollars  
252 (\$190,000.00) at the end of the fiscal year ending June 30, 1961,  
253 and each fiscal year thereafter, then any available funds not  
254 distributed under 1 above shall be used to bring such county or  
255 counties up to One Hundred Ninety Thousand Dollars (\$190,000.00)  
256 or such funds shall be divided equally among such counties not  
257 reaching One Hundred Ninety Thousand Dollars (\$190,000.00) if  
258 there is not sufficient money to bring all the counties to said  
259 One Hundred Ninety Thousand Dollars (\$190,000.00).



260                   3. When a county has been paid an amount  
261 equal to the total which was paid to the same county during the  
262 fiscal year ended April 9, 1960, such county shall receive no  
263 further payments during the then current fiscal year until the  
264 last month of such current fiscal year, at which time distribution  
265 will be made under 2 above, except as set out in 4 below.

266                   4. During the last month of the current  
267 fiscal year, should it be determined that there are funds  
268 available in excess of the amount distributed for the year under 1  
269 and 2 above, then such excess funds shall be distributed among the  
270 various counties as follows:

271                               One-third (1/3) of such excess to be  
272 divided equally among the counties;

273                               One-third (1/3) of such excess to be paid  
274 to the counties in the proportion which the population of each  
275 county bears to the total population of the state according to the  
276 last federal census;

277                               One-third (1/3) of such excess to be paid  
278 to the counties in the proportion which the number of square miles  
279 of each county bears to the total square miles in the state.

280                   5. It is the declared purpose and intent of  
281 the Legislature that no county shall be paid less than was paid  
282 during the year ended April 9, 1960, unless the amount to be  
283 distributed to all counties in any year is less than the amount  
284 distributed to all counties during the year ended April 9, 1960.

285                   The Municipal Aid Fund as established by Section 27-5-103  
286 shall not participate in any portion of any funds allocated to any  
287 county hereunder over and above One Hundred Ninety Thousand  
288 Dollars (\$190,000.00).

289                   In any county having countywide road or bridge bonds, or  
290 supervisors district or district road or bridge bonds outstanding,  
291 which exceed, in the aggregate, twelve percent (12%) of the  
292 assessed valuation of the taxable property of the county or

293 district, it shall be the duty of the board of supervisors to set  
294 aside not less than sixty percent (60%) of such county's share or  
295 district's share of the gasoline, diesel fuel or kerosene taxes to  
296 be used in paying the principal and interest on such road or  
297 bridge bonds as they mature.

298 In any county having such countywide road or bridge bonds or  
299 district road or bridge bonds outstanding which exceed, in the  
300 aggregate, eight percent (8%) of the assessed valuation of the  
301 taxable property of the county, but which do not exceed, in the  
302 aggregate, twelve percent (12%) of the assessed valuation of the  
303 taxable property of the county, it shall be the duty of the board  
304 of supervisors to set aside not less than thirty-five percent  
305 (35%) of such county's share of the gasoline, diesel fuel or  
306 kerosene taxes to be used in paying the principal and interest of  
307 such road or bridge bonds as they mature.

308 In any county having such countywide road or bridge bonds or  
309 district road or bridge bonds outstanding which exceed, in the  
310 aggregate, five percent (5%) of the assessed valuation of the  
311 taxable property of the county, but which do not exceed, in the  
312 aggregate, eight percent (8%) of the assessed valuation of the  
313 taxable property of the county, it shall be the duty of the board  
314 of supervisors to set aside not less than twenty percent (20%) of  
315 such county's share of the gasoline, diesel fuel or kerosene taxes  
316 to be used in paying the principal and interest of such road and  
317 bridge bonds as they mature.

318 In any county having such countywide road or bridge bonds or  
319 district road or bridge bonds outstanding which do not exceed, in  
320 the aggregate, five percent (5%) of the assessed valuation of the  
321 taxable property of the county, it shall be the duty of the board  
322 of supervisors to set aside not less than ten percent (10%) of  
323 such county's share of the gasoline, diesel fuel or kerosene taxes  
324 to be used in paying the principal and interest on such road or  
325 bridge bonds as they mature.

