

By: Representative Formby

To: Ways and Means

HOUSE BILL NO. 1212

1 AN ACT TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972,
2 TO INCREASE FROM 18.5% TO 19.25% THE PERCENTAGE OF SALES TAX
3 REVENUE COLLECTED ON BUSINESS ACTIVITIES WITHIN MUNICIPALITIES
4 THAT IS ALLOCATED FOR DISTRIBUTION TO AND PAID TO MUNICIPALITIES;
5 AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 27-65-75, Mississippi Code of 1972, is
8 amended as follows:

9 27-65-75. On or before the fifteenth day of each month, the
10 revenue collected under the provisions of this chapter during the
11 preceding month shall be paid and distributed as follows:

12 (1) On or before August 15, 1992, and each succeeding month
13 thereafter through July 15, 1993, eighteen percent (18%) of the
14 total sales tax revenue collected during the preceding month under
15 the provisions of this chapter, except that collected under the
16 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
17 business activities within a municipal corporation shall be
18 allocated for distribution to such municipality and paid to such
19 municipal corporation. On or before August 15, 1993, and each
20 succeeding month thereafter through July 15, 2004, eighteen and
21 one-half percent (18-1/2%) of the total sales tax revenue
22 collected during the preceding month under the provisions of this
23 chapter, except that collected under the provisions of Sections
24 27-65-15, 27-65-19(3) and 27-65-21, on business activities within
25 a municipal corporation shall be allocated for distribution to
26 such municipality and paid to such municipal corporation. On or
27 before August 15, 2004, and each succeeding month thereafter,
28 nineteen and one-fourth percent (19-1/4%) of the total sales tax

29 revenue collected during the preceding month under the provisions
30 of this chapter, except that collected under the provisions of
31 Sections 27-65-15, 27-65-19(3) and 27-65-21, on business
32 activities within a municipal corporation shall be allocated for
33 distribution to such municipality and paid to such municipal
34 corporation.

35 A municipal corporation, for the purpose of distributing the
36 tax under this subsection, shall mean and include all incorporated
37 cities, towns and villages.

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

44 In any county having a county seat which is not an
45 incorporated municipality, the distribution provided hereunder
46 shall be made as though the county seat was an incorporated
47 municipality; however, the distribution to such municipality shall
48 be paid to the county treasury wherein the municipality is located
49 and such funds shall be used for road, bridge and street
50 construction or maintenance therein.

51 (2) On or before September 15, 1987, and each succeeding
52 month thereafter, from the revenue collected under this chapter
53 during the preceding month One Million One Hundred Twenty-five
54 Thousand Dollars (\$1,125,000.00) shall be allocated for
55 distribution to municipal corporations as defined under subsection
56 (1) of this section in the proportion that the number of gallons
57 of gasoline and diesel fuel sold by distributors to consumers and
58 retailers in each such municipality during the preceding fiscal
59 year bears to the total gallons of gasoline and diesel fuel sold
60 by distributors to consumers and retailers in municipalities
61 statewide during the preceding fiscal year. The State Tax

62 Commission shall require all distributors of gasoline and diesel
63 fuel to report to the commission monthly the total number of
64 gallons of gasoline and diesel fuel sold by them to consumers and
65 retailers in each municipality during the preceding month. The
66 State Tax Commission shall have the authority to promulgate such
67 rules and regulations as is necessary to determine the number of
68 gallons of gasoline and diesel fuel sold by distributors to
69 consumers and retailers in each municipality. In determining the
70 percentage allocation of funds under this subsection for the
71 fiscal year beginning July 1, 1987, and ending June 30, 1988, the
72 State Tax Commission may consider gallons of gasoline and diesel
73 fuel sold for a period of less than one (1) fiscal year. For the
74 purposes of this subsection, the term "fiscal year" means the
75 fiscal year beginning July 1 of a year.

