

REPORT OF CONFERENCE COMMITTEE

MADAM PRESIDENT AND MR. SPEAKER:

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

S. B. No. 2736: Highway Commission; limit amount spent annually on certain agreements to advance highway construction.

We, therefore, respectfully submit the following report and recommendation:

1. That the House recede from its Amendment No. 1.
2. That the Senate and House adopt the following amendment:

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

14 **SECTION 1.** Section 65-1-8, Mississippi Code of 1972, as
15 amended by Senate Bill No. 2752, 2005 Regular Session, is amended
16 as follows:

17 65-1-8. (1) The Mississippi Transportation Commission shall
18 have the following general powers, duties and responsibilities:

19 (a) To coordinate and develop a comprehensive, balanced
20 transportation policy for the State of Mississippi;

21 (b) To promote the coordinated and efficient use of all
22 available and future modes of transportation;

23 (c) To make recommendations to the Legislature
24 regarding alterations or modifications in any existing
25 transportation policies;

26 (d) To study means of encouraging travel and
27 transportation of goods by the combination of motor vehicle and
28 other modes of transportation;

29 (e) To take such actions as are necessary and proper to
30 discharge its duties pursuant to the provisions of Laws, 1992,
31 Chapter 496, and any other provision of law;

32 (f) To receive and provide for the expenditure of any
33 funds made available to it by the Legislature, the federal
34 government or any other source.

35 (2) In addition to the general powers, duties and
36 responsibilities listed in subsection (1) of this section, the
37 Mississippi Transportation Commission shall have the following
38 specific powers:

39 (a) To make rules and regulations whereby the
40 Transportation Department shall change or relocate any and all
41 highways herein or hereafter fixed as constituting a part of the
42 state highway system, as may be deemed necessary or economical in
43 the construction or maintenance thereof; to acquire by gift,
44 purchase, condemnation or otherwise, land or other property
45 whatsoever that may be necessary for a state highway system as
46 herein provided, with full consideration to be given to the
47 stimulation of local public and private investment when acquiring
48 such property in the vicinity of Mississippi towns, cities and
49 population centers;

50 (b) To enforce by mandamus, or other proper legal
51 remedies, all legal rights or rights of action of the Mississippi
52 Transportation Commission with other public bodies, corporations
53 or persons;

54 (c) To make and publish rules, regulations and
55 ordinances for the control of and the policing of the traffic on
56 the state highways, and to prevent their abuse by any or all
57 persons, natural or artificial, by trucks, tractors, trailers or
58 any other heavy or destructive vehicles or machines, or by any
59 other means whatsoever, by establishing weights of loads or of
60 vehicles, types of tires, width of tire surfaces, length and width
61 of vehicles, with reasonable variations to meet approximate
62 weather conditions, and all other proper police and protective
63 regulations, and to provide ample means for the enforcement of
64 same. The violation of any of the rules, regulations or
65 ordinances so prescribed by the commission shall constitute a
66 misdemeanor. No rule, regulation or ordinance shall be made that

67 conflicts with any statute now in force or which may hereafter be
68 enacted, or with any ordinance of municipalities. A monthly
69 publication giving general information to the boards of
70 supervisors, employees and the public may be issued under such
71 rules and regulations as the commission may determine;

72 (d) To give suitable numbers to highways and to change
73 the number of any highway that shall become a part of the state
74 highway system. However, nothing herein shall authorize the
75 number of any highway to be changed so as to conflict with any
76 designation thereof as a U.S. numbered highway. Where, by a
77 specific act of the Legislature, the commission has been directed
78 to give a certain number to a highway, the commission shall not
79 have the authority to change such number;

80 (e) (i) To make proper and reasonable rules,
81 regulations, and ordinances for the placing, erection, removal or
82 relocation of telephone, telegraph or other poles, signboards,
83 fences, gas, water, sewerage, oil or other pipelines, and other
84 obstructions that may, in the opinion of the commission,
85 contribute to the hazards upon any of the state highways, or in
86 any way interfere with the ordinary travel upon such highways, or
87 the construction, reconstruction or maintenance thereof, and to
88 make reasonable rules and regulations for the proper control
89 thereof. Any violation of such rules or regulations or
90 noncompliance with such ordinances shall constitute a misdemeanor;

91 (ii) Except as otherwise provided for in this
92 paragraph, whenever the order of the commission shall require the
93 removal of, or other changes in the location of telephone,
94 telegraph or other poles, signboards, gas, water, sewerage, oil or
95 other pipelines; or other similar obstructions on the right-of-way
96 or such other places where removal is required by law, the owners
97 thereof shall at their own expense move or change the same to
98 conform to the order of the commission. Any violation of such

99 rules or regulations or noncompliance with such orders shall
100 constitute a misdemeanor;

101 (iii) Rural water districts, rural water systems,
102 nonprofit water associations and municipal public water systems in
103 municipalities with a population of ten thousand (10,000) or less,
104 according to the latest federal decennial census, shall not be
105 required to bear the cost and expense of removal and relocation of
106 water and sewer lines and facilities constructed or in place in
107 the rights-of-way of state highways. The cost and expense of such
108 removal and relocation, including any unpaid prior to July 1,
109 2002, shall be paid by the Department of Transportation;

110 (iv) Municipal public sewer systems and municipal
111 gas systems owned by municipalities with a population of ten
112 thousand (10,000) or less, according to the latest federal
113 decennial census, shall not be required to bear the cost and
114 expense of removal and relocation of lines and facilities
115 constructed or in place in the rights-of-way of state highways.
116 The cost and expense of such removal and relocation, including any
117 unpaid prior to July 1, 2003, shall be paid by the Department of
118 Transportation;

