

By: Representative Johnson (94th)

To: Transportation; Ways and Means

HOUSE BILL NO. 1681

1 AN ACT TO AMEND SECTION 27-55-11, MISSISSIPPI CODE OF 1972,
 2 TO REVISE THE RATE OF THE GASOLINE EXCISE TAX; TO BRING FORWARD
 3 SECTIONS 27-55-12, 27-55-19 AND 27-55-23, MISSISSIPPI CODE OF
 4 1972, WHICH PROVIDE FOR CERTAIN EXEMPTIONS AND REFUNDS UNDER THE
 5 GASOLINE EXCISE TAX LAW, FOR THE PURPOSES OF AMENDMENT; TO AMEND
 6 SECTION 27-55-519, MISSISSIPPI CODE OF 1972, TO REVISE THE RATE OF
 7 THE SPECIAL FUEL EXCISE TAX IMPOSED ON UNDYED DIESEL FUEL; TO
 8 BRING FORWARD SECTIONS 27-55-521, 27-55-523 AND 27-55-533,
 9 MISSISSIPPI CODE OF 1972, WHICH ARE SECTIONS OF THE MISSISSIPPI
 10 SPECIAL FUEL TAX LAW, FOR PURPOSES OF AMENDMENT; TO BRING FORWARD
 11 SECTION 27-5-101, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE
 12 DISTRIBUTION OF FUEL TAXES, FOR THE PURPOSE OF AMENDMENT; AND FOR
 13 RELATED PURPOSES.

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

15 **SECTION 1.** Section 27-55-11, Mississippi Code of 1972, is
 16 amended as follows:

17 27-55-11. (1) (a) (i) Any person in business as a
 18 distributor of gasoline or who acts as a distributor of gasoline,
 19 as defined in this article, shall pay for the privilege of
 20 engaging in such business or acting as such distributor an excise
 21 tax equal to * * * Fifteen Cents (15¢) per gallon until the date
 22 specified in Section 65-39-35, and * * * Twelve Cents (12¢) per
 23 gallon thereafter, on all gasoline and blend stock stored, sold,



24 distributed, manufactured, refined, distilled, blended or
25 compounded in this state or received in this state for sale, use
26 on the highways, storage, distribution, or for any purpose.

27 (ii) In addition to the tax imposed under
28 subparagraph (i) of this paragraph (a), any person in business as
29 a distributor of gasoline or who acts as a distributor of
30 gasoline, as defined in this article, shall pay for the privilege
31 of engaging in such business or acting as such distributor an
32 excise tax equal to an amount determined under this subparagraph
33 (ii) on all gasoline and blend stock stored, sold, distributed,
34 manufactured, refined, distilled, blended or compounded in this
35 state or received in this state for sale, use on the highways,
36 storage, distribution, or for any purpose. The amount of the tax
37 imposed under this subparagraph (ii) shall be determined by
38 multiplying the average wholesale price of gasoline by six percent
39 (6%), the product of which, rounded to the nearest one-tenth
40 (1/10) of a cent, shall be the rate of the tax. Beginning January
41 1, 2017, the rate of the tax imposed under this subparagraph (ii)
42 shall be recalculated and adjusted according to such formula twice
43 per calendar year on January 1 and July 1. The average wholesale
44 price of gasoline shall be certified by the Commissioner of
45 Revenue for the purposes of this subparagraph (ii).

46 (b) Any person in business as a distributor of aviation
47 gasoline, or who acts as a distributor of aviation gasoline, shall
48 pay for the privilege of engaging in such business or acting as



49 such distributor an excise tax equal to Six and Four-tenths Cents
50 (6.4¢) per gallon on all aviation gasoline stored, sold,
51 distributed, manufactured, refined, distilled, blended or
52 compounded in this state or received in this state for sale,
53 storage, distribution or for any purpose.

54 (c) The excise taxes collected under this section shall
55 be paid and distributed in accordance with Section 27-5-101.

56 (2) (a) The tax herein imposed and assessed shall be
57 collected and paid to the State of Mississippi but once in respect
58 to any gasoline. The basis for determining the tax liability
59 shall be the correct invoiced gallons, adjusted to sixty (60)
60 degrees Fahrenheit at the refinery or point of origin of shipment
61 when such shipment is made by tank car or by motor carrier. The
62 point of origin of shipment of gasoline transported into this
63 state by pipelines shall be deemed to be that point in this state
64 where such gasoline is withdrawn from the pipeline for storage or
65 distribution, and adjustment to sixty (60) degrees Fahrenheit
66 shall there be made. The basis for determining the tax liability
67 on gasoline shipped into this state in barge cargoes and by
68 pipeline shall be the actual number of gallons adjusted to sixty
69 (60) degrees Fahrenheit unloaded into storage tanks or other
70 containers in this state, such gallonage to be determined by
71 measurement and/or gauge of storage tank or tanks or by any other
72 method authorized by the * * * department. The tank or tanks
73 into which barge cargoes of gasoline are discharged, or into which



74 gasoline transported by pipeline is discharged, shall have correct
75 gauge tables listing capacity, such gauge tables to be prepared by
76 some recognized calibrating agency and to be approved by the * * *
77 department.

78 (b) The tax levied herein shall accrue at the time
79 gasoline is withdrawn from a refinery in this state except when
80 withdrawal is by pipeline, barge, ship or vessel. The refiner
81 shall pay to the * * * department the tax levied herein when
82 gasoline is sold or delivered to persons who do not hold gasoline
83 distributor permits. The refiner shall report to the * * *
84 department all sales and deliveries of gasoline to bonded
85 distributors of gasoline. The bonded distributor of gasoline who
86 purchases, receives or acquires gasoline from a refinery in this
87 state shall report such gasoline and pay the tax levied herein.

88 (c) Gasoline imported by common carrier shall be deemed
89 to be received by the distributor of gasoline, and the tax levied
90 herein shall accrue, when the car or tank truck containing such
91 gasoline is unloaded by the carrier.

92 (d) With respect to distributors or other persons who
93 bring, ship, have transported, or have brought into this state
94 gasoline by means other than through a common carrier, the tax
95 accrues and the tax liability attaches on the distributor or other
96 person for each gallon of gasoline brought into the state at the
97 time when and at the point where such gasoline is brought into the
98 state.



99 (e) The tax levied herein shall accrue on blend stock
100 at the time it is blended with gasoline. The blender shall pay to
101 the * * * department the tax levied herein when blend stock is
102 sold or delivered to persons who do not hold gasoline distributor
103 permits. The blender shall report to the * * * department all
104 sales and deliveries of blend stock to bonded distributors of
105 gasoline. The bonded distributor of gasoline who purchases,
106 receives or acquires blend stock from a blender in this state
107 shall report blend stock and pay the tax levied herein.

108 **SECTION 2.** Section 27-55-12, Mississippi Code of 1972, is
109 brought forward as follows:

110 27-55-12. (1) The United States government, the State of
111 Mississippi, counties, municipalities, school districts and all
112 other political subdivisions of the state, and volunteer fire
113 departments chartered under the laws of the State of Mississippi
114 as nonprofit corporations shall be exempt from excise taxes on
115 gasoline, special fuel and compressed gas as follows:

116 (a) From the excise tax rate in excess of Nine Cents
117 (9¢) per gallon of gasoline and from the excise tax rate in excess
118 of One Cent (1¢) per gallon of aviation gasoline levied under
119 Section 27-55-11, Mississippi Code of 1972, Five and Four-tenths
120 Cents (5.4¢) thereof shall be exempt as provided in Section
121 27-55-19, Mississippi Code of 1972.