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

88 (4) On or before August 15, 1994, and on or before the
89 fifteenth day of each succeeding month through July 15, 1999, from
90 the proceeds of gasoline, diesel fuel or kerosene taxes as
91 provided in Section 27-5-101(a)(ii)1, Four Million Dollars
92 (\$4,000,000.00) shall be deposited in the State Treasury to the
93 credit of a special fund designated as the "State Aid Road Fund,"
94 created by Section 65-9-17. On or before August 15, 1999, and on

95 or before the fifteenth day of each succeeding month, from the
96 total amount of the proceeds of gasoline, diesel fuel or kerosene
97 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million
98 Dollars (\$4,000,000.00) or an amount equal to twenty-three and
99 one-fourth percent (23.25%) of such funds, whichever is the
100 greater amount, shall be deposited in the State Treasury to the
101 credit of the "State Aid Road Fund," created by Section 65-9-17.
102 Such funds shall be pledged to pay the principal of and interest
103 on state aid road bonds heretofore issued under Sections 19-9-51
104 through 19-9-77, in lieu of and in substitution for the funds
105 heretofore allocated to counties under this section. Such funds
106 may not be pledged for the payment of any state aid road bonds
107 issued after April 1, 1981; however, this prohibition against the
108 pledging of any such funds for the payment of bonds shall not
109 apply to any bonds for which intent to issue such bonds has been
110 published, for the first time, as provided by law prior to March
111 29, 1981. From the amount of taxes paid into the special fund
112 pursuant to this subsection and subsection (9) of this section,
113 there shall be first deducted and paid the amount necessary to pay
114 the expenses of the Office of State Aid Road Construction, as
115 authorized by the Legislature for all other general and special
116 fund agencies. The remainder of the fund shall be allocated
117 monthly to the several counties in accordance with the following
118 formula:

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

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

125 (c) One-third (1/3) shall be allocated to counties
126 based on the proportion that the rural population of the county

127 bears to the total rural population in all counties of the state,
128 according to the latest federal decennial census.

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

132 The amount of funds allocated to any county under this
133 subsection for any fiscal year after fiscal year 1994 shall not be
134 less than the amount allocated to such county for fiscal year
135 1994. Monies allocated to a county from the State Aid Road Fund
136 for fiscal year 1995 or any fiscal year thereafter that exceed the
137 amount of funds allocated to that county from the State Aid Road
138 Fund for fiscal year 1994, first must be expended by the county
139 for replacement or rehabilitation of bridges on the state aid road
140 system that have a sufficiency rating of less than twenty-five
141 (25), according to National Bridge Inspection standards before
142 such monies may be approved for expenditure by the State Aid Road
143 Engineer on other projects that qualify for the use of state aid
144 road funds.

145 Any reference in the general laws of this state or the
146 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
147 construed to refer and apply to subsection (4) of Section
148 27-65-75.

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

155 (6) An amount each month beginning August 15, 1983, through
156 November 15, 1986, as specified in Section 6 of Chapter 542, Laws
157 of 1983, shall be paid into the special fund known as the
158 Correctional Facilities Construction Fund created in Section 6 of
159 Chapter 542, Laws of 1983.

160 (7) On or before August 15, 1992, and each succeeding month
161 thereafter through July 15, 2000, two and two hundred sixty-six
162 one-thousandths percent (2.266%) of the total sales tax revenue
163 collected during the preceding month under the provisions of this
164 chapter, except that collected under the provisions of Section
165 27-65-17(2) shall be deposited by the commission into the School
166 Ad Valorem Tax Reduction Fund created pursuant to Section
167 37-61-35. On or before August 15, 2000, and each succeeding month
168 thereafter, two and two hundred sixty-six one-thousandths percent
169 (2.266%) of the total sales tax revenue collected during the
170 preceding month under the provisions of this chapter, except that
171 collected under the provisions of Section 27-65-17(2), shall be
172 deposited into the School Ad Valorem Tax Reduction Fund created
173 under Section 37-61-35 until such time that the total amount
174 deposited into the fund during a fiscal year equals Forty-two
175 Million Dollars (\$42,000,000.00). Thereafter, the amounts
176 diverted under this subsection (7) during the fiscal year in
177 excess of Forty-two Million Dollars (\$42,000,000.00) shall be
178 deposited into the Education Enhancement Fund created under
179 Section 37-61-33 for appropriation by the Legislature as other
180 education needs and shall not be subject to the percentage
181 appropriation requirements set forth in Section 37-61-33.