119 (f) To regulate and abandon grade crossings on any road
120 fixed as a part of the state highway system, and whenever the
121 commission, in order to avoid a grade crossing with the railroad,
122 locates or constructs said road on one side of the railroad, the
123 commission shall have the power to abandon and close such grade
124 crossing, and whenever an underpass or overhead bridge is
125 substituted for a grade crossing, the commission shall have power
126 to abandon such grade crossing and any other crossing adjacent
127 thereto. Included in the powers herein granted shall be the power
128 to require the railroad at grade crossings, where any road of the
129 state highway system crosses the same, to place signal posts with
130 lights or other warning devices at such crossings at the expense

131 of the railroad, and to regulate and abandon underpass or overhead
132 bridges and, where abandoned because of the construction of a new
133 underpass or overhead bridge, to close such old underpass or
134 overhead bridge, or, in its discretion, to return the same to the
135 jurisdiction of the county board of supervisors;

136 (g) To make proper and reasonable rules and regulations
137 to control the cutting or opening of the road surfaces for
138 subsurface installations;

139 (h) To make proper and reasonable rules and regulations
140 for the removal from the public rights-of-way of any form of
141 obstruction, to cooperate in improving their appearance, and to
142 prescribe minimum clearance heights for seed conveyors, pipes,
143 passageways or other structure of private or other ownership above
144 the highways;

145 (i) To establish, and have the Transportation
146 Department maintain and operate, and to cooperate with the state
147 educational institutions in establishing, enlarging, maintaining
148 and operating a laboratory or laboratories for testing materials
149 and for other proper highway purposes;

150 (j) To provide, under the direction and with the
151 approval of the Department of Finance and Administration, suitable
152 offices, shops and barns in the City of Jackson;

153 (k) To establish and have enforced set-back
154 regulations;

155 (l) To cooperate with proper state authorities in
156 producing limerock for highway purposes and to purchase same at
157 cost;

158 (m) To provide for the purchase of necessary equipment
159 and vehicles and to provide for the repair and housing of same, to
160 acquire by gift, purchase, condemnation or otherwise, land or
161 lands and buildings in fee simple, and to authorize the
162 Transportation Department to construct, lease or otherwise provide

163 necessary and proper permanent district offices for the
164 construction and maintenance divisions of the department, and for
165 the repair and housing of the equipment and vehicles of the
166 department; however, in each Supreme Court district only two (2)
167 permanent district offices shall be set up, but a permanent status
168 shall not be given to any such offices until so provided by act of
169 the Legislature and in the meantime, all shops of the department
170 shall be retained at their present location. As many local or
171 subdistrict offices, shops or barns may be provided as is
172 essential and proper to economical maintenance of the state
173 highway system;

174 (n) To cooperate with the Department of Archives and
175 History in having placed and maintained suitable historical
176 markers, including those which have been approved and purchased by
177 the State Historical Commission, along state highways, and to have
178 constructed and maintained roadside driveways for convenience and
179 safety in viewing them when necessary;

180 (o) To cooperate, in its discretion, with the
181 Mississippi Department of Wildlife, Fisheries and Parks in
182 planning and constructing roadside parks upon the right-of-way of
183 state highways, whether constructed, under construction, or
184 planned; said parks to utilize where practical barrow pits used in
185 construction of state highways for use as fishing ponds. Said
186 parks shall be named for abundant flora and fauna existing in the
187 area or for the first flora or fauna found on the site;

188 (p) Unless otherwise prohibited by law, to make such
189 contracts and execute such instruments containing such reasonable
190 and necessary appropriate terms, provisions and conditions as in
191 its absolute discretion it may deem necessary, proper or
192 advisable, for the purpose of obtaining or securing financial
193 assistance, grants or loans from the United States of America or

194 any department or agency thereof, including contracts with several
195 counties of the state pertaining to the expenditure of such funds;

196 (q) To cooperate with the Federal Highway
197 Administration in the matter of location, construction and
198 maintenance of the Great River Road, to expend such funds paid to
199 the commission by the Federal Highway Administration or other
200 federal agency, and to authorize the Transportation Department to
201 erect suitable signs marking this highway, the cost of such signs
202 to be paid from state highway funds other than earmarked
203 construction funds;

204 (r) To cooperate, in its discretion, with the
205 Mississippi Forestry Commission and the School of Forestry,
206 Mississippi State University, in a forestry management program,
207 including planting, thinning, cutting and selling, upon the
208 right-of-way of any highway, constructed, acquired or maintained
209 by the Transportation Department, and to sell and dispose of any
210 and all growing timber standing, lying or being on any
211 right-of-way acquired by the commission for highway purposes in
212 the future; such sale or sales to be made in accordance with the
213 sale of personal property which has become unnecessary for public
214 use as provided for in Section 65-1-123, Mississippi Code of 1972;

215 (s) To expend funds in cooperation with the Division of
216 Plant Industry, Mississippi Department of Agriculture and
217 Commerce, the United States government or any department or agency
218 thereof, or with any department or agency of this state, to
219 control, suppress or eradicate serious insect pests, rodents,
220 plant parasites and plant diseases on the state highway
221 rights-of-way;

222 (t) To provide for the placement, erection and
223 maintenance of motorist services business signs and supports
224 within state highway rights-of-way in accordance with current
225 state and federal laws and regulations governing the placement of

226 traffic control devices on state highways, and to establish and
227 collect reasonable fees from the businesses having information on
228 such signs;