122 (b) From the excise tax rate in excess of Ten Cents
123 (10¢) per gallon of special fuel levied at Eighteen Cents (18¢)



124 per gallon under Sections 27-55-519 and 27-55-521, Four and
125 Three-fourths Cents (4.75¢) thereof shall be exempt.

126 (c) From the excise tax rate in excess of One Cent (1¢)
127 per gallon of special fuel taxed at Five and Three-fourths Cents
128 (5.75¢) per gallon and from the excise tax rate in excess of
129 One-half Cent (1/2¢) per gallon of special fuel used in aircraft
130 levied under Section 27-55-519, Four and Three-fourths Cents
131 (4.75¢) thereof shall be exempt.

132 (d) From the portion of the excise tax rate on
133 compressed gas used as a motor fuel that exceeds the rate of tax
134 in effect on June 30, 1987, Three Cents (3¢) thereof shall be
135 exempt.

136 (2) The exemption provided in subsection (1) of this section
137 for sales of gasoline, special fuel and compressed gas to
138 volunteer fire departments shall apply only to sales of gasoline,
139 special fuel and compressed gas for use in a vehicle owned by a
140 volunteer fire department and used for department purposes.

141 (3) The exemption provided in subsection (1) of this section
142 for sales of gasoline, special fuel and compressed gas also shall
143 apply to sales of gasoline, special fuel and compressed gas to an
144 entity described in Section 27-51-41(2)(u) for use in buses and
145 other motor vehicles that are exempt from ad valorem taxation
146 under Section 27-51-41(2)(u).

147 (4) Any person other than a bonded distributor of gasoline,
148 bonded distributor of special fuel or bonded distributor of



149 compressed gas who sells or delivers any gasoline, special fuel or
150 compressed gas, subject to the exemption set forth in this
151 section, is required to obtain credit for such exemption from a
152 bonded distributor of gasoline, special fuel or compressed gas.

153 **SECTION 3.** Section 27-55-19, Mississippi Code of 1972, is
154 brought forward as follows:

155 27-55-19. There shall not be included in the measure of the
156 tax levied hereunder any gasoline:

157 (a) Sold or delivered by a bonded distributor of
158 gasoline to a second bonded distributor of gasoline within this
159 state, but nothing in this exclusion shall exempt the second
160 bonded distributor of gasoline from paying the tax, unless the
161 second bonded distributor of gasoline sells or delivers said
162 gasoline to a third bonded distributor of gasoline in which event
163 the third bonded distributor of gasoline shall be liable for the
164 tax.

165 (b) Sold to the United States government for use of the
166 Armed Forces only, and delivered in quantities of not less than
167 four thousand (4,000) gallons. Any exemption provided in this
168 paragraph (b) may be deducted without the prior approval of the
169 department, provided that satisfactory proof of such exemption
170 shall be furnished to the department. However, such exemption may
171 be disallowed by the department if the distributor fails to
172 furnish satisfactory proof of such exemption to the department.



173 (c) Exported to a destination beyond the borders of
174 this state by a bonded distributor of gasoline when the tax on
175 such gasoline has been paid or on which the tax liability imposed
176 by this article has accrued against such bonded distributor. Any
177 exemption provided in this paragraph (c) may be deducted without
178 the prior approval of the department, provided that satisfactory
179 proof of such exemption shall be furnished to the department;
180 however, such exemption may be disallowed by the department if the
181 distributor fails to furnish satisfactory proof of such exemption
182 to the department within ninety (90) days from the sale or
183 delivery of the gasoline.

184 (d) Exported by any person to a destination beyond the
185 borders of this state in quantities of not less than three
186 thousand (3,000) gallons by ship, vessel, barge, railroad tank
187 car, or pipeline, or by tank truck if such tank truck is operated
188 by a common or contract carrier.

189 (e) Imported by, or sold to, any refiner or processor
190 in this state for the purpose of being refined or further
191 processed.

192 (f) Sold to any manufacturer for blending or
193 compounding to the end that it becomes a component part of any
194 manufactured product, or where used as a processing agent in the
195 treatment of raw material in manufacturing a product which does
196 not fall within the meaning of the term "gasoline" as defined in
197 this article.



198 (g) Sold or delivered to be used for test purposes at
199 any regularly established testing laboratory in this state.

200 Except as provided in paragraphs (b) and (c) above, evidence
201 of exempt transactions provided in this section and subsections
202 thereof, satisfactory to the department, shall be submitted by the
203 distributor desiring an allowance of said exemptions to the
204 department with the payment of the excise tax on the gasoline on
205 which the exemption is claimed. If the department decides that
206 the distributor is entitled to the exemption and allowance
207 claimed, it shall notify said distributor in writing of such
208 allowance. The distributor shall then be allowed to deduct from
209 the payments made in his next monthly report, after said
210 allowance, the amount of tax which he paid on this exempted
211 gasoline which amount shall be arrived at by taking the amount of
212 exempted gasoline minus two percent (2%) allowed for evaporation,
213 shrinkage and other losses on gasoline, and multiplying the
214 remainder by the amount of excise tax per gallon. In cases where
215 the amount of such tax cannot be absorbed on the estimated tax
216 liability of the person making such payments during the next six
217 (6) months, the amount shall be refunded to the taxpayer. Such
218 amount shall be certified to the State Auditor of Public Accounts
219 by the department. The said Auditor is hereby authorized to make
220 such investigation and audit of the claim as he finds necessary.
221 If he finds that the department is correct in its determination,
222 the Auditor may issue his warrant to the State Treasurer in favor



223 of the taxpayer for the amount of tax erroneously paid, such
224 refunds to be made from current gasoline, or special fuel tax
225 collections.

226 Except as otherwise provided in this section, in order to
227 claim exemptions provided for under this article, the distributor
228 of gasoline must file claims therefor within three (3) years from
229 the date of sale or delivery; otherwise, claims for such
230 exemptions shall be disallowed.

231 In case gasoline and special fuel on which the tax has been
232 previously paid are accidentally mixed, the distributor of
233 gasoline or other person owning such mixture may ship the mixture
234 out of the State of Mississippi, or to a Mississippi refinery, and
235 may claim credit for the gasoline and/or special fuel tax on the
236 gasoline and special fuel so mixed. The distributor of gasoline
237 or other person may also ship the mixture to a barge or pipeline
238 storage terminal within the State of Mississippi to be brought up
239 to gasoline specifications, or lowered to special fuel
240 specifications, as the case might be, under the supervision of a
241 representative of the department. It shall be the duty of the
242 distributor of gasoline or other person to whom the mixed product
243 belongs to notify the department immediately after knowledge that
244 the mixture has occurred.

245 In case the distributor of gasoline or other person elects to
246 ship the mixture to a barge or pipeline terminal for storage



247 within this state, the department shall supervise the unloading of
248 the mixture.

249 In order to perfect a claim for credit for the tax on the
250 gasoline and special fuel constituting any such mixture, the
251 distributor of gasoline or other person making the claim shall do
252 so in writing and shall furnish proof satisfactory to the
253 department that the mixture was either shipped out of this state
254 or to a refinery or other approved place of storage within this
255 state. The department shall notify the claimant, in writing,
256 whether or not his claim is approved, and, if approved, the
257 claimant may deduct the amount of the claim from his next tax
258 report. No such claim shall be allowed unless filed within three
259 (3) years after the date of such accidental mixture. Bonded
260 distributors of gasoline having no gasoline tax liability with the
261 department may assign such tax credit to a bonded distributor of
262 gasoline having such tax liability.

263 No tax liability shall accrue against the operator of a
264 refinery when shipments of gasoline are made from such refinery,
265 either by common carrier or by tank trucks owned and operated by
266 the operator of said refinery, to a tax-exempt account within this
267 state or to another refinery within this state.