326           The portion of any such county's share of the gasoline,  
327 diesel fuel or kerosene taxes thus set aside for the payment of  
328 the principal and interest of road or bridge bonds, as provided  
329 for in this section, shall be used first in paying the currently  
330 maturing installments of the principal and interest of such  
331 countywide road or bridge bonds, if there be any such countywide  
332 road or bridge bonds outstanding, and secondly, in paying the  
333 currently maturing installments of principal and interest of  
334 district road or bridge bonds outstanding. It shall be the duty  
335 of the board of supervisors to pay bonds and interest maturing in  
336 each supervisors district out of the supervisors district's share  
337 of the gasoline, diesel fuel or kerosene taxes of such district.

338           The remaining portion of such county's share of the gasoline,  
339 diesel fuel or kerosene taxes, after setting aside the portion  
340 above provided for the payment of the principal and interest of  
341 bonds, shall be used in the construction and maintenance of any  
342 public highways, bridges, or culverts of the county, including the  
343 roads in special or separate road districts, in the discretion of  
344 the board of supervisors, or in paying the interest and principal  
345 of county road and bridge bonds or district road and bridge bonds,  
346 in the discretion of the board of supervisors.

347           In any county having no countywide road or bridge bonds or  
348 district road or bridge bonds outstanding, all such county's share  
349 of the gasoline, diesel fuel or kerosene taxes shall be used in  
350 the construction, reconstruction, and maintenance of the public  
351 highways, bridges, or culverts of the county as the board of  
352 supervisors may determine.

353           In every county in which there are county road bonds or  
354 seawall or road protection bonds outstanding which were issued for  
355 the purpose of building bridges or constructing public roads or  
356 seawalls, such funds shall be used in the manner provided by law.

357 (c) From the amount produced by the nine-fourteenths  
358 (9/14) division allocated to the Transportation Department, there  
359 shall be deducted:

360 (i) The amount paid to the State Treasurer for the  
361 "Highway Bonds Sinking Fund" under paragraph (a) of this section;

362 (ii) Any amounts due counties in accordance with  
363 Section 65-33-45 which have outstanding bonds issued for seawall  
364 or road protection purposes, issued under provisions of Chapter  
365 319, Laws of 1924, and amendments thereto;

366 (iii) Beginning August 15, 2002, and on or before  
367 the fifteenth day of each month thereafter, an amount equal to  
368 one-sixth (1/6) of the principal and interest certified by the  
369 State Treasurer to the State Tax Commission to be due on the next  
370 semiannual bond and interest payment date for the bonds issued  
371 under Sections 65-39-5 through 65-39-33. On or before the  
372 twenty-fifth day of each month the State Tax Commission shall pay  
373 into the State Treasury for credit to the Gaming Counties Bond  
374 Sinking Fund created in Section 65-39-3, the amount so certified  
375 by the State Treasurer;

376 (iv) Except as otherwise provided in Section  
377 31-17-127, the remainder shall be paid by the State Tax Commission  
378 to the State Treasurer on the fifteenth day of each month next  
379 succeeding the month in which the gasoline, diesel fuel or  
380 kerosene taxes were collected to the credit of the State Highway  
381 Fund.

382 The funds allocated for the construction, reconstruction, and  
383 improvement of state highways, bridges, and culverts, or so much  
384 thereof as may be necessary, shall first be used in conjunction  
385 with funds supplied by the federal government for such purposes  
386 and allocated to the State Transportation Department to be  
387 expended on the state highway system. It is specifically provided  
388 hereby that the necessary portion of such funds hereinabove  
389 allocated to the State Transportation Department may be used for

390 the prompt payment of principal and interest on highway bonds  
391 heretofore issued, including such bonds issued or to be issued  
392 under the provisions of Chapter 312, Laws of 1956, and amendments  
393 thereto.

394 Nothing contained in this section shall be construed to  
395 reduce the amount of such gasoline, diesel fuel or kerosene excise  
396 taxes levied by the state, allotted under the provisions of Title  
397 65, Chapter 33, Mississippi Code of 1972, to counties in which  
398 there are outstanding bonds issued for seawall or road protection  
399 purposes issued under the provisions of Chapter 319, Laws of 1924,  
400 and amendments thereto; the amount of said gasoline, diesel fuel  
401 or kerosene excise taxes designated in this section for the  
402 payment of bonds and interest authorized and issued or to be  
403 issued under the provisions of Chapter 130, Laws of 1938, and  
404 subsequent acts authorizing the issuance of bonds payable from  
405 gasoline, diesel fuel or kerosene tax revenue, shall, in such  
406 counties, be considered as being paid "into the State Treasury to  
407 the credit of the State Highway Fund" within the meaning of  
408 Section 65-33-45 in computing the amount to be paid to such  
409 counties under the provisions of said section, and this section  
410 shall be administered in connection with Title 65, Chapter 33,  
411 Mississippi Code of 1972, and Sections 65-33-45, 65-33-47 and  
412 65-33-49 dealing with seawalls, as if made a part of this section.