229 (u) To request and to accept the use of persons
230 convicted of an offense, whether a felony or a misdemeanor, for
231 work on any road construction, repair or other project of the
232 Transportation Department. The commission is also authorized to
233 request and to accept the use of persons who have not been
234 convicted of an offense but who are required to fulfill certain
235 court-imposed conditions pursuant to Section 41-29-150(d)(1) or
236 99-15-26, Mississippi Code of 1972, or the Pretrial Intervention
237 Act, being Sections 99-15-101 through 99-15-127, Mississippi Code
238 of 1972. The commission is authorized to enter into any
239 agreements with the Department of Corrections, the State Parole
240 Board, any criminal court of this state, and any other proper
241 official regarding the working, guarding, safekeeping, clothing
242 and subsistence of such persons performing work for the
243 Transportation Department. Such persons shall not be deemed
244 agents, employees or involuntary servants of the Transportation
245 Department while performing such work or while going to and from
246 work or other specified areas;

247 (v) To provide for the administration of the railroad
248 revitalization program pursuant to Section 57-43-1 et seq.;

249 (w) The Mississippi Transportation Commission is
250 further authorized, in its discretion, to expend funds for the
251 purchase of service pins for employees of the Mississippi
252 Transportation Department;

253 (x) To cooperate with the State Tax Commission by
254 providing for weight enforcement field personnel to collect and
255 assess taxes, fees and penalties and to perform all duties as
256 required pursuant to Section 27-55-501 et seq., Sections 27-19-1
257 et seq., 27-55-1 et seq., 27-59-1 et seq. and 27-61-1 et seq.,

258 Mississippi Code of 1972, with regard to vehicles subject to the
259 jurisdiction of the Office of Weight Enforcement. All collections
260 and assessments shall be transferred daily to the State Tax
261 Commission; and

262 (y) To lease antenna space on communication towers
263 which it owns.

264 (3) The Mississippi Transportation Commission may delegate
265 the authority to enter into a supplemental agreement to a contract
266 previously approved by the commission if the supplemental
267 agreement involves an additional expenditure not to exceed One
268 Hundred Thousand Dollars (\$100,000.00).

269 (4) (a) The Mississippi Transportation Commission, in its
270 discretion, may enter into agreements with any county,
271 municipality, county transportation commission, business,
272 corporation, partnership, association, individual or other legal
273 entity, for the purpose of accelerating the completion date of
274 scheduled highway construction projects.

275 (b) Such an agreement may permit the cost of a highway
276 construction project to be advanced to the commission by a county,
277 municipality, county transportation commission, business,
278 corporation, partnership, association, individual or other legal
279 entity, and repaid to such entity by the commission when highway
280 construction funds become available; * * * however * * *:

281 (i) Repayment of funds advanced to the Mississippi
282 Transportation Commission shall be made no sooner than the
283 commission's identified projected revenue schedule for funding of
284 that particular construction project; * * *

285 (ii) No other scheduled highway construction
286 project established by statute or by the commission may be delayed
287 by an advanced funding project authorized under this subsection;

288 (iii) Repayments to a private entity that advances
289 funds to the Mississippi Transportation Commission under this

290 subsection may not include interest or other fees or charges, and
291 the total amount repaid shall not exceed the total amount of funds
292 advanced to the commission by the entity;

293 (iv) The total amount of all repayments by the
294 commission under this subsection (after federal reimbursement of
295 the federal share of repayments) shall not exceed three and
296 seventy-five one-hundredths percent (3.75%) of the department's
297 annual expenditures. The term "annual expenditures" means the
298 total amount of expenditures for all department programs for the
299 fiscal year. This limitation shall only apply when the commission
300 considers whether to enter into an agreement pursuant to this
301 subsection. The commission may approve such agreement only if the
302 repayments do not exceed this limitation.

303 (c) In considering whether to enter into * * * an
304 agreement pursuant to this subsection, the commission shall
305 consider the availability of financial resources, the effect of
306 such agreement on other ongoing highway construction, the urgency
307 of the public's need for swift completion of the project and any
308 other relevant factors.

309 (d) An agreement entered into pursuant to this
310 subsection shall be executed only upon a finding by the
311 commission, spread upon its minutes, that the acceleration of the
312 scheduled project is both feasible and beneficial. The commission
313 shall also spread upon its minutes its findings with regard to the
314 factors required to be considered pursuant to paragraph (c) of
315 this subsection.

316 (e) The commission shall notify the State Bond
317 Commission of the terms of any agreement authorized under this
318 subsection.

319 (f) The budget of the Mississippi Department of
320 Transportation shall be automatically escalated by an amount equal

321 to the funds expended in any fiscal year pursuant to an agreement
322 under this subsection.

323 (5) The Mississippi Transportation Commission, in its
324 discretion, may purchase employment practices liability insurance,
325 and may purchase an excess policy to cover catastrophic losses
326 incurred under the commission's self-insured workers' compensation
327 program authorized under Section 71-3-5. Such policies shall be
328 written by the agent or agents of a company or companies
329 authorized to do business in the State of Mississippi. The
330 deductibles shall be in an amount deemed reasonable and prudent by
331 the commission, and the premiums thereon shall be paid from the
332 State Highway Fund. Purchase of insurance under this paragraph
333 shall not serve as an actual or implied waiver of sovereign
334 immunity or of any protection afforded the commission under the
335 Mississippi Tort Claims Act.

336 (6) The Mississippi Transportation Commission is * * *
337 authorized, in its discretion, to expend funds for the purchase of
338 promotional materials for safety purposes, highway beautification
339 purposes and recruitment purposes.