268 Provided, however, that when gasoline is withdrawn from the
269 storage tank of a refiner or processor on which the tax is paid on
270 such gasoline and it or any part thereof cannot be delivered to a
271 purchaser, said refiner or processor may deduct the tax on all or



272 that portion of such gasoline not delivered to a purchaser from
273 its next gasoline distributor's tax report; provided that such
274 refiner or processor submits with such tax report: (1) a written
275 report setting forth the reasons why such delivery could not be
276 made, and (2) proof or evidence satisfactory to the department
277 that the tax in question had theretofore been paid to the
278 department, and (3) proof or evidence satisfactory to the
279 department that the nondelivered gasoline was actually returned to
280 the refinery or processor from which it was taken for the purpose
281 of delivering it to a purchaser; and provided further, that
282 immediately upon ascertainment by the refiner or processor that
283 said gasoline cannot be delivered, he or it shall immediately
284 notify the department of this fact and before moving his or its
285 truck or other means of transporting said gasoline from the
286 intended point of delivery; and should the department desire to
287 inspect said truck, or other means of conveyance, such refiner or
288 processor shall arrange for such inspection at the point or at
289 such other point that may be designated by the department.

290 The United States government, the State of Mississippi,
291 counties, municipalities, school districts and all other political
292 subdivisions of the state, and entities described in Section
293 27-55-12(3) shall be exempt from Five and Four-tenths Cents (5.4¢)
294 of the portion of the gasoline excise tax rate which exceeds Nine
295 Cents (9¢) per gallon. Any exemption provided in this paragraph
296 may be deducted without the prior approval of the department.



297 **SECTION 4.** Section 27-55-23, Mississippi Code of 1972, is
298 brought forward as follows:

299 27-55-23. Any person who shall purchase and use gasoline
300 other than aviation gasoline for agricultural, maritime,
301 industrial, or domestic purposes, as defined in this article,
302 which is not used in operating motor vehicles upon the highways of
303 this state, shall be entitled to a refund of all but Six and
304 Four-tenths Cents (6.4¢) per gallon of the tax actually paid on
305 gasoline which is used for agricultural, maritime, industrial,
306 domestic, or nonhighway purposes, as herein defined, provided that
307 no such refund shall be payable unless the provisions of this
308 article are complied with. Provided, however, no refund shall be
309 allowed to any person who may purchase, sell or use gasoline,
310 either on or off the highway, in performing contracts for
311 construction, reconstruction, maintenance or repair, where such
312 contracts are entered into with the State of Mississippi or with
313 any department, agency or institution of the State of Mississippi,
314 or with any political subdivision of the State of Mississippi, or
315 with any department, agency, or institution of such political
316 subdivision. Also, provided that no refund of tax paid on
317 gasoline used on the highways of this state in motor vehicles
318 owned or operated by the federal government, State of Mississippi,
319 or any department or political subdivision of either will be
320 allowed.



321 Any person who shall purchase and use gasoline other than
322 aviation gasoline for aviation purposes, as defined in this
323 article, shall be entitled to a refund of all but Six and
324 Four-tenths Cents (6.4¢) per gallon of the tax actually paid on
325 gasoline thus used.

326 The granting of a refund privilege to any claimant under the
327 provisions of this article is declared to be a matter of grace
328 rather than a matter of right, and in all cases arising under this
329 section the burden shall be on the claimant to make proof
330 sufficient to convince the department of the claimant's compliance
331 with the provisions of this article; otherwise, the refund claim
332 shall be denied or the claimant's permit cancelled by the
333 department, as the case may be.

334 Before any person shall be entitled to claim refund of any
335 tax paid on gasoline under the provisions of this section, he
336 shall file an information blank for a refund permit with the
337 department. Such information blank shall be made on forms
338 furnished by the department and shall give a detailed description
339 of the equipment and such other information as the department may
340 require with respect to the equipment or machinery in which refund
341 gasoline is to be used. If such gasoline is not to be used in
342 equipment or machinery, the purpose for which such gasoline is to
343 be used shall be stated. The information blank and supplements
344 thereto shall be signed by the person desiring to use refund



345 gasoline or his authorized agent and filed under the penalty of
346 perjury.

347 If additional or replacement equipment or machinery is
348 acquired, or if the status of the claimant otherwise changes after
349 the original information blank is filed, supplemental information
350 reflecting these changes shall be filed at the time of filing the
351 next refund claim. The supplemental information blank shall
352 contain the same information with respect to the changes as is
353 required on the original information blank.

354 Upon approval of the information blank, the department shall
355 assign a file number to be used by the refund user. Provided,
356 also, that such refund user will be issued a refund certificate
357 book to be used when purchasing refund gasoline. Each refund
358 certificate shall carry the file number of the refund user and,
359 upon each purchase of refund gasoline, a certificate shall be
360 filled in and signed on the calendar day of delivery, by either
361 the dealer or the refund user or their authorized agents, but in
362 no case may one (1) individual sign such certificate as both the
363 dealer and the user. Each certificate, however, must be signed by
364 both the claimant and dealer, or their authorized agents, before a
365 refund of tax can be allowed on the certificate. Such refund
366 certificate book shall not be transferable or assignable and shall
367 be kept in the possession of the refund user or in his control at
368 all times. Upon receipt of the information blank properly
369 completed, the department shall forward to such refund user the



370 file number and certificate book. Should the department refuse to
371 issue a file number and refund certificate book, or refuse to pay
372 any refund alleged to be due, the applicant or user may, within
373 sixty (60) days from the date of the notice of the refusal by the
374 department, appeal to the board of review of the Department of
375 Revenue as hereinafter provided.

376 It shall be the duty of the consumer of gasoline for which
377 refund application is to be made, including any distributor of
378 gasoline using his own gasoline for a refund purpose, to have
379 storage facilities available for delivery of refund gasoline.
380 Such storage facilities shall be plainly marked "refund gasoline"
381 in lettering of contrasting color and not less than four (4)
382 inches in height. Where refund gasoline is delivered directly
383 into the fuel tank of equipment belonging to or used by the refund
384 user, such equipment shall be plainly marked "refund gasoline" in
385 lettering of contrasting color as near to the fuel tank as
386 possible. Such lettering shall not be less than four (4) inches
387 in height. It shall also be the duty of the distributor of
388 gasoline delivering gasoline into the tanks to dye the refund
389 gasoline a distinctive mahogany color at the time of delivery.
390 However, in no case shall dye be added to gasoline to be used in
391 aircraft.

392 The department is authorized to waive the requirement that
393 refund gasoline be dyed in any case where damage to equipment or
394 machinery would result from the addition of such dye, or where



395 addition of dye would otherwise render gasoline unfit for its
396 intended use. It shall be the obligation of the user to obtain
397 the aforementioned waiver from the department.

398 Any person desiring a refund on any gasoline purchased shall
399 make claim to the department, on forms provided by the department,
400 within three (3) years from the date the gasoline was purchased.
401 No refund shall be allowed on any gasoline which shall not have
402 been already used or consumed by the purchaser thereof before the
403 filing of the claim; provided, however, when a claim is filed and
404 there is an unused part of any purchase to be carried forward to
405 the next claim, the dating of this carry-over shall take the same
406 date of the first purchase entered on the next claim. No person
407 shall file more than one (1) claim during any one (1) month. The
408 claim shall be personally signed by the purchaser or his duly
409 authorized agent. The claimant shall in the claim, state that the
410 refund claim has not and will not be assigned. The original and
411 duplicate of the certificate shall be retained by the claimant, at
412 the time of purchase. The original certificate with vendor's
413 invoices shall be attached to the refund claim, and the duplicate
414 shall remain in the certificate book of the claimant and shall be
415 subject to inspection by the department at all reasonable hours.
416 The claimant shall preserve the duplicate certificates for three
417 (3) years from date of purchase. The claim shall be in the name
418 of the purchaser and shall show the purchaser's refund file
419 number. Supporting invoices shall state that dye has been added



420 to refund gasoline or that the requirement that dye be added has
421 been waived by the department. The claim shall be certified under
422 the penalty of perjury.