413 (d) The proceeds of the Five and One-fourth Cents  
414 (5.25¢) of the tax per gallon on oils used as a propellant for jet  
415 aircraft engines, and Six and Four-tenths Cents (6.4¢) of the tax  
416 per gallon on aviation gasoline and the tax of One Cent (1¢) per  
417 gallon for each gallon of gasoline for which a refund has been  
418 made pursuant to Section 27-55-23 because such gasoline was used  
419 for aviation purposes, shall be paid to the State Treasury into a  
420 special fund to be used exclusively, pursuant to legislative  
421 appropriation, for the support and development of aeronautics as  
422 defined in Section 61-1-3.

423 (e) State highway funds in an amount equal to the  
424 difference between Forty-two Million Dollars (\$42,000,000.00) and  
425 the annual debt service payable on the state's highway revenue  
426 refunding bonds, Series 1985, shall be expended for the  
427 construction or reconstruction of highways designated under the  
428 highway program created under Section 65-3-97.

429 (f) "Gasoline, diesel fuel or kerosene taxes" as used  
430 in this section shall be deemed to mean and include state  
431 gasoline, diesel fuel or kerosene taxes levied and imposed on  
432 distributors of gasoline, diesel fuel or kerosene, and all state  
433 excise taxes derived from any fuel used to propel vehicles upon  
434 the highways of this state, when levied by any statute.

435 **[With regard to any county which is required to operate on a**  
436 **countywide system of road administration as described in Section**  
437 **19-2-3, this section shall read as follows:]**

438 27-5-101. Unless otherwise provided in this section, on or  
439 before the fifteenth day of each month, all gasoline, diesel fuel  
440 or kerosene taxes which are levied under the laws of this state  
441 and collected during the previous month shall be paid and  
442 apportioned by the State Tax Commission as follows:

443 (a) (i) Except as otherwise provided in Section  
444 31-17-127, from the gross amount of gasoline, diesel fuel or  
445 kerosene taxes produced by the state, there shall be deducted an  
446 amount equal to one-sixth (1/6) of principal and interest  
447 certified by the State Treasurer to the State Tax Commission to be  
448 due on the next semiannual bond and interest payment date, as  
449 required under the provisions of Chapter 130, Laws of 1938, and  
450 subsequent acts authorizing the issuance of bonds payable from  
451 gasoline, diesel fuel or kerosene tax revenue on a parity with the  
452 bonds issued under authority of said Chapter 130. The State  
453 Treasurer shall certify to the State Tax Commission on or before  
454 the fifteenth day of each month the amount to be paid to the  
455 "Highway Bonds Sinking Fund" as provided by said Chapter 130, Laws

456 of 1938, and subsequent acts authorizing the issuance of bonds  
457 payable from gasoline, diesel fuel or kerosene tax revenue, on a  
458 parity with the bonds issued under authority of said Chapter 130;  
459 and the State Tax Commission shall, on or before the twenty-fifth  
460 day of each month, pay into the State Treasury for credit to the  
461 "Highway Bonds Sinking Fund" the amount so certified to him by the  
462 State Treasurer due to be paid into such fund each month. The  
463 payments to the "Highway Bonds Sinking Fund" shall be made out of  
464 gross gasoline, diesel fuel or kerosene tax collections before  
465 deductions of any nature are considered; however, such payments  
466 shall be deducted from the allocation to the Transportation  
467 Department under paragraph (c) of this section.