340 **SECTION 2.** Section 27-5-101, Mississippi Code of 1972, is
341 amended as follows:

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

344 27-5-101. Unless otherwise provided in this section, on or
345 before the fifteenth day of each month, all gasoline, diesel fuel
346 or kerosene taxes which are levied under the laws of this state
347 and collected during the previous month shall be paid and
348 apportioned by the State Tax Commission as follows:

349 (a) (i) Except as otherwise provided in Section
350 31-17-127, from the gross amount of gasoline, diesel fuel or
351 kerosene taxes produced by the state, there shall be deducted an
352 amount equal to one-sixth (1/6) of principal and interest

353 certified by the State Treasurer to the State Tax Commission to be
354 due on the next semiannual bond and interest payment date, as
355 required under the provisions of Chapter 130, Laws of 1938, and
356 subsequent acts authorizing the issuance of bonds payable from
357 gasoline, diesel fuel or kerosene tax revenue on a parity with the
358 bonds issued under authority of said Chapter 130. The State
359 Treasurer shall certify to the State Tax Commission on or before
360 the fifteenth day of each month the amount to be paid to the
361 "Highway Bonds Sinking Fund" as provided by said Chapter 130, Laws
362 of 1938, and subsequent acts authorizing the issuance of bonds
363 payable from gasoline, diesel fuel or kerosene tax revenue, on a
364 parity with the bonds issued under authority of said Chapter 130;
365 and the State Tax Commission shall, on or before the twenty-fifth
366 day of each month, pay into the State Treasury for credit to the
367 "Highway Bonds Sinking Fund" the amount so certified to him by the
368 State Treasurer due to be paid into such fund each month. The
369 payments to the "Highway Bonds Sinking Fund" shall be made out of
370 gross gasoline, diesel fuel or kerosene tax collections before
371 deductions of any nature are considered; however, such payments
372 shall be deducted from the allocation to the Mississippi
373 Department of Transportation under paragraph (c) of this section.

374 (ii) From collections derived from the portion of
375 the gasoline excise tax that exceeds Seven Cents (7¢) per gallon,
376 from the portion of the tax on aviation gas under Section 27-55-11
377 that exceeds Six and Four-tenths Cents (6.4¢) per gallon, from the
378 portion of the special fuel tax levied under Sections 27-55-519
379 and 27-55-521, at Eighteen Cents (18¢) per gallon that exceeds Ten
380 Cents (10¢) per gallon, from the portion of the taxes levied under
381 Section 27-55-519, at Five and Three-fourths Cents (5.75¢) per
382 gallon that exceeds One Cent (1¢) per gallon on special fuel and
383 Five and One-fourth Cents (5.25¢) per gallon on special fuel used
384 as aircraft fuel, from the portion of the excise tax on compressed

385 gas used as a motor fuel that exceeds the rate of tax in effect on
386 June 30, 1987, and from the portion of the gasoline excise tax in
387 excess of Seven Cents (7¢) per gallon and the diesel excise tax in
388 excess of Ten Cents (10¢) per gallon under Section 27-61-5 there
389 shall be deducted:

390 1. An amount as provided in Section
391 27-65-75(4) to the credit of a special fund designated as the
392 "Office of State Aid Road Construction."

393 2. An amount equal to the tax collections
394 derived from Two Cents (2¢) per gallon of the gasoline excise tax
395 for distribution to the State Highway Fund to be used exclusively
396 for the construction, reconstruction and maintenance of highways
397 of the State of Mississippi or the payment of interest and
398 principal on bonds when specifically authorized by the Legislature
399 for that purpose.

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

402 (b) Subject to the provisions that said basis of
403 distribution shall in nowise affect adversely the amount
404 specifically pledged in paragraph (a) of this section to be paid
405 into the "Highway Bonds Sinking Fund," the following shall be
406 deducted from the amount produced by the state tax on gasoline,
407 diesel fuel or kerosene tax collections, excluding collections
408 derived from the portion of the gasoline excise tax that exceeds
409 Seven Cents (7¢) per gallon, from the portion of the tax on
410 aviation gas under Section 27-55-11 that exceeds Six and
411 Four-tenths Cents (6.4¢) per gallon, from the portion of the
412 special fuel tax levied under Sections 27-55-519 and 27-55-521, at
413 Eighteen Cents (18¢) per gallon that exceeds Ten Cents (10¢) per
414 gallon, from the portion of the taxes levied under Section
415 27-55-519, at Five and Three-fourths Cents (5.75¢) per gallon that
416 exceeds One Cent (1¢) per gallon on special fuel and Five and

417 One-fourth Cents (5.25¢) per gallon on special fuel used as
418 aircraft fuel, from the portion of the excise tax on compressed
419 gas used as a motor fuel that exceeds the rate of tax in effect on
420 June 30, 1987, and from the portion of the gasoline excise tax in
421 excess of Seven Cents (7¢) per gallon and the diesel excise tax in
422 excess of Ten Cents (10¢) per gallon under Section 27-61-5:

423 (i) Twenty percent (20%) of such amount which
424 shall be earmarked and set aside for the construction,
425 reconstruction and maintenance of the highways and roads of the
426 state, provided that if such twenty percent (20%) should reduce
427 any county to a lesser amount than that received in the fiscal
428 year ending June 30, 1966, then such twenty percent (20%) shall be
429 reduced to a percentage to provide that no county shall receive
430 less than its portion for the fiscal year ending June 30, 1966;

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

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

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

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

441 (vi) The remainder shall be divided on a basis of
442 nine-fourteenths (9/14) and five-fourteenths (5/14) (being the
443 same basis as Four and One-half Cents (4-1/2¢) and Two and
444 One-half Cents (2-1/2¢) is to Seven Cents (7¢) on gasoline, and
445 six and forty-three one-hundredths (6.43) and three and
446 fifty-seven one-hundredths (3.57) is to Ten Cents (10¢) on diesel
447 fuel or kerosene). The amount produced by the nine-fourteenths
448 (9/14) division shall be allocated to the Transportation

449 Department and paid into the State Treasury as provided in this
450 section and in Section 27-5-103 and the five-fourteenths (5/14)
451 division shall be returned to the counties of the state on the
452 following basis:

453 1. In each fiscal year, each county shall be
454 paid each month the same percentage of the monthly total to be
455 distributed as was paid to that county during the same month in
456 the fiscal year which ended April 9, 1960, until the county
457 receives One Hundred Ninety Thousand Dollars (\$190,000.00) in such
458 fiscal year, at which time funds shall be distributed under the
459 provisions of paragraph (b)(vi)4 of this section.

