

By: Representatives Gunn, Parker, Davis,
Snowden, Barnett, Martinson, Lott, Baker
(74th)

To: Ways and Means

HOUSE BILL NO. 1099

1 AN ACT TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972,
2 TO INCREASE FROM 18.5% TO 19% THE PERCENTAGE OF SALES TAX REVENUE
3 COLLECTED ON BUSINESS ACTIVITIES WITHIN MUNICIPALITIES THAT IS
4 ALLOCATED FOR DISTRIBUTION TO AND PAID TO MUNICIPALITIES; AND FOR
5 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 the municipality and paid to the
19 municipal corporation. On or before August 15, 1993, and each
20 succeeding month thereafter through July 15, 2005, 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 the
26 municipality and paid to the municipal corporation. On or before
27 August 15, 2005, and each succeeding month thereafter, nineteen
28 percent (19%) of the total sales tax revenue collected during the

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

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

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

43 In any county having a county seat that is not an
44 incorporated municipality, the distribution provided under this
45 subsection shall be made as though the county seat was an
46 incorporated municipality; however, the distribution to the
47 municipality shall be paid to the county treasury in which the
48 municipality is located, and those funds shall be used for road,
49 bridge and street construction or maintenance in the county.

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

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

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

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

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

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

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

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

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

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

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

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

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

158 (7) On or before August 15, 1992, and each succeeding month
159 thereafter through July 15, 2000, two and two hundred sixty-six

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

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

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

191 (10) On or before August 15, 1994, and each succeeding month
192 thereafter through August 15, 1995, from the revenue collected

193 under this chapter during the preceding month, Two Million Dollars
194 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
195 Valorem Tax Reduction Fund established in Section 27-51-105.

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

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

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

222 (14) On or before August 15, 1998, and each succeeding month
223 thereafter through July 15, 2005, that portion of the avails of
224 the tax imposed in Section 27-65-23 that is derived from sales by
225 cotton compresses or cotton warehouses and that would otherwise be

226 paid into the General Fund, shall be deposited in an amount not to
227 exceed Two Million Dollars (\$2,000,000.00) into the special fund
228 created under Section 69-37-39.

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

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

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

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

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

259 (20) It shall be the duty of the municipal officials of any
260 municipality that expands its limits, or of any community that
261 incorporates as a municipality, to notify the commissioner of
262 that action thirty (30) days before the effective date. Failure
263 to so notify the commissioner shall cause the municipality to
264 forfeit the revenue that it would have been entitled to receive
265 during this period of time when the commissioner had no knowledge
266 of the action. If any funds have been erroneously disbursed to
267 any municipality or any overpayment of tax is recovered by the
268 taxpayer, the commissioner may make correction and adjust the
269 error or overpayment with the municipality by withholding the
270 necessary funds from any later payment to be made to the
271 municipality.

272 **SECTION 2.** This act shall take effect and be in force from
273 and after July 1, 2005.