468 (ii) From collections derived from the portion of  
469 the gasoline excise tax that exceeds Seven Cents (7¢) per gallon,  
470 from the portion of the tax on aviation gas under Section 27-55-11  
471 that exceeds Six and Four-tenths Cents (6.4¢) per gallon, from the  
472 portion of the special fuel tax levied under Sections 27-55-519  
473 and 27-55-521, at Eighteen Cents (18¢) per gallon that exceeds Ten  
474 Cents (10¢) per gallon, from the portion of the taxes levied under  
475 Section 27-55-519, at Five and Three-fourths Cents (5.75¢) per  
476 gallon that exceeds One Cent (1¢) per gallon on special fuel and  
477 Five and One-fourth Cents (5.25¢) per gallon on special fuel used  
478 as aircraft fuel, from the portion of the excise tax on compressed  
479 gas used as a motor fuel that exceeds the rate of tax in effect on  
480 June 30, 1987, and from the portion of the gasoline excise tax in  
481 excess of Seven Cents (7¢) per gallon and the diesel excise tax in  
482 excess of Ten Cents (10¢) per gallon under Section 27-61-5 there  
483 shall be deducted:

484 1. An amount as provided in Section  
485 27-65-75(4) to the credit of a special fund designated as the  
486 "Office of State Aid Road Construction."

487 2. An amount equal to the tax collections  
488 derived from Two Cents (2¢) per gallon of the gasoline excise tax

489 for distribution to the State Highway Fund to be used exclusively  
490 for the construction, reconstruction and maintenance of highways  
491 of the State of Mississippi or the payment of interest and  
492 principal on bonds when specifically authorized by the Legislature  
493 for that purpose.

494                   3. The balance shall be deposited in the  
495 State Treasury to the credit of the State Highway Fund.

496                   (b) Subject to the provisions that said basis of  
497 distribution shall in nowise affect adversely the amount  
498 specifically pledged in paragraph (a) of this section to be paid  
499 into the "Highway Bonds Sinking Fund," the following shall be  
500 deducted from the amount produced by the state tax on gasoline,  
501 diesel fuel or kerosene tax collections, excluding collections  
502 derived from the portion of the gasoline excise tax that exceeds  
503 Seven Cents (7¢) per gallon, from the portion of the tax on  
504 aviation gas under Section 27-55-11 that exceeds Six and  
505 Four-tenths Cents (6.4¢) per gallon, from the portion of the  
506 special fuel tax levied under Sections 27-55-519 and 27-55-521, at  
507 Eighteen Cents (18¢) per gallon, that exceeds Ten Cents (10¢) per  
508 gallon, from the portion of the taxes levied under Section  
509 27-55-519, at Five and Three-fourths Cents (5.75¢) that exceeds  
510 One Cent (1¢) per gallon on special fuel and Five and One-fourth  
511 Cents (5.25¢) per gallon on special fuel used as aircraft fuel,  
512 from the portion of the excise tax on compressed gas used as a  
513 motor fuel that exceeds the rate of tax in effect on June 30,  
514 1987, and from the portion of the gasoline excise tax in excess of  
515 Seven Cents (7¢) per gallon and the diesel excise tax in excess of  
516 Ten Cents (10¢) per gallon under Section 27-61-5:

517                   (i) Twenty percent (20%) of such amount which  
518 shall be earmarked and set aside for the construction,  
519 reconstruction and maintenance of the highways and roads of the  
520 state, provided that if such twenty percent (20%) should reduce  
521 any county to a lesser amount than that received in the fiscal



522 year ending June 30, 1966, then such twenty percent (20%) shall be  
523 reduced to a percentage to provide that no county shall receive  
524 less than its portion for the fiscal year ending June 30, 1966;

525 (ii) The amount allowed as refund on gasoline or  
526 as tax credit on diesel fuel or kerosene used for agricultural,  
527 maritime, industrial, domestic and nonhighway purposes;

528 (iii) Five percent (5%) of such amount shall be  
529 paid to the State Highway Fund;

530 (iv) The amount or portion thereof authorized by  
531 legislative appropriation to the Fisheries and Wildlife Fund  
532 created under Section 59-21-25;

533 (v) The amount for deposit into the special  
534 aviation fund under paragraph (d) of this section; and

535 (vi) The remainder shall be divided on a basis of  
536 nine-fourteenths (9/14) and five-fourteenths (5/14) (being the  
537 same basis as Four and One-half Cents (4-1/2¢) and Two and  
538 One-half Cents (2-1/2¢) is to Seven Cents (7¢) on gasoline, and  
539 six and forty-three one-hundredths (6.43) and three and  
540 fifty-seven one-hundredths (3.57) is to Ten Cents (10¢) on diesel  
541 fuel or kerosene). The amount produced by the nine-fourteenths  
542 (9/14) division shall be allocated to the Transportation  
543 Department and paid into the State Treasury as provided in this  
544 section and in Section 27-5-103 and the five-fourteenths (5/14)  
545 division shall be returned to the counties of the state on the  
546 following basis:

547 1. In each fiscal year, each county shall be  
548 paid each month the same percentage of the monthly total to be  
549 distributed as was paid to that county during the same month in  
550 the fiscal year which ended April 9, 1960, until the county  
551 receives One Hundred Ninety Thousand Dollars (\$190,000.00) in such  
552 fiscal year, at which time funds shall be distributed under the  
553 provisions of paragraph (b)(vi)4 of this section. Payments shall

554 be subject to claims of the Mississippi Crime Laboratory as  
555 provided in Section 45-1-29.