423 Any person who shall file a claim for refund under the
424 provisions of this article shall show on each refund claim filed:
425 the names and addresses of the person or persons from whom the
426 claimant customarily purchases motor fuel for use in propelling
427 motor vehicles owned or operated by the claimant on the highways
428 of this state. Until the provisions of this paragraph are
429 complied with, the refund claim shall not be allowed.

430 Upon receipt of the claim, the department shall determine the
431 amount of refund due to the claimant and the amount shall be
432 refunded to the claimant as provided in Section 27-55-19. If for
433 any reason the department should determine that an erroneous claim
434 has been paid, it may deduct such erroneous payment from any legal
435 claim subsequently filed by the claimant to whom erroneous payment
436 was made.

437 If the department determines that any refund claim shall not
438 be paid, it shall notify the claimant, in writing, at the earliest
439 date possible after such determination stating the reason or
440 reasons why such claim is disallowed.

441 A refund claimant may, within sixty (60) days after receipt
442 of notice of the disallowance of his claim, appeal to the board of
443 review of the Department of Revenue as hereinafter provided.



444 **SECTION 5.** Section 27-55-519, Mississippi Code of 1972, is
445 amended as follows:

446 27-55-519. (1) Any person engaged in business as a
447 distributor of special fuel or who acts as a distributor of
448 special fuel, as defined in this article, shall pay for the
449 privilege of engaging in such business or acting as such
450 distributor an excise tax on all special fuel stored, used, sold,
451 distributed, manufactured, refined, distilled, blended or
452 compounded in this state or received in this state for sale,
453 storage, distribution or for any purpose, adjusted to sixty (60)
454 degrees Fahrenheit.

455 The excise tax shall become due and payable when:

456 (a) Special fuel is withdrawn from storage at a
457 refinery, marine or pipeline terminal, except when withdrawal is
458 by barge or pipeline.

459 (b) Special fuel imported by a common carrier is
460 unloaded by that carrier unless the special fuel is unloaded
461 directly into the storage tanks of a refinery, marine or pipeline
462 terminal.

463 (c) Special fuel imported by any person other than a
464 common carrier enters the State of Mississippi unless the special
465 fuel is unloaded directly into the storage tanks of a refinery,
466 marine or pipeline terminal.

467 (d) Special fuel is blended in this state unless such
468 blending occurs in a refinery, marine or pipeline terminal.



469 (e) Special fuel is acquired tax free.

470 (2) The special fuel excise tax shall be as follows:

471 (a) * * * (i) Fifteen Cents (15¢) per gallon on undyed
472 diesel fuel until the date specified in Section 65-39-35 and * * *
473 Twelve and Three-tenths Cents (12.3¢) per gallon thereafter; and

474 (ii) In addition to the tax imposed under
475 subparagraph (i) of this paragraph (a), a tax in an amount
476 determined under this subparagraph (ii) per gallon on undyed
477 diesel fuel. The amount of the tax imposed under this
478 subparagraph (ii) shall be determined by multiplying the average
479 wholesale price of diesel fuel by six percent (6%), the product of
480 which, rounded to the nearest one-tenth (1/10) of a cent, shall be
481 the rate of the tax. Beginning January 1, 2017, the rate of the
482 tax imposed under this subparagraph (ii) shall be recalculated and
483 adjusted according to such formula twice per calendar year on
484 January 1 and July 1. The average wholesale price of diesel fuel
485 shall be certified by the Commissioner of Revenue for the purposes
486 of this subparagraph (ii).

487 (b) Five and Three-fourths Cents (5.75¢) per gallon on
488 all special fuel except undyed diesel fuel and special fuel used
489 as fuels in aircraft; and

490 (c) Five and One-fourth Cents (5.25¢) per gallon on
491 special fuel used as fuel in aircraft.

492 **SECTION 6.** Section 27-55-521, Mississippi Code of 1972, is
493 brought forward as follows:



494 27-55-521. (1) An excise tax at the rate of Eighteen Cents
495 (18¢) per gallon until the date specified in Section 65-39-35,
496 Mississippi Code of 1972, and Fourteen and Three-fourths Cents
497 (14.75¢) per gallon thereafter is levied on any person engaged in
498 business as a distributor of special fuel or who acts as such who
499 sells:

500 (a) Special fuel for use in performing contracts for
501 construction, reconstruction, maintenance or repairs, where such
502 contracts are entered into with the State of Mississippi, any
503 political subdivision of the State of Mississippi, or any
504 department, agency, institution of the State of Mississippi or any
505 political subdivision thereof.

506 (b) Dyed diesel fuel or kerosene to a state or local
507 governmental entity for use on the highways in a motor vehicle.

508 (c) Special fuel for use on the highway.

509 (2) An excise tax at the rate of Eighteen Cents (18¢) per
510 gallon until the date specified in Section 65-39-35, Mississippi
511 Code of 1972, and Fourteen and Three-fourths Cents (14.75¢) per
512 gallon thereafter is levied on any person who:

513 (a) Uses dyed diesel fuel or kerosene in a motor
514 vehicle on the highways of this state in violation of Section
515 27-55-539.

516 (b) Purchases or acquires undyed diesel fuel or
517 kerosene for nonhighway use and subsequently uses such diesel fuel
518 or kerosene in a motor vehicle on the highways of this state.



519 (c) Purchases or acquires special fuel for use in
520 performing contracts as specified in this section.

521 **SECTION 7.** Section 27-55-523, Mississippi Code of 1972, is
522 brought forward as follows:

523 27-55-523. For the purpose of determining the amount of his
524 liability for the tax imposed by this article, each bonded
525 distributor of special fuel shall, not later than the twentieth
526 day of the month next following the month in which this article
527 becomes effective, and not later than the twentieth day of each
528 month thereafter, file with the commission a monthly report which
529 shall include a statement of the number of gallons of special fuel
530 received and sold by such distributor of special fuel within this
531 state during the preceding calendar month, and such other
532 information as may be reasonably necessary for the proper
533 administration of this article.

534 At the time of filing each monthly report with the
535 commission, a distributor may take a credit for the number of
536 gallons of special fuel that he purchased during the preceding
537 calendar month from a distributor who pays the excise tax imposed
538 by this article on such special fuel.

539 At the time of filing each monthly report with the
540 commission, each distributor of special fuel shall pay to the
541 commission the full amount of the special fuel tax due from such
542 distributor for the preceding calendar month.



543 Reports and payments sent to the commission by mail must be
544 postmarked by the due date in order to be considered timely filed,
545 except when the due date falls on a weekend or holiday, in which
546 case such reports and payments must be postmarked by the first
547 working day following the due date in order to be considered
548 timely filed.

549 The monthly report of the distributor of special fuel shall
550 be prepared and filed with the commission on forms prescribed by
551 the commission, or the distributor of special fuel may, with the
552 approval of the commission, furnish the required information on
553 machine-prepared schedules. Such monthly reports or schedules
554 shall be signed by the distributor or his duly authorized agent
555 and shall contain a declaration that the statements contained in
556 such report are true and correct and are made under the penalty of
557 perjury.

558 When special fuel, which would otherwise be taxable under the
559 provisions of this article, is imported, sold, delivered or
560 exported, under conditions which will exclude such special fuel
561 from the tax levied under this article by reasons of one or more
562 of the exemptions provided in this article, deduction for such
563 exempt special fuel may be taken without prior approval of the
564 commission on the monthly report of the bonded distributor of
565 special fuel importing, selling, delivering or exporting such
566 special fuel. Provided, however, that the commission may require
567 proof to be furnished of such deduction for exempt special fuel.