460 2. If after payments in 1 above, any county
461 has not received a total of One Hundred Ninety Thousand Dollars
462 (\$190,000.00) at the end of the fiscal year ending June 30, 1961,
463 and each fiscal year thereafter, then any available funds not
464 distributed under 1 above shall be used to bring such county or
465 counties up to One Hundred Ninety Thousand Dollars (\$190,000.00)
466 or such funds shall be divided equally among such counties not
467 reaching One Hundred Ninety Thousand Dollars (\$190,000.00) if
468 there is not sufficient money to bring all the counties to said
469 One Hundred Ninety Thousand Dollars (\$190,000.00).

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

476 4. During the last month of the current
477 fiscal year, should it be determined that there are funds
478 available in excess of the amount distributed for the year under 1
479 and 2 above, then such excess funds shall be distributed among the
480 various counties as follows:

513 taxable property of the county, it shall be the duty of the board
514 of supervisors to set aside not less than thirty-five percent
515 (35%) of such county's share of the gasoline, diesel fuel or
516 kerosene taxes to be used in paying the principal and interest of
517 such road or bridge bonds as they mature.

518 In any county having such countywide road or bridge bonds or
519 district road or bridge bonds outstanding which exceed, in the
520 aggregate, five percent (5%) of the assessed valuation of the
521 taxable property of the county, but which do not exceed, in the
522 aggregate, eight percent (8%) of the assessed valuation of the
523 taxable property of the county, it shall be the duty of the board
524 of supervisors to set aside not less than twenty percent (20%) of
525 such county's share of the gasoline, diesel fuel or kerosene taxes
526 to be used in paying the principal and interest of such road and
527 bridge bonds as they mature.

528 In any county having such countywide road or bridge bonds or
529 district road or bridge bonds outstanding which do not exceed, in
530 the aggregate, five percent (5%) of the assessed valuation of the
531 taxable property of the county, it shall be the duty of the board
532 of supervisors to set aside not less than ten percent (10%) of
533 such county's share of the gasoline, diesel fuel or kerosene taxes
534 to be used in paying the principal and interest on such road or
535 bridge bonds as they mature.

536 The portion of any such county's share of the gasoline,
537 diesel fuel or kerosene taxes thus set aside for the payment of
538 the principal and interest of road or bridge bonds, as provided
539 for in this section, shall be used first in paying the currently
540 maturing installments of the principal and interest of such
541 countywide road or bridge bonds, if there be any such countywide
542 road or bridge bonds outstanding, and secondly, in paying the
543 currently maturing installments of principal and interest of
544 district road or bridge bonds outstanding. It shall be the duty

545 of the board of supervisors to pay bonds and interest maturing in
546 each supervisors district out of the supervisors district's share
547 of the gasoline, diesel fuel or kerosene taxes of such district.

548 The remaining portion of such county's share of the gasoline,
549 diesel fuel or kerosene taxes, after setting aside the portion
550 above provided for the payment of the principal and interest of
551 bonds, shall be used in the construction and maintenance of any
552 public highways, bridges, or culverts of the county, including the
553 roads in special or separate road districts, in the discretion of
554 the board of supervisors, or in paying the interest and principal
555 of county road and bridge bonds or district road and bridge bonds,
556 in the discretion of the board of supervisors.

557 In any county having no countywide road or bridge bonds or
558 district road or bridge bonds outstanding, all such county's share
559 of the gasoline, diesel fuel or kerosene taxes shall be used in
560 the construction, reconstruction, and maintenance of the public
561 highways, bridges, or culverts of the county as the board of
562 supervisors may determine.

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

567 (c) From the amount produced by the nine-fourteenths
568 (9/14) division allocated to the Transportation Department, there
569 shall be deducted:

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

572 (ii) Any amounts due counties in accordance with
573 Section 65-33-45 which have outstanding bonds issued for seawall
574 or road protection purposes, issued under provisions of Chapter
575 319, Laws of 1924, and amendments thereto;

576 * * *

577 (iii) Except as otherwise provided in Section
578 31-17-127, the remainder shall be paid by the State Tax Commission
579 to the State Treasurer on the fifteenth day of each month next
580 succeeding the month in which the gasoline, diesel fuel or
581 kerosene taxes were collected to the credit of the State Highway
582 Fund.

583 The funds allocated for the construction, reconstruction, and
584 improvement of state highways, bridges, and culverts, or so much
585 thereof as may be necessary, shall first be used in conjunction
586 with funds supplied by the federal government for such purposes
587 and allocated to the State Transportation Department to be
588 expended on the state highway system. It is specifically provided
589 hereby that the necessary portion of such funds hereinabove
590 allocated to the State Transportation Department may be used for
591 the prompt payment of principal and interest on highway bonds
592 heretofore issued, including such bonds issued or to be issued
593 under the provisions of Chapter 312, Laws of 1956, and amendments
594 thereto.

595 Nothing contained in this section shall be construed to
596 reduce the amount of such gasoline, diesel fuel or kerosene excise
597 taxes levied by the state, allotted under the provisions of Title
598 65, Chapter 33, Mississippi Code of 1972, to counties in which
599 there are outstanding bonds issued for seawall or road protection
600 purposes issued under the provisions of Chapter 319, Laws of 1924,
601 and amendments thereto; the amount of said gasoline, diesel fuel
602 or kerosene excise taxes designated in this section for the
603 payment of bonds and interest authorized and issued or to be
604 issued under the provisions of Chapter 130, Laws of 1938, and
605 subsequent acts authorizing the issuance of bonds payable from
606 gasoline, diesel fuel or kerosene tax revenue, shall, in such
607 counties, be considered as being paid "into the State Treasury to
608 the credit of the State Highway Fund" within the meaning of

609 Section 65-33-45 in computing the amount to be paid to such
610 counties under the provisions of said section, and this section
611 shall be administered in connection with Title 65, Chapter 33,
612 Mississippi Code of 1972, and Sections 65-33-45, 65-33-47 and
613 65-33-49 dealing with seawalls, as if made a part of this section.