182 (8) On or before August 15, 1992, and each succeeding month
183 thereafter, nine and seventy-three one-thousandths percent
184 (9.073%) of the total sales tax revenue collected during the
185 preceding month under the provisions of this chapter, except that
186 collected under the provisions of Section 27-65-17(2) shall be
187 deposited into the Education Enhancement Fund created pursuant to
188 Section 37-61-33.

189 (9) On or before August 15, 1994, and each succeeding month
190 thereafter, from the revenue collected under this chapter during
191 the preceding month, Two Hundred Fifty Thousand Dollars
192 (\$250,000.00) shall be paid into the State Aid Road Fund.

193 (10) On or before August 15, 1994, and each succeeding month
194 thereafter through August 15, 1995, from the revenue collected
195 under this chapter during the preceding month, Two Million Dollars
196 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
197 Valorem Tax Reduction Fund established in Section 27-51-105.

198 (11) Notwithstanding any other provision of this section to
199 the contrary, on or before February 15, 1995, and each succeeding
200 month thereafter, the sales tax revenue collected during the
201 preceding month under the provisions of Section 27-65-17(2) and
202 the corresponding levy in Section 27-65-23 on the rental or lease
203 of private carriers of passengers and light carriers of property
204 as defined in Section 27-51-101 shall be deposited, without
205 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund
206 established in Section 27-51-105.

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

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

224 (14) On or before August 15, 1998, and each succeeding month
225 thereafter through July 15, 2005, that portion of the avails of

226 the tax imposed in Section 27-65-23 which is derived from sales by
227 cotton compresses or cotton warehouses and which would otherwise
228 be paid into the General Fund, shall be deposited in an amount not
229 to exceed Two Million Dollars (\$2,000,000.00) into the special
230 fund created pursuant to Section 69-37-39.

231 (15) Notwithstanding any other provision of this section to
232 the contrary, on or before September 15, 2000, and each succeeding
233 month thereafter, the sales tax revenue collected during the
234 preceding month under the provisions of Section 27-65-19(1)(f) and
235 (g)(i)2, shall be deposited, without diversion, into the
236 Telecommunications Ad Valorem Tax Reduction Fund established in
237 Section 27-38-7.

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

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

252 (18) On or before August 15, 2004, and each succeeding month
253 thereafter through July 15, 2005, from the sales tax revenue
254 collected during the preceding month under the provisions of this
255 chapter, Two Million Five Hundred Thousand Dollars (\$2,500,000.00)
256 shall be deposited into the Special Funds Transfer Fund created
257 Section 4 of Chapter 556, Laws of 2003.

258 (19) On or before August 15, 2004, and each succeeding month
259 thereafter, nineteen and one-fourth percent (19-1/4%) of the total
260 sales tax revenue collected during the preceding month under the
261 provisions of this chapter, except that collected under the
262 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
263 business activities within a municipal corporation shall be
264 allocated for distribution to such municipality and paid to such
265 municipal corporation.

266 (20) The remainder of the amounts collected under the
267 provisions of this chapter shall be paid into the State Treasury
268 to the credit of the General Fund.

269 (21) It shall be the duty of the municipal officials of any
270 municipality which expands its limits, or of any community which
271 incorporates as a municipality, to notify the commissioner of such
272 action thirty (30) days before the effective date. Failure to so
273 notify the commissioner shall cause such municipality to forfeit
274 the revenue which it would have been entitled to receive during
275 this period of time when the commissioner had no knowledge of the
276 action. If any funds have been erroneously disbursed to any
277 municipality or any overpayment of tax is recovered by the
278 taxpayer, the commissioner may make correction and adjust the
279 error or overpayment with such municipality by withholding the
280 necessary funds from any subsequent payment to be made to the
281 municipality.

282 **SECTION 2.** This act shall take effect and be in force from
283 and after July 1, 2004.