568 When the Five and Three-fourths Cents (5.75¢) per gallon tax
569 has accrued or has been paid on special fuel that is taxed at
570 Eighteen Cents (18¢) per gallon, a deduction of Five and
571 Three-fourths Cents (5.75¢) per gallon may be made.

572 **SECTION 8.** Section 27-55-533, Mississippi Code of 1972, is
573 brought forward as follows:

574 27-55-533. (1) When gasoline and special fuel on which the
575 tax has been paid are accidentally mixed, the distributor of
576 special fuel or other person owning such mixture may claim credit
577 for the gasoline tax and/or special fuel tax on the gasoline and
578 special fuel constituting such mixture.

579 (2) When dyed special fuel and undyed special fuel are
580 accidentally mixed and the mixture is converted to nonhighway use
581 special fuel, the distributor of special fuel or other person
582 owning such mixture may claim credit for any taxes exceeding Five
583 and Three-fourths Cents (5.75¢) per gallon which have been paid on
584 such mixture.

585 (3) Proof satisfactory to the commission must be submitted
586 with any claim for credit made pursuant to this section or the
587 claim will be disallowed.

588 (4) The special fuels distributor or other person owning a
589 mixture described in this section shall notify the commission
590 immediately after gaining knowledge of such mixture.

591 (5) Upon receipt of the claim for credit, the commission
592 shall determine the amount of refund or tax credit due the



593 claimant and, in the case of a refund, the amount shall be
594 refunded as provided in Section 27-55-19, Mississippi Code of
595 1972.

596 **SECTION 9.** Section 27-5-101, Mississippi Code of 1972, is
597 brought forward as follows:

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

600 27-5-101. Unless otherwise provided in this section, on or
601 before the fifteenth day of each month, all gasoline, diesel fuel
602 or kerosene taxes which are levied under the laws of this state
603 and collected during the previous month shall be paid and
604 apportioned by the State Tax Commission as follows:

605 (a) (i) Except as otherwise provided in Section
606 31-17-127, from the gross amount of gasoline, diesel fuel or
607 kerosene taxes produced by the state, there shall be deducted an
608 amount equal to one-sixth (1/6) of principal and interest
609 certified by the State Treasurer to the State Tax Commission to be
610 due on the next semiannual bond and interest payment date, as
611 required under the provisions of Chapter 130, Laws of 1938, and
612 subsequent acts authorizing the issuance of bonds payable from
613 gasoline, diesel fuel or kerosene tax revenue on a parity with the
614 bonds issued under authority of said Chapter 130. The State
615 Treasurer shall certify to the State Tax Commission on or before
616 the fifteenth day of each month the amount to be paid to the
617 "Highway Bonds Sinking Fund" as provided by said Chapter 130, Laws



618 of 1938, and subsequent acts authorizing the issuance of bonds
619 payable from gasoline, diesel fuel or kerosene tax revenue, on a
620 parity with the bonds issued under authority of said Chapter 130;
621 and the State Tax Commission shall, on or before the twenty-fifth
622 day of each month, pay into the State Treasury for credit to the
623 "Highway Bonds Sinking Fund" the amount so certified to him by the
624 State Treasurer due to be paid into such fund each month. The
625 payments to the "Highway Bonds Sinking Fund" shall be made out of
626 gross gasoline, diesel fuel or kerosene tax collections before
627 deductions of any nature are considered; however, such payments
628 shall be deducted from the allocation to the Mississippi
629 Department of Transportation under paragraph (c) of this section.

630 (ii) From collections derived from the portion of
631 the gasoline excise tax that exceeds Seven Cents (7¢) per gallon,
632 from the portion of the tax on aviation gas under Section 27-55-11
633 that exceeds Six and Four-tenths Cents (6.4¢) per gallon, from the
634 portion of the special fuel tax levied under Sections 27-55-519
635 and 27-55-521, at Eighteen Cents (18¢) per gallon that exceeds Ten
636 Cents (10¢) per gallon, from the portion of the taxes levied under
637 Section 27-55-519, at Five and Three-fourths Cents (5.75¢) per
638 gallon that exceeds One Cent (1¢) per gallon on special fuel and
639 Five and One-fourth Cents (5.25¢) per gallon on special fuel used
640 as aircraft fuel, from the portion of the excise tax on compressed
641 gas used as a motor fuel that exceeds the rate of tax in effect on
642 June 30, 1987, and from the portion of the gasoline excise tax in



643 excess of Seven Cents (7¢) per gallon and the diesel excise tax in
644 excess of Ten Cents (10¢) per gallon under Section 27-61-5 there
645 shall be deducted:

646 1. An amount as provided in Section
647 27-65-75(4) to the credit of a special fund designated as the
648 "Office of State Aid Road Construction."

649 2. An amount equal to the tax collections
650 derived from Two Cents (2¢) per gallon of the gasoline excise tax
651 for distribution to the State Highway Fund to be used exclusively
652 for the construction, reconstruction and maintenance of highways
653 of the State of Mississippi or the payment of interest and
654 principal on bonds when specifically authorized by the Legislature
655 for that purpose.

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

658 (b) Subject to the provisions that said basis of
659 distribution shall in nowise affect adversely the amount
660 specifically pledged in paragraph (a) of this section to be paid
661 into the "Highway Bonds Sinking Fund," the following shall be
662 deducted from the amount produced by the state tax on gasoline,
663 diesel fuel or kerosene tax collections, excluding collections
664 derived from the portion of the gasoline excise tax that exceeds
665 Seven Cents (7¢) per gallon, from the portion of the tax on
666 aviation gas under Section 27-55-11 that exceeds Six and
667 Four-tenths Cents (6.4¢) per gallon, from the portion of the



668 special fuel tax levied under Sections 27-55-519 and 27-55-521, at
669 Eighteen Cents (18¢) per gallon that exceeds Ten Cents (10¢) per
670 gallon, from the portion of the taxes levied under Section
671 27-55-519, at Five and Three-fourths Cents (5.75¢) per gallon that
672 exceeds One Cent (1¢) per gallon on special fuel and Five and
673 One-fourth Cents (5.25¢) per gallon on special fuel used as
674 aircraft fuel, from the portion of the excise tax on compressed
675 gas used as a motor fuel that exceeds the rate of tax in effect on
676 June 30, 1987, and from the portion of the gasoline excise tax in
677 excess of Seven Cents (7¢) per gallon and the diesel excise tax in
678 excess of Ten Cents (10¢) per gallon under Section 27-61-5:

679 (i) Twenty percent (20%) of such amount which
680 shall be earmarked and set aside for the construction,
681 reconstruction and maintenance of the highways and roads of the
682 state, provided that if such twenty percent (20%) should reduce
683 any county to a lesser amount than that received in the fiscal
684 year ending June 30, 1966, then such twenty percent (20%) shall be
685 reduced to a percentage to provide that no county shall receive
686 less than its portion for the fiscal year ending June 30, 1966;

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

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



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

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

697 (vi) The remainder shall be divided on a basis of
698 nine-fourteenths (9/14) and five-fourteenths (5/14) (being the
699 same basis as Four and One-half Cents (4-1/2¢) and Two and
700 One-half Cents (2-1/2¢) is to Seven Cents (7¢) on gasoline, and
701 six and forty-three one-hundredths (6.43) and three and
702 fifty-seven one-hundredths (3.57) is to Ten Cents (10¢) on diesel
703 fuel or kerosene). The amount produced by the nine-fourteenths
704 (9/14) division shall be allocated to the Transportation
705 Department and paid into the State Treasury as provided in this
706 section and in Section 27-5-103 and the five-fourteenths (5/14)
707 division shall be returned to the counties of the state on the
708 following basis:

709 1. In each fiscal year, each county shall be
710 paid each month the same percentage of the monthly total to be
711 distributed as was paid to that county during the same month in
712 the fiscal year which ended April 9, 1960, until the county
713 receives One Hundred Ninety Thousand Dollars (\$190,000.00) in such
714 fiscal year, at which time funds shall be distributed under the
715 provisions of paragraph (b) (vi)4 of this section.