614 (d) The proceeds of the Five and One-fourth Cents
615 (5.25¢) of the tax per gallon on oils used as a propellant for jet
616 aircraft engines, and Six and Four-tenths Cents (6.4¢) of the tax
617 per gallon on aviation gasoline and the tax of One Cent (1¢) per
618 gallon for each gallon of gasoline for which a refund has been
619 made pursuant to Section 27-55-23 because such gasoline was used
620 for aviation purposes, shall be paid to the State Treasury into a
621 special fund to be used exclusively, pursuant to legislative
622 appropriation, for the support and development of aeronautics as
623 defined in Section 61-1-3.

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

630 (f) "Gasoline, diesel fuel or kerosene taxes" as used
631 in this section shall be deemed to mean and include state
632 gasoline, diesel fuel or kerosene taxes levied and imposed on
633 distributors of gasoline, diesel fuel or kerosene, and all state
634 excise taxes derived from any fuel used to propel vehicles upon
635 the highways of this state, when levied by any statute.

636 **[With regard to any county which is required to operate on a**
637 **countywide system of road administration as described in Section**
638 **19-2-3, this section shall read as follows:]**

639 27-5-101. Unless otherwise provided in this section, on or
640 before the fifteenth day of each month, all gasoline, diesel fuel

641 or kerosene taxes which are levied under the laws of this state
642 and collected during the previous month shall be paid and
643 apportioned by the State Tax Commission as follows:

644 (a) (i) Except as otherwise provided in Section
645 31-17-127, from the gross amount of gasoline, diesel fuel or
646 kerosene taxes produced by the state, there shall be deducted an
647 amount equal to one-sixth (1/6) of principal and interest
648 certified by the State Treasurer to the State Tax Commission to be
649 due on the next semiannual bond and interest payment date, as
650 required under the provisions of Chapter 130, Laws of 1938, and
651 subsequent acts authorizing the issuance of bonds payable from
652 gasoline, diesel fuel or kerosene tax revenue on a parity with the
653 bonds issued under authority of said Chapter 130. The State
654 Treasurer shall certify to the State Tax Commission on or before
655 the fifteenth day of each month the amount to be paid to the
656 "Highway Bonds Sinking Fund" as provided by said Chapter 130, Laws
657 of 1938, and subsequent acts authorizing the issuance of bonds
658 payable from gasoline, diesel fuel or kerosene tax revenue, on a
659 parity with the bonds issued under authority of said Chapter 130;
660 and the State Tax Commission shall, on or before the twenty-fifth
661 day of each month, pay into the State Treasury for credit to the
662 "Highway Bonds Sinking Fund" the amount so certified to him by the
663 State Treasurer due to be paid into such fund each month. The
664 payments to the "Highway Bonds Sinking Fund" shall be made out of
665 gross gasoline, diesel fuel or kerosene tax collections before
666 deductions of any nature are considered; however, such payments
667 shall be deducted from the allocation to the Transportation
668 Department under paragraph (c) of this section.

669 (ii) From collections derived from the portion of
670 the gasoline excise tax that exceeds Seven Cents (7¢) per gallon,
671 from the portion of the tax on aviation gas under Section 27-55-11
672 that exceeds Six and Four-tenths Cents (6.4¢) per gallon, from the

673 portion of the special fuel tax levied under Sections 27-55-519
674 and 27-55-521, at Eighteen Cents (18¢) per gallon that exceeds Ten
675 Cents (10¢) per gallon, from the portion of the taxes levied under
676 Section 27-55-519, at Five and Three-fourths Cents (5.75¢) per
677 gallon that exceeds One Cent (1¢) per gallon on special fuel and
678 Five and One-fourth Cents (5.25¢) per gallon on special fuel used
679 as aircraft fuel, from the portion of the excise tax on compressed
680 gas used as a motor fuel that exceeds the rate of tax in effect on
681 June 30, 1987, and from the portion of the gasoline excise tax in
682 excess of Seven Cents (7¢) per gallon and the diesel excise tax in
683 excess of Ten Cents (10¢) per gallon under Section 27-61-5 there
684 shall be deducted:

685 1. An amount as provided in Section
686 27-65-75(4) to the credit of a special fund designated as the
687 "Office of State Aid Road Construction."

688 2. An amount equal to the tax collections
689 derived from Two Cents (2¢) per gallon of the gasoline excise tax
690 for distribution to the State Highway Fund to be used exclusively
691 for the construction, reconstruction and maintenance of highways
692 of the State of Mississippi or the payment of interest and
693 principal on bonds when specifically authorized by the Legislature
694 for that purpose.