556           2. If after payments in 1 above, any county  
557 has not received a total of One Hundred Ninety Thousand Dollars  
558 (\$190,000.00) at the end of the fiscal year ending June 30, 1961,  
559 and each fiscal year thereafter, then any available funds not  
560 distributed under 1 above shall be used to bring such county or  
561 counties up to One Hundred Ninety Thousand Dollars (\$190,000.00)  
562 or such funds shall be divided equally among such counties not  
563 reaching One Hundred Ninety Thousand Dollars (\$190,000.00) if  
564 there is not sufficient money to bring all the counties to said  
565 One Hundred Ninety Thousand Dollars (\$190,000.00).

566           3. When a county has been paid an amount  
567 equal to the total which was paid to the same county during the  
568 fiscal year ended April 9, 1960, such county shall receive no  
569 further payments during the then current fiscal year until the  
570 last month of such current fiscal year, at which time distribution  
571 will be made under 2 above, except as set out in 4 below.

572           4. During the last month of the current  
573 fiscal year, should it be determined that there are funds  
574 available in excess of the amount distributed for the year under 1  
575 and 2 above, then such excess funds shall be distributed among the  
576 various counties as follows:

577                           One-third (1/3) of such excess to be  
578 divided equally among the counties;

579                           One-third (1/3) of such excess to be paid  
580 to the counties in the proportion which the population of each  
581 county bears to the total population of the state according to the  
582 last federal census;

583                           One-third (1/3) of such excess to be paid  
584 to the counties in the proportion which the number of square miles  
585 of each county bears to the total square miles in the state.

586                   5. It is the declared purpose and intent of  
587 the Legislature that no county shall be paid less than was paid  
588 during the year ended April 9, 1960, unless the amount to be  
589 distributed to all counties in any year is less than the amount  
590 distributed to all counties during the year ended April 9, 1960.

591           The Municipal Aid Fund as established by Section 27-5-103  
592 shall not participate in any portion of any funds allocated to any  
593 county hereunder over and above One Hundred Ninety Thousand  
594 Dollars (\$190,000.00).

595           In any county having road or bridge bonds outstanding which  
596 exceed, in the aggregate, twelve percent (12%) of the assessed  
597 valuation of the taxable property of the county, it shall be the  
598 duty of the board of supervisors to set aside not less than sixty  
599 percent (60%) of such county's share of the gasoline, diesel fuel  
600 or kerosene taxes to be used in paying the principal and interest  
601 on such road or bridge bonds as they mature.

602           In any county having such road or bridge bonds outstanding  
603 which exceed, in the aggregate, eight percent (8%) of the assessed  
604 valuation of the taxable property of the county, but which do not  
605 exceed, in the aggregate, twelve percent (12%) of the assessed  
606 valuation of the taxable property of the county, it shall be the  
607 duty of the board of supervisors to set aside not less than  
608 thirty-five percent (35%) of such county's share of the gasoline,  
609 diesel fuel or kerosene taxes to be used in paying the principal  
610 and interest of such road or bridge bonds as they mature.

611           In any county having such road or bridge bonds outstanding  
612 which exceed, in the aggregate, five percent (5%) of the assessed  
613 valuation of the taxable property of the county, but which do not  
614 exceed, in the aggregate, eight percent (8%) of the assessed  
615 valuation of the taxable property of the county, it shall be the  
616 duty of the board of supervisors to set aside not less than twenty  
617 percent (20%) of such county's share of the gasoline, diesel fuel

618 or kerosene taxes to be used in paying the principal and interest  
619 of such road and bridge bonds as they mature.

620 In any county having such road or bridge bonds outstanding  
621 which do not exceed, in the aggregate, five percent (5%) of the  
622 assessed valuation of the taxable property of the county, it shall  
623 be the duty of the board of supervisors to set aside not less than  
624 ten percent (10%) of such county's share of the gasoline, diesel  
625 fuel or kerosene taxes to be used in paying the principal and  
626 interest on such road or bridge bonds as they mature.