716 2. If after payments in 1 above, any county
717 has not received a total of One Hundred Ninety Thousand Dollars
718 (\$190,000.00) at the end of the fiscal year ending June 30, 1961,
719 and each fiscal year thereafter, then any available funds not
720 distributed under 1 above shall be used to bring such county or
721 counties up to One Hundred Ninety Thousand Dollars (\$190,000.00)
722 or such funds shall be divided equally among such counties not
723 reaching One Hundred Ninety Thousand Dollars (\$190,000.00) if
724 there is not sufficient money to bring all the counties to said
725 One Hundred Ninety Thousand Dollars (\$190,000.00).

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

732 4. During the last month of the current
733 fiscal year, should it be determined that there are funds
734 available in excess of the amount distributed for the year under 1
735 and 2 above, then such excess funds shall be distributed among the
736 various counties as follows:

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

739 One-third (1/3) of such excess to be paid
740 to the counties in the proportion which the population of each



741 county bears to the total population of the state according to the
742 last federal census;

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

746 5. It is the declared purpose and intent of
747 the Legislature that no county shall be paid less than was paid
748 during the year ended April 9, 1960, unless the amount to be
749 distributed to all counties in any year is less than the amount
750 distributed to all counties during the year ended April 9, 1960.

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

755 In any county having countywide road or bridge bonds, or
756 supervisors district or district road or bridge bonds outstanding,
757 which exceed, in the aggregate, twelve percent (12%) of the
758 assessed valuation of the taxable property of the county or
759 district, it shall be the duty of the board of supervisors to set
760 aside not less than sixty percent (60%) of such county's share or
761 district's share of the gasoline, diesel fuel or kerosene taxes to
762 be used in paying the principal and interest on such road or
763 bridge bonds as they mature.

764 In any county having such countywide road or bridge bonds or
765 district road or bridge bonds outstanding which exceed, in the



766 aggregate, eight percent (8%) of the assessed valuation of the
767 taxable property of the county, but which do not exceed, in the
768 aggregate, twelve percent (12%) of the assessed valuation of the
769 taxable property of the county, it shall be the duty of the board
770 of supervisors to set aside not less than thirty-five percent
771 (35%) of such county's share of the gasoline, diesel fuel or
772 kerosene taxes to be used in paying the principal and interest of
773 such road or bridge bonds as they mature.

774 In any county having such countywide road or bridge bonds or
775 district road or bridge bonds outstanding which exceed, in the
776 aggregate, five percent (5%) of the assessed valuation of the
777 taxable property of the county, but which do not exceed, in the
778 aggregate, eight percent (8%) of the assessed valuation of the
779 taxable property of the county, it shall be the duty of the board
780 of supervisors to set aside not less than twenty percent (20%) of
781 such county's share of the gasoline, diesel fuel or kerosene taxes
782 to be used in paying the principal and interest of such road and
783 bridge bonds as they mature.

784 In any county having such countywide road or bridge bonds or
785 district road or bridge bonds outstanding which do not exceed, in
786 the aggregate, five percent (5%) of the assessed valuation of the
787 taxable property of the county, it shall be the duty of the board
788 of supervisors to set aside not less than ten percent (10%) of
789 such county's share of the gasoline, diesel fuel or kerosene taxes



790 to be used in paying the principal and interest on such road or
791 bridge bonds as they mature.

792 The portion of any such county's share of the gasoline,
793 diesel fuel or kerosene taxes thus set aside for the payment of
794 the principal and interest of road or bridge bonds, as provided
795 for in this section, shall be used first in paying the currently
796 maturing installments of the principal and interest of such
797 countywide road or bridge bonds, if there be any such countywide
798 road or bridge bonds outstanding, and secondly, in paying the
799 currently maturing installments of principal and interest of
800 district road or bridge bonds outstanding. It shall be the duty
801 of the board of supervisors to pay bonds and interest maturing in
802 each supervisors district out of the supervisors district's share
803 of the gasoline, diesel fuel or kerosene taxes of such district.

804 The remaining portion of such county's share of the gasoline,
805 diesel fuel or kerosene taxes, after setting aside the portion
806 above provided for the payment of the principal and interest of
807 bonds, shall be used in the construction and maintenance of any
808 public highways, bridges, or culverts of the county, including the
809 roads in special or separate road districts, in the discretion of
810 the board of supervisors, or in paying the interest and principal
811 of county road and bridge bonds or district road and bridge bonds,
812 in the discretion of the board of supervisors.

813 In any county having no countywide road or bridge bonds or
814 district road or bridge bonds outstanding, all such county's share



815 of the gasoline, diesel fuel or kerosene taxes shall be used in
816 the construction, reconstruction, and maintenance of the public
817 highways, bridges, or culverts of the county as the board of
818 supervisors may determine.

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

823 (c) From the amount produced by the nine-fourteenths
824 (9/14) division allocated to the Transportation Department, there
825 shall be deducted:

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

828 (ii) Any amounts due counties in accordance with
829 Section 65-33-45 which have outstanding bonds issued for seawall
830 or road protection purposes, issued under provisions of Chapter
831 319, Laws of 1924, and amendments thereto;

832 (iii) Except as otherwise provided in Section
833 31-17-127, the remainder shall be paid by the State Tax Commission
834 to the State Treasurer on the fifteenth day of each month next
835 succeeding the month in which the gasoline, diesel fuel or
836 kerosene taxes were collected to the credit of the State Highway
837 Fund.

838 The funds allocated for the construction, reconstruction, and
839 improvement of state highways, bridges, and culverts, or so much



840 thereof as may be necessary, shall first be used in conjunction
841 with funds supplied by the federal government for such purposes
842 and allocated to the State Transportation Department to be
843 expended on the state highway system. It is specifically provided
844 hereby that the necessary portion of such funds hereinabove
845 allocated to the State Transportation Department may be used for
846 the prompt payment of principal and interest on highway bonds
847 heretofore issued, including such bonds issued or to be issued
848 under the provisions of Chapter 312, Laws of 1956, and amendments
849 thereto.

850 Nothing contained in this section shall be construed to
851 reduce the amount of such gasoline, diesel fuel or kerosene excise
852 taxes levied by the state, allotted under the provisions of Title
853 65, Chapter 33, Mississippi Code of 1972, to counties in which
854 there are outstanding bonds issued for seawall or road protection
855 purposes issued under the provisions of Chapter 319, Laws of 1924,
856 and amendments thereto; the amount of said gasoline, diesel fuel
857 or kerosene excise taxes designated in this section for the
858 payment of bonds and interest authorized and issued or to be
859 issued under the provisions of Chapter 130, Laws of 1938, and
860 subsequent acts authorizing the issuance of bonds payable from
861 gasoline, diesel fuel or kerosene tax revenue, shall, in such
862 counties, be considered as being paid "into the State Treasury to
863 the credit of the State Highway Fund" within the meaning of
864 Section 65-33-45 in computing the amount to be paid to such



865 counties under the provisions of said section, and this section
866 shall be administered in connection with Title 65, Chapter 33,
867 Mississippi Code of 1972, and Sections 65-33-45, 65-33-47 and
868 65-33-49 dealing with seawalls, as if made a part of this section.