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

697 (b) Subject to the provisions that said basis of
698 distribution shall in nowise affect adversely the amount
699 specifically pledged in paragraph (a) of this section to be paid
700 into the "Highway Bonds Sinking Fund," the following shall be
701 deducted from the amount produced by the state tax on gasoline,
702 diesel fuel or kerosene tax collections, excluding collections
703 derived from the portion of the gasoline excise tax that exceeds
704 Seven Cents (7¢) per gallon, from the portion of the tax on

705 aviation gas under Section 27-55-11 that exceeds Six and
706 Four-tenths Cents (6.4¢) per gallon, from the portion of the
707 special fuel tax levied under Sections 27-55-519 and 27-55-521, at
708 Eighteen Cents (18¢) per gallon, that exceeds Ten Cents (10¢) per
709 gallon, from the portion of the taxes levied under Section
710 27-55-519, at Five and Three-fourths Cents (5.75¢) that exceeds
711 One Cent (1¢) per gallon on special fuel and Five and One-fourth
712 Cents (5.25¢) per gallon on special fuel used as aircraft fuel,
713 from the portion of the excise tax on compressed gas used as a
714 motor fuel that exceeds the rate of tax in effect on June 30,
715 1987, and from the portion of the gasoline excise tax in excess of
716 Seven Cents (7¢) per gallon and the diesel excise tax in excess of
717 Ten Cents (10¢) per gallon under Section 27-61-5:

718 (i) Twenty percent (20%) of such amount which
719 shall be earmarked and set aside for the construction,
720 reconstruction and maintenance of the highways and roads of the
721 state, provided that if such twenty percent (20%) should reduce
722 any county to a lesser amount than that received in the fiscal
723 year ending June 30, 1966, then such twenty percent (20%) shall be
724 reduced to a percentage to provide that no county shall receive
725 less than its portion for the fiscal year ending June 30, 1966;

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

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

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

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

736 (vi) The remainder shall be divided on a basis of
737 nine-fourteenths (9/14) and five-fourteenths (5/14) (being the
738 same basis as Four and One-half Cents (4-1/2¢) and Two and
739 One-half Cents (2-1/2¢) is to Seven Cents (7¢) on gasoline, and
740 six and forty-three one-hundredths (6.43) and three and
741 fifty-seven one-hundredths (3.57) is to Ten Cents (10¢) on diesel
742 fuel or kerosene). The amount produced by the nine-fourteenths
743 (9/14) division shall be allocated to the Transportation
744 Department and paid into the State Treasury as provided in this
745 section and in Section 27-5-103 and the five-fourteenths (5/14)
746 division shall be returned to the counties of the state on the
747 following basis:

748 1. In each fiscal year, each county shall be
749 paid each month the same percentage of the monthly total to be
750 distributed as was paid to that county during the same month in
751 the fiscal year which ended April 9, 1960, until the county
752 receives One Hundred Ninety Thousand Dollars (\$190,000.00) in such
753 fiscal year, at which time funds shall be distributed under the
754 provisions of paragraph (b)(vi)4 of this section.

755 2. If after payments in 1 above, any county
756 has not received a total of One Hundred Ninety Thousand Dollars
757 (\$190,000.00) at the end of the fiscal year ending June 30, 1961,
758 and each fiscal year thereafter, then any available funds not
759 distributed under 1 above shall be used to bring such county or
760 counties up to One Hundred Ninety Thousand Dollars (\$190,000.00)
761 or such funds shall be divided equally among such counties not
762 reaching One Hundred Ninety Thousand Dollars (\$190,000.00) if
763 there is not sufficient money to bring all the counties to said
764 One Hundred Ninety Thousand Dollars (\$190,000.00).

765 3. When a county has been paid an amount
766 equal to the total which was paid to the same county during the
767 fiscal year ended April 9, 1960, such county shall receive no

768 further payments during the then current fiscal year until the
769 last month of such current fiscal year, at which time distribution
770 will be made under 2 above, except as set out in 4 below.

771 4. During the last month of the current
772 fiscal year, should it be determined that there are funds
773 available in excess of the amount distributed for the year under 1
774 and 2 above, then such excess funds shall be distributed among the
775 various counties as follows:

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

778 One-third (1/3) of such excess to be paid
779 to the counties in the proportion which the population of each
780 county bears to the total population of the state according to the
781 last federal census;

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

785 5. It is the declared purpose and intent of
786 the Legislature that no county shall be paid less than was paid
787 during the year ended April 9, 1960, unless the amount to be
788 distributed to all counties in any year is less than the amount
789 distributed to all counties during the year ended April 9, 1960.

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

794 In any county having road or bridge bonds outstanding which
795 exceed, in the aggregate, twelve percent (12%) of the assessed
796 valuation of the taxable property of the county, it shall be the
797 duty of the board of supervisors to set aside not less than sixty
798 percent (60%) of such county's share of the gasoline, diesel fuel

799 or kerosene taxes to be used in paying the principal and interest
800 on such road or bridge bonds as they mature.

801 In any county having such road or bridge bonds outstanding
802 which exceed, in the aggregate, eight percent (8%) of the assessed
803 valuation of the taxable property of the county, but which do not
804 exceed, in the aggregate, twelve percent (12%) of the assessed
805 valuation of the taxable property of the county, it shall be the
806 duty of the board of supervisors to set aside not less than
807 thirty-five percent (35%) of such county's share of the gasoline,
808 diesel fuel or kerosene taxes to be used in paying the principal
809 and interest of such road or bridge bonds as they mature.

810 In any county having such road or bridge bonds outstanding
811 which exceed, in the aggregate, five percent (5%) of the assessed
812 valuation of the taxable property of the county, but which do not
813 exceed, in the aggregate, eight percent (8%) of the assessed
814 valuation of the taxable property of the county, it shall be the
815 duty of the board of supervisors to set aside not less than twenty
816 percent (20%) of such county's share of the gasoline, diesel fuel
817 or kerosene taxes to be used in paying the principal and interest
818 of such road and bridge bonds as they mature.

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

826 The portion of any such county's share of the gasoline,
827 diesel fuel or kerosene taxes thus set aside for the payment of
828 the principal and interest of road or bridge bonds, as provided
829 for in this section, shall be used in paying the currently
830 maturing installments of the principal and interest of such road

831 or bridge bonds, if there be any such road or bridge bonds
832 outstanding.