627 The portion of any such county's share of the gasoline,  
628 diesel fuel or kerosene taxes thus set aside for the payment of  
629 the principal and interest of road or bridge bonds, as provided  
630 for in this section, shall be used in paying the currently  
631 maturing installments of the principal and interest of such road  
632 or bridge bonds, if there be any such road or bridge bonds  
633 outstanding.

634 The remaining portion of such county's share of the gasoline,  
635 diesel fuel or kerosene taxes, after setting aside the portion  
636 above provided for the payment of the principal and interest of  
637 bonds, shall be used in the construction and maintenance of any  
638 public highways, bridges or culverts of the county, in the  
639 discretion of the board of supervisors.

640 In any county having no road or bridge bonds outstanding, all  
641 such county's share of the gasoline, diesel fuel or kerosene taxes  
642 shall be used in the construction, reconstruction and maintenance  
643 of the public highways, bridges or culverts of the county, as the  
644 board of supervisors may determine.

645 In every county in which there are county road bonds or  
646 seawall or road protection bonds outstanding which were issued for  
647 the purpose of building bridges or constructing public roads or  
648 seawalls, such funds shall be used in the manner provided by law.

649 (c) From the amount produced by the nine-fourteenths  
650 (9/14) division allocated to the Transportation Department, there  
651 shall be deducted:

652 (i) The amount paid to the State Treasurer for the  
653 "Highway Bonds Sinking Fund" under paragraph (a) of this section;

654 (ii) Any amounts due counties in accordance with  
655 Section 65-33-45 which have outstanding bonds issued for seawall  
656 or road protection purposes, issued under provisions of Chapter  
657 319, Laws of 1924, and amendments thereto; and

658 (iii) Beginning August 15, 2002, and on or before  
659 the fifteenth day of each month thereafter, an amount equal to  
660 one-sixth (1/6) of the principal and interest certified by the  
661 State Treasurer to the State Tax Commission to be due on the next  
662 semiannual bond and interest payment date for the bonds issued  
663 under Sections 65-39-5 through 65-39-33. On or before the  
664 twenty-fifth day of each month the State Tax Commission shall pay  
665 into the State Treasury for credit to the Gaming Counties Bond  
666 Sinking Fund created in Section 65-39-3, the amount certified by  
667 the State Treasurer;

668 (iv) Except as otherwise provided in Section  
669 31-17-127, the remainder shall be paid by the State Tax Commission  
670 to the State Treasurer on the fifteenth day of each month next  
671 succeeding the month in which the gasoline, diesel fuel or  
672 kerosene taxes were collected to the credit of the State Highway  
673 Fund.

674 The funds allocated for the construction, reconstruction and  
675 improvement of state highways, bridges and culverts, or so much  
676 thereof as may be necessary, shall first be used in conjunction  
677 with funds supplied by the federal government for such purposes  
678 and allocated to the Transportation Department to be expended on  
679 the state highway system. It is specifically provided hereby that  
680 the necessary portion of such funds hereinabove allocated to the  
681 Transportation Department may be used for the prompt payment of

682 principal and interest on highway bonds heretofore issued,  
683 including such bonds issued or to be issued under the provisions  
684 of Chapter 312, Laws of 1956, and amendments thereto.

685         Nothing contained in this section shall be construed to  
686 reduce the amount of such gasoline, diesel fuel or kerosene excise  
687 taxes levied by the state, allotted under the provisions of Title  
688 65, Chapter 33, Mississippi Code of 1972, to counties in which  
689 there are outstanding bonds issued for seawall or road protection  
690 purposes issued under the provisions of Chapter 319, Laws of 1924,  
691 and amendments thereto; the amount of said gasoline, diesel fuel  
692 or kerosene excise taxes designated in this section for the  
693 payment of bonds and interest authorized and issued or to be  
694 issued under the provisions of Chapter 130, Laws of 1938, and  
695 subsequent acts authorizing the issuance of bonds payable from  
696 gasoline, diesel fuel or kerosene tax revenue, shall, in such  
697 counties, be considered as being paid "into the State Treasury to  
698 the credit of the State Highway Fund" within the meaning of  
699 Section 65-33-45 in computing the amount to be paid to such  
700 counties under the provisions of said section, and this section  
701 shall be administered in connection with Title 65, Chapter 33,  
702 Mississippi Code of 1972, and Sections 65-33-45, 65-33-47 and  
703 65-33-49 dealing with seawalls, as if made a part of this section.