869 (d) The proceeds of the Five and One-fourth Cents
870 (5.25¢) of the tax per gallon on oils used as a propellant for jet
871 aircraft engines, and Six and Four-tenths Cents (6.4¢) of the tax
872 per gallon on aviation gasoline and the tax of One Cent (1¢) per
873 gallon for each gallon of gasoline for which a refund has been
874 made pursuant to Section 27-55-23 because such gasoline was used
875 for aviation purposes, shall be paid to the State Treasury into a
876 special fund to be used exclusively, pursuant to legislative
877 appropriation, for the support and development of aeronautics as
878 defined in Section 61-1-3.

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

885 (f) "Gasoline, diesel fuel or kerosene taxes" as used
886 in this section shall be deemed to mean and include state
887 gasoline, diesel fuel or kerosene taxes levied and imposed on
888 distributors of gasoline, diesel fuel or kerosene, and all state



889 excise taxes derived from any fuel used to propel vehicles upon
890 the highways of this state, when levied by any statute.

891 **[With regard to any county which is required to operate on a**
892 **countywide system of road administration as described in Section**
893 **19-2-3, this section shall read as follows:]**

894 27-5-101. Unless otherwise provided in this section, on or
895 before the fifteenth day of each month, all gasoline, diesel fuel
896 or kerosene taxes which are levied under the laws of this state
897 and collected during the previous month shall be paid and
898 apportioned by the State Tax Commission as follows:

899 (a) (i) Except as otherwise provided in Section
900 31-17-127, from the gross amount of gasoline, diesel fuel or
901 kerosene taxes produced by the state, there shall be deducted an
902 amount equal to one-sixth (1/6) of principal and interest
903 certified by the State Treasurer to the State Tax Commission to be
904 due on the next semiannual bond and interest payment date, as
905 required under the provisions of Chapter 130, Laws of 1938, and
906 subsequent acts authorizing the issuance of bonds payable from
907 gasoline, diesel fuel or kerosene tax revenue on a parity with the
908 bonds issued under authority of said Chapter 130. The State
909 Treasurer shall certify to the State Tax Commission on or before
910 the fifteenth day of each month the amount to be paid to the
911 "Highway Bonds Sinking Fund" as provided by said Chapter 130, Laws
912 of 1938, and subsequent acts authorizing the issuance of bonds
913 payable from gasoline, diesel fuel or kerosene tax revenue, on a



914 parity with the bonds issued under authority of said Chapter 130;
915 and the State Tax Commission shall, on or before the twenty-fifth
916 day of each month, pay into the State Treasury for credit to the
917 "Highway Bonds Sinking Fund" the amount so certified to him by the
918 State Treasurer due to be paid into such fund each month. The
919 payments to the "Highway Bonds Sinking Fund" shall be made out of
920 gross gasoline, diesel fuel or kerosene tax collections before
921 deductions of any nature are considered; however, such payments
922 shall be deducted from the allocation to the Transportation
923 Department under paragraph (c) of this section.

924 (ii) From collections derived from the portion of
925 the gasoline excise tax that exceeds Seven Cents (7¢) per gallon,
926 from the portion of the tax on aviation gas under Section 27-55-11
927 that exceeds Six and Four-tenths Cents (6.4¢) per gallon, from the
928 portion of the special fuel tax levied under Sections 27-55-519
929 and 27-55-521, at Eighteen Cents (18¢) per gallon that exceeds Ten
930 Cents (10¢) per gallon, from the portion of the taxes levied under
931 Section 27-55-519, at Five and Three-fourths Cents (5.75¢) per
932 gallon that exceeds One Cent (1¢) per gallon on special fuel and
933 Five and One-fourth Cents (5.25¢) per gallon on special fuel used
934 as aircraft fuel, from the portion of the excise tax on compressed
935 gas used as a motor fuel that exceeds the rate of tax in effect on
936 June 30, 1987, and from the portion of the gasoline excise tax in
937 excess of Seven Cents (7¢) per gallon and the diesel excise tax in



938 excess of Ten Cents (10¢) per gallon under Section 27-61-5 there
939 shall be deducted:

940 1. An amount as provided in Section
941 27-65-75(4) to the credit of a special fund designated as the
942 "Office of State Aid Road Construction."

943 2. An amount equal to the tax collections
944 derived from Two Cents (2¢) per gallon of the gasoline excise tax
945 for distribution to the State Highway Fund to be used exclusively
946 for the construction, reconstruction and maintenance of highways
947 of the State of Mississippi or the payment of interest and
948 principal on bonds when specifically authorized by the Legislature
949 for that purpose.

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

952 (b) Subject to the provisions that said basis of
953 distribution shall in nowise affect adversely the amount
954 specifically pledged in paragraph (a) of this section to be paid
955 into the "Highway Bonds Sinking Fund," the following shall be
956 deducted from the amount produced by the state tax on gasoline,
957 diesel fuel or kerosene tax collections, excluding collections
958 derived from the portion of the gasoline excise tax that exceeds
959 Seven Cents (7¢) per gallon, from the portion of the tax on
960 aviation gas under Section 27-55-11 that exceeds Six and
961 Four-tenths Cents (6.4¢) per gallon, from the portion of the
962 special fuel tax levied under Sections 27-55-519 and 27-55-521, at



963 Eighteen Cents (18¢) per gallon, that exceeds Ten Cents (10¢) per
964 gallon, from the portion of the taxes levied under Section
965 27-55-519, at Five and Three-fourths Cents (5.75¢) that exceeds
966 One Cent (1¢) per gallon on special fuel and Five and One-fourth
967 Cents (5.25¢) per gallon on special fuel used as aircraft fuel,
968 from the portion of the excise tax on compressed gas used as a
969 motor fuel that exceeds the rate of tax in effect on June 30,
970 1987, and from the portion of the gasoline excise tax in excess of
971 Seven Cents (7¢) per gallon and the diesel excise tax in excess of
972 Ten Cents (10¢) per gallon under Section 27-61-5:

973 (i) Twenty percent (20%) of such amount which
974 shall be earmarked and set aside for the construction,
975 reconstruction and maintenance of the highways and roads of the
976 state, provided that if such twenty percent (20%) should reduce
977 any county to a lesser amount than that received in the fiscal
978 year ending June 30, 1966, then such twenty percent (20%) shall be
979 reduced to a percentage to provide that no county shall receive
980 less than its portion for the fiscal year ending June 30, 1966;

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

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



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

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

991 (vi) The remainder shall be divided on a basis of
992 nine-fourteenths (9/14) and five-fourteenths (5/14) (being the
993 same basis as Four and One-half Cents (4-1/2¢) and Two and
994 One-half Cents (2-1/2¢) is to Seven Cents (7¢) on gasoline, and
995 six and forty-three one-hundredths (6.43) and three and
996 fifty-seven one-hundredths (3.57) is to Ten Cents (10¢) on diesel
997 fuel or kerosene). The amount produced by the nine-fourteenths
998 (9/14) division shall be allocated to the Transportation
999 Department and paid into the State Treasury as provided in this
1000 section and in Section 27-5-103 and the five-fourteenths (5/14)
1001 division shall be returned to the counties of the state on the
1002 following basis:

1003 1. In each fiscal year, each county shall be
1004 paid each month the same percentage of the monthly total to be
1005 distributed as was paid to that county during the same month in
1006 the fiscal year which ended April 9, 1960, until the county
1007 receives One Hundred Ninety Thousand Dollars (\$190,000.00) in such
1008 fiscal year, at which time funds shall be distributed under the
1009 provisions of paragraph (b) (vi)4 of this section.