833 The remaining portion of such county's share of the gasoline,
834 diesel fuel or kerosene taxes, after setting aside the portion
835 above provided for the payment of the principal and interest of
836 bonds, shall be used in the construction and maintenance of any
837 public highways, bridges or culverts of the county, in the
838 discretion of the board of supervisors.

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

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

848 (c) From the amount produced by the nine-fourteenths
849 (9/14) division allocated to the Transportation Department, there
850 shall be deducted:

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

853 (ii) Any amounts due counties in accordance with
854 Section 65-33-45 which have outstanding bonds issued for seawall
855 or road protection purposes, issued under provisions of Chapter
856 319, Laws of 1924, and amendments thereto; and

857 * * *

858 (iii) Except as otherwise provided in Section
859 31-17-127, the remainder shall be paid by the State Tax Commission
860 to the State Treasurer on the fifteenth day of each month next
861 succeeding the month in which the gasoline, diesel fuel or

862 kerosene taxes were collected to the credit of the State Highway
863 Fund.

864 The funds allocated for the construction, reconstruction and
865 improvement of state highways, bridges and culverts, or so much
866 thereof as may be necessary, shall first be used in conjunction
867 with funds supplied by the federal government for such purposes
868 and allocated to the Transportation Department to be expended on
869 the state highway system. It is specifically provided hereby that
870 the necessary portion of such funds hereinabove allocated to the
871 Transportation Department may be used for the prompt payment of
872 principal and interest on highway bonds heretofore issued,
873 including such bonds issued or to be issued under the provisions
874 of Chapter 312, Laws of 1956, and amendments thereto.

875 Nothing contained in this section shall be construed to
876 reduce the amount of such gasoline, diesel fuel or kerosene excise
877 taxes levied by the state, allotted under the provisions of Title
878 65, Chapter 33, Mississippi Code of 1972, to counties in which
879 there are outstanding bonds issued for seawall or road protection
880 purposes issued under the provisions of Chapter 319, Laws of 1924,
881 and amendments thereto; the amount of said gasoline, diesel fuel
882 or kerosene excise taxes designated in this section for the
883 payment of bonds and interest authorized and issued or to be
884 issued under the provisions of Chapter 130, Laws of 1938, and
885 subsequent acts authorizing the issuance of bonds payable from
886 gasoline, diesel fuel or kerosene tax revenue, shall, in such
887 counties, be considered as being paid "into the State Treasury to
888 the credit of the State Highway Fund" within the meaning of
889 Section 65-33-45 in computing the amount to be paid to such
890 counties under the provisions of said section, and this section
891 shall be administered in connection with Title 65, Chapter 33,
892 Mississippi Code of 1972, and Sections 65-33-45, 65-33-47 and
893 65-33-49 dealing with seawalls, as if made a part of this section.

894 (d) The proceeds of the Five and One-fourth Cents
895 (5.25¢) of the tax per gallon on oils used as a propellant for jet
896 aircraft engines, and Six and Four-tenths Cents (6.4¢) of the tax
897 per gallon on aviation gasoline and the tax of One Cent (1¢) per
898 gallon for each gallon of gasoline for which a refund has been
899 made pursuant to Section 27-55-23 because such gasoline was used
900 for aviation purposes, shall be paid to the State Treasury into a
901 special fund to be used exclusively, pursuant to legislative
902 appropriation, for the support and development of aeronautics as
903 defined in Section 61-1-3.

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

910 (f) "Gasoline, diesel fuel or kerosene taxes" as used
911 in this section shall be deemed to mean and include state
912 gasoline, diesel fuel or kerosene taxes levied and imposed on
913 distributors of gasoline, diesel fuel or kerosene, and all state
914 excise taxes derived from any fuel used to propel vehicles upon
915 the highways of this state, when levied by any statute.

916 **SECTION 3.** Pursuant to Section 1-3-79, Mississippi Code of
917 1972, the amendments to Section 65-1-8, Mississippi Code of 1972,
918 contained in this Senate Bill No. 2736, 2005 Regular Session,
919 shall supercede the amendment to Section 65-1-8 contained in
920 Senate Bill No. 2752, 2005 Regular Session.

921 **SECTION 4.** This act shall take effect and be in force from
922 and after its passage.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 65-1-8, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT REPAYMENTS UNDER CERTAIN AGREEMENTS THAT PERMIT THE
3 COST OF A HIGHWAY CONSTRUCTION PROJECT TO BE ADVANCED TO THE
4 MISSISSIPPI TRANSPORTATION COMMISSION MAY NOT EXCEED 3.75% OF THE
5 NET AMOUNT OF FEDERAL REIMBURSEMENTS TO THE DEPARTMENT OF
6 TRANSPORTATION AND STATE FUNDS RECEIVED BY THE DEPARTMENT IN ANY
7 ONE FISCAL YEAR; TO AMEND SECTION 27-5-101, MISSISSIPPI CODE OF
8 1972, TO DELETE THE REQUIREMENT FOR THE PAYMENT OF A PORTION OF
9 THE REVENUES DERIVED FROM MOTOR FUEL TAXES TO BE DEPOSITED INTO
10 THE GAMING COUNTIES BOND SINKING FUND FOR THE PURPOSE OF PAYING
11 THE DEBT SERVICE ON BONDS ISSUED IN SUPPORT OF THE GAMING COUNTIES
12 INFRASTRUCTURE PROGRAM; AND FOR RELATED PURPOSES.

CONFEREES FOR THE SENATE

X (SIGNED)
Hewes

X (SIGNED)
Robertson

X (SIGNED)
Morgan

CONFEREES FOR THE HOUSE

X (SIGNED)
Miles

X (SIGNED)
Zuber

X (SIGNED)
Ward