704         (d) The proceeds of the Five and One-fourth Cents  
705 (5.25¢) of the tax per gallon on oils used as a propellant for jet  
706 aircraft engines, and Six and Four-tenths Cents (6.4¢) of the tax  
707 per gallon on aviation gasoline and the tax of One Cent (1¢) per  
708 gallon for each gallon of gasoline for which a refund has been  
709 made pursuant to Section 27-55-23 because such gasoline was used  
710 for aviation purposes, shall be paid to the State Treasury into a  
711 special fund to be used exclusively, pursuant to legislative  
712 appropriation, for the support and development of aeronautics as  
713 defined in Section 61-1-3.

714 (e) State highway funds in an amount equal to the  
715 difference between Forty-two Million Dollars (\$42,000,000.00) and  
716 the annual debt service payable on the state's highway revenue  
717 refunding bonds, Series 1985, shall be expended for the  
718 construction or reconstruction of highways designated under the  
719 highway program created under Section 65-3-97.

720 (f) "Gasoline, diesel fuel or kerosene taxes" as used  
721 in this section shall be deemed to mean and include state  
722 gasoline, diesel fuel or kerosene taxes levied and imposed on  
723 distributors of gasoline, diesel fuel or kerosene, and all state  
724 excise taxes derived from any fuel used to propel vehicles upon  
725 the highways of this state, when levied by any statute.

726 **SECTION 5.** Section 27-5-103, Mississippi Code of 1972, is  
727 amended as follows:

728 27-5-103. (1) There is hereby created a fund designated as  
729 the municipal aid fund.

730 (2) After the State Tax Commission has determined the amount  
731 of taxes due and distributable to the counties of the state under  
732 the provisions of Section 27-5-101, and before making payments to  
733 each county, he shall first deduct from each county's share of the  
734 allocation of said taxes each month a sum equal to one-twelfth  
735 (1/12) of the product of the total population of all incorporated  
736 municipalities in such county multiplied by Seventy-five Cents  
737 (75¢). In no event, however, shall the amount of the deductions  
738 made and payable to any municipality from such county's funds  
739 exceed Forty Thousand Dollars (\$40,000.00) during any one (1)  
740 calendar year. The amount so deducted shall be paid into the  
741 State Treasury each month by the State Tax Commission, at the same  
742 time other gasoline, diesel fuel or kerosene tax funds are now  
743 distributed, to the credit of the municipal aid fund created by  
744 this section. Prior to any distribution to the State Treasury,  
745 the State Tax Commission shall deduct an amount equal to any  
746 claims made upon the funds by the Mississippi Crime Laboratory in

747 accordance with Section 45-1-29 and shall transmit the funds to  
748 the Department of Public Safety.

749 (3) From the gross amount of gasoline, diesel fuel or  
750 kerosene taxes determined to be due and distributable to the  
751 Mississippi Department of Transportation under the provisions of  
752 Section 27-5-101, the State Tax Commission shall, before  
753 distribution is made to the Mississippi Department of  
754 Transportation, deduct each month Eighty-three Thousand Three  
755 Hundred Thirty-three Dollars and Thirty-three Cents (\$83,333.33).  
756 The amount so deducted shall be paid into the State Treasury each  
757 month by the State Tax Commission, at the same time as other  
758 gasoline, diesel fuel or kerosene tax funds are now distributed,  
759 to the credit of the municipal aid fund created herein.

760 (4) The amount paid into the municipal aid fund under the  
761 provisions of paragraph (2) hereof shall be apportioned and paid  
762 to each incorporated municipality of the county in the proportion  
763 which the population of each incorporated municipality bears to  
764 the total population of all incorporated municipalities in such  
765 county, but in no event shall the amount paid to any one (1)  
766 municipality out of such county's funds exceed Forty Thousand  
767 Dollars (\$40,000.00) in any one (1) calendar year. When any one  
768 (1) municipality shall have been paid Forty Thousand Dollars  
769 (\$40,000.00) during any part of a calendar year, then such  
770 municipality shall not be entitled to additional funds from such  
771 county's funds during such calendar year. In determining the  
772 amount to be paid to each municipality, the population of each  
773 municipality which has been paid Forty Thousand Dollars  
774 (\$40,000.00) in any part of a calendar year shall be excluded from  
775 the computation of the total population of the incorporated  
776 municipalities of such county.