1010 2. If after payments in 1 above, any county
1011 has not received a total of One Hundred Ninety Thousand Dollars
1012 (\$190,000.00) at the end of the fiscal year ending June 30, 1961,
1013 and each fiscal year thereafter, then any available funds not
1014 distributed under 1 above shall be used to bring such county or
1015 counties up to One Hundred Ninety Thousand Dollars (\$190,000.00)
1016 or such funds shall be divided equally among such counties not
1017 reaching One Hundred Ninety Thousand Dollars (\$190,000.00) if
1018 there is not sufficient money to bring all the counties to said
1019 One Hundred Ninety Thousand Dollars (\$190,000.00).

1020 3. When a county has been paid an amount
1021 equal to the total which was paid to the same county during the
1022 fiscal year ended April 9, 1960, such county shall receive no
1023 further payments during the then current fiscal year until the
1024 last month of such current fiscal year, at which time distribution
1025 will be made under 2 above, except as set out in 4 below.

1026 4. During the last month of the current
1027 fiscal year, should it be determined that there are funds
1028 available in excess of the amount distributed for the year under 1
1029 and 2 above, then such excess funds shall be distributed among the
1030 various counties as follows:

1031 One-third (1/3) of such excess to be
1032 divided equally among the counties;

1033 One-third (1/3) of such excess to be paid
1034 to the counties in the proportion which the population of each



1060 valuation of the taxable property of the county, it shall be the
1061 duty of the board of supervisors to set aside not less than
1062 thirty-five percent (35%) of such county's share of the gasoline,
1063 diesel fuel or kerosene taxes to be used in paying the principal
1064 and interest of such road or bridge bonds as they mature.

1065 In any county having such road or bridge bonds outstanding
1066 which exceed, in the aggregate, five percent (5%) of the assessed
1067 valuation of the taxable property of the county, but which do not
1068 exceed, in the aggregate, eight percent (8%) of the assessed
1069 valuation of the taxable property of the county, it shall be the
1070 duty of the board of supervisors to set aside not less than twenty
1071 percent (20%) of such county's share of the gasoline, diesel fuel
1072 or kerosene taxes to be used in paying the principal and interest
1073 of such road and bridge bonds as they mature.

1074 In any county having such road or bridge bonds outstanding
1075 which do not exceed, in the aggregate, five percent (5%) of the
1076 assessed valuation of the taxable property of the county, it shall
1077 be the duty of the board of supervisors to set aside not less than
1078 ten percent (10%) of such county's share of the gasoline, diesel
1079 fuel or kerosene taxes to be used in paying the principal and
1080 interest on such road or bridge bonds as they mature.

1081 The portion of any such county's share of the gasoline,
1082 diesel fuel or kerosene taxes thus set aside for the payment of
1083 the principal and interest of road or bridge bonds, as provided
1084 for in this section, shall be used in paying the currently



1085 maturing installments of the principal and interest of such road
1086 or bridge bonds, if there be any such road or bridge bonds
1087 outstanding.

1088 The remaining portion of such county's share of the gasoline,
1089 diesel fuel or kerosene taxes, after setting aside the portion
1090 above provided for the payment of the principal and interest of
1091 bonds, shall be used in the construction and maintenance of any
1092 public highways, bridges or culverts of the county, in the
1093 discretion of the board of supervisors.

1094 In any county having no road or bridge bonds outstanding, all
1095 such county's share of the gasoline, diesel fuel or kerosene taxes
1096 shall be used in the construction, reconstruction and maintenance
1097 of the public highways, bridges or culverts of the county, as the
1098 board of supervisors may determine.

1099 In every county in which there are county road bonds or
1100 seawall or road protection bonds outstanding which were issued for
1101 the purpose of building bridges or constructing public roads or
1102 seawalls, such funds shall be used in the manner provided by law.

1103 (c) From the amount produced by the nine-fourteenths
1104 (9/14) division allocated to the Transportation Department, there
1105 shall be deducted:

1106 (i) The amount paid to the State Treasurer for the
1107 "Highway Bonds Sinking Fund" under paragraph (a) of this section;

1108 (ii) Any amounts due counties in accordance with
1109 Section 65-33-45 which have outstanding bonds issued for seawall



1110 or road protection purposes, issued under provisions of Chapter
1111 319, Laws of 1924, and amendments thereto; and

1112 (iii) Except as otherwise provided in Section
1113 31-17-127, the remainder shall be paid by the State Tax Commission
1114 to the State Treasurer on the fifteenth day of each month next
1115 succeeding the month in which the gasoline, diesel fuel or
1116 kerosene taxes were collected to the credit of the State Highway
1117 Fund.

1118 The funds allocated for the construction, reconstruction and
1119 improvement of state highways, bridges and culverts, or so much
1120 thereof as may be necessary, shall first be used in conjunction
1121 with funds supplied by the federal government for such purposes
1122 and allocated to the Transportation Department to be expended on
1123 the state highway system. It is specifically provided hereby that
1124 the necessary portion of such funds hereinabove allocated to the
1125 Transportation Department may be used for the prompt payment of
1126 principal and interest on highway bonds heretofore issued,
1127 including such bonds issued or to be issued under the provisions
1128 of Chapter 312, Laws of 1956, and amendments thereto.

1129 Nothing contained in this section shall be construed to
1130 reduce the amount of such gasoline, diesel fuel or kerosene excise
1131 taxes levied by the state, allotted under the provisions of Title
1132 65, Chapter 33, Mississippi Code of 1972, to counties in which
1133 there are outstanding bonds issued for seawall or road protection
1134 purposes issued under the provisions of Chapter 319, Laws of 1924,



1135 and amendments thereto; the amount of said gasoline, diesel fuel
1136 or kerosene excise taxes designated in this section for the
1137 payment of bonds and interest authorized and issued or to be
1138 issued under the provisions of Chapter 130, Laws of 1938, and
1139 subsequent acts authorizing the issuance of bonds payable from
1140 gasoline, diesel fuel or kerosene tax revenue, shall, in such
1141 counties, be considered as being paid "into the State Treasury to
1142 the credit of the State Highway Fund" within the meaning of
1143 Section 65-33-45 in computing the amount to be paid to such
1144 counties under the provisions of said section, and this section
1145 shall be administered in connection with Title 65, Chapter 33,
1146 Mississippi Code of 1972, and Sections 65-33-45, 65-33-47 and
1147 65-33-49 dealing with seawalls, as if made a part of this section.

1148 (d) The proceeds of the Five and One-fourth Cents
1149 (5.25¢) of the tax per gallon on oils used as a propellant for jet
1150 aircraft engines, and Six and Four-tenths Cents (6.4¢) of the tax
1151 per gallon on aviation gasoline and the tax of One Cent (1¢) per
1152 gallon for each gallon of gasoline for which a refund has been
1153 made pursuant to Section 27-55-23 because such gasoline was used
1154 for aviation purposes, shall be paid to the State Treasury into a
1155 special fund to be used exclusively, pursuant to legislative
1156 appropriation, for the support and development of aeronautics as
1157 defined in Section 61-1-3.

1158 (e) State highway funds in an amount equal to the
1159 difference between Forty-two Million Dollars (\$42,000,000.00) and



1160 the annual debt service payable on the state's highway revenue
1161 refunding bonds, Series 1985, shall be expended for the
1162 construction or reconstruction of highways designated under the
1163 highway program created under Section 65-3-97.

1164 (f) "Gasoline, diesel fuel or kerosene taxes" as used
1165 in this section shall be deemed to mean and include state
1166 gasoline, diesel fuel or kerosene taxes levied and imposed on
1167 distributors of gasoline, diesel fuel or kerosene, and all state
1168 excise taxes derived from any fuel used to propel vehicles upon
1169 the highways of this state, when levied by any statute.

1170 **SECTION 10.** This act shall take effect and be in force from
1171 and after July 1, 2016.