777 (5) The amount paid into the municipal aid fund, under the  
778 provisions of subsection (3) hereof, shall be paid to the  
779 incorporated municipalities of this state in the following manner:



780           (a) Each municipality shall be paid the sum of Two  
781 Dollars and Fifty Cents (\$2.50) annually per capita up to and  
782 including three thousand (3,000) population, with payments to be  
783 made monthly in proportionate amounts until the total payment  
784 provided herein shall have been made in full.

785           (b) The remainder of said amount paid into the  
786 municipal aid fund under the provisions of subsection (3) hereof  
787 and remaining after the payment authorized in paragraph (a) of  
788 this subsection, has been made shall be apportioned and paid to  
789 the incorporated municipalities of this state having more than  
790 three thousand (3,000) population in the proportion which the  
791 population of each such participating municipality in excess of  
792 three thousand (3,000) bears to the total population over and  
793 above the number three thousand (3,000) in each of the various  
794 municipalities of the state; provided, however, that the amount  
795 distributed under this subsection shall not exceed an amount  
796 which, when added to the amount distributed under subsection (4)  
797 of this section equals Sixty-five Thousand Dollars (\$65,000.00).  
798 In determining the amount to be paid to each incorporated  
799 municipality, the population of each incorporated municipality  
800 which has been paid Sixty-five Thousand Dollars (\$65,000.00) under  
801 the provisions of subsection (4) of this section or under the  
802 provisions of both subsection (4) and this subsection, in any part  
803 of a calendar year shall be excluded from the computation of the  
804 total population of the incorporated municipalities.

805           (6) Population figures referred to herein shall mean  
806 population as shown by the last available federal census, except  
807 municipalities which have been incorporated since the last federal  
808 census, or will be incorporated prior to the next federal census,  
809 in which case the population shall be in the official count used  
810 in procuring the charter of incorporation.

811           (7) In any county having a county seat which is not an  
812 incorporated municipality, the computation shall be made as though

813 the county seat was an incorporated municipality; however, the  
814 funds computed to be due such county seat shall be paid to the  
815 county treasury wherein such county seat is located and such funds  
816 shall be used for road, bridge and street construction or  
817 maintenance.

818 (8) The distribution of funds under this section shall be  
819 made by the State Tax Commission by warrants drawn on the State  
820 Treasury payable from the municipal aid fund herein created.

821 (9) All funds paid into the municipal aid fund on and after  
822 January 1 of each year and up to and including June 30 of the same  
823 year shall be distributed, as provided herein, on or before July  
824 20 of the year in which such funds were paid in. All funds paid  
825 into the municipal aid fund on and after July 1 of each year and  
826 up to and including December 31 of the same year shall be  
827 distributed, as provided herein, on or before January 20 of the  
828 next succeeding year.

829 (10) All funds received by any municipality under the  
830 provisions of this section shall be used solely for construction,  
831 maintenance or repair of streets, curbs, gutters, storm sewers,  
832 bridges, culverts or like street improvements and appurtenances or  
833 for payment of bonds and interest issued for such purposes.

834 Any municipality may contract with its board of supervisors,  
835 or any member thereof, whereby said construction, maintenance or  
836 repair may be performed by said board or member in which event  
837 funds received under this section by such municipality shall first  
838 be applied to the payment of said bonds and interest, if any, and  
839 the remainder shall be paid over to the county treasury. In the  
840 event of such agreement, the contract shall be spread at large  
841 upon the minutes of the governing authorities of both such  
842 municipality and the board of supervisors of the county.

843 (11) The manner of apportionment of taxes under Section  
844 27-5-101 shall not be disturbed by the provisions of this section.  
845 It is the intent of this section that from its apportionment of

846 taxes under Section 27-5-101, each county shall share with the  
847 municipalities in said counties as provided by this section, and  
848 the payments made to the county or to municipalities within such  
849 county shall be considered as payments to the county in construing  
850 the aforementioned Section 27-5-101.

851       **SECTION 6.** Sections 1 and 2 of this act shall take effect  
852 and be in force from and after July 1, 2005; Sections 3, 4 and 5  
853 of this act shall take effect and be in force from and after  
854 October 1, 2005.