

By: Representatives Formby, Bentz,
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To: Ways and Means

HOUSE BILL NO. 401

1 AN ACT TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972,
2 TO TEMPORARILY INCREASE THE PERCENTAGE OF SALES TAX REVENUE
3 COLLECTED ON BUSINESS ACTIVITIES WITHIN MUNICIPALITIES IN CERTAIN
4 COUNTIES THAT IS ALLOCATED FOR DISTRIBUTION TO AND PAID TO SUCH
5 MUNICIPALITIES; 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 the municipality and paid to the
19 municipal corporation. Except as otherwise provided in this
20 subsection, on or before August 15, 1993, and each succeeding
21 month thereafter, eighteen and one-half percent (18-1/2%) of the
22 total sales tax revenue collected during the preceding month under
23 the provisions of this chapter, except that collected under the
24 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
25 business activities within a municipal corporation shall be
26 allocated for distribution to the municipality and paid to the
27 municipal corporation. For the purpose of offsetting losses in
28 revenue as a result of Hurricane Katrina, on or before August 15,

29 2006, and each succeeding month thereafter through July 15, 2007,
30 eighty percent (80%) of the total sales tax revenue collected
31 during the preceding month under the provisions of this chapter,
32 except that collected under the provisions of Sections 27-65-15,
33 27-65-19(3) and 27-65-21, on business activities within a
34 municipal corporation located within Hancock County, Harrison
35 County, Jackson County, Pearl River County, George County and/or
36 Stone County, shall be allocated for distribution to the
37 municipality and paid to the municipal corporation.

38 A municipal corporation, for the purpose of distributing the
39 tax under this subsection, shall mean and include all incorporated
40 cities, towns and villages.

41 Monies allocated for distribution and credited to a municipal
42 corporation under this subsection may be pledged as security for a
43 loan if the distribution received by the municipal corporation is
44 otherwise authorized or required by law to be pledged as security
45 for such a loan.

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

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

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

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

90 (4) On or before August 15, 1994, and on or before the
91 fifteenth day of each succeeding month through July 15, 1999, from
92 the proceeds of gasoline, diesel fuel or kerosene taxes as
93 provided in Section 27-5-101(a)(ii)1, Four Million Dollars
94 (\$4,000,000.00) shall be deposited in the State Treasury to the

95 credit of a special fund designated as the "State Aid Road Fund,"
96 created by Section 65-9-17. On or before August 15, 1999, and on
97 or before the fifteenth day of each succeeding month, from the
98 total amount of the proceeds of gasoline, diesel fuel or kerosene
99 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million
100 Dollars (\$4,000,000.00) or an amount equal to twenty-three and
101 one-fourth percent (23-1/4%) of those funds, whichever is the
102 greater amount, shall be deposited in the State Treasury to the
103 credit of the "State Aid Road Fund," created by Section 65-9-17.
104 Those funds shall be pledged to pay the principal of and interest
105 on state aid road bonds heretofore issued under Sections 19-9-51
106 through 19-9-77, in lieu of and in substitution for the funds
107 previously allocated to counties under this section. Those funds
108 may not be pledged for the payment of any state aid road bonds
109 issued after April 1, 1981; however, this prohibition against the
110 pledging of any such funds for the payment of bonds shall not
111 apply to any bonds for which intent to issue those bonds has been
112 published, for the first time, as provided by law before March 29,
113 1981. From the amount of taxes paid into the special fund under
114 this subsection and subsection (9) of this section, there shall be
115 first deducted and paid the amount necessary to pay the expenses
116 of the Office of State Aid Road Construction, as authorized by the
117 Legislature for all other general and special fund agencies. The
118 remainder of the fund shall be allocated monthly to the several
119 counties in accordance with the following formula:

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

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

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

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

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

133 The amount of funds allocated to any county under this
134 subsection for any fiscal year after fiscal year 1994 shall not be
135 less than the amount allocated to the county for fiscal year 1994.

136 Any reference in the general laws of this state or the
137 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
138 construed to refer and apply to subsection (4) of Section
139 27-65-75.

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

146 (6) An amount each month beginning August 15, 1983, through
147 November 15, 1986, as specified in Section 6 of Chapter 542, Laws
148 of 1983, shall be paid into the special fund known as the
149 Correctional Facilities Construction Fund created in Section 6 of
150 Chapter 542, Laws of 1983.

151 (7) On or before August 15, 1992, and each succeeding month
152 thereafter through July 15, 2000, two and two hundred sixty-six
153 one-thousandths percent (2.266%) of the total sales tax revenue
154 collected during the preceding month under the provisions of this
155 chapter, except that collected under the provisions of Section
156 27-65-17(2) shall be deposited by the commission into the School
157 Ad Valorem Tax Reduction Fund created under Section 37-61-35. On
158 or before August 15, 2000, and each succeeding month thereafter,
159 two and two hundred sixty-six one-thousandths percent (2.266%) of
160 the total sales tax revenue collected during the preceding month

161 under the provisions of this chapter, except that collected under
162 the provisions of Section 27-65-17(2), shall be deposited into the
163 School Ad Valorem Tax Reduction Fund created under Section
164 37-61-35 until such time that the total amount deposited into the
165 fund during a fiscal year equals Forty-two Million Dollars
166 (\$42,000,000.00). Thereafter, the amounts diverted under this
167 subsection (7) during the fiscal year in excess of Forty-two
168 Million Dollars (\$42,000,000.00) shall be deposited into the
169 Education Enhancement Fund created under Section 37-61-33 for
170 appropriation by the Legislature as other education needs and
171 shall not be subject to the percentage appropriation requirements
172 set forth in Section 37-61-33.

173 (8) On or before August 15, 1992, and each succeeding month
174 thereafter, nine and seventy-three one-thousandths percent
175 (9.073%) of the total sales tax revenue collected during the
176 preceding month under the provisions of this chapter, except that
177 collected under the provisions of Section 27-65-17(2), shall be
178 deposited into the Education Enhancement Fund created under
179 Section 37-61-33.

180 (9) On or before August 15, 1994, and each succeeding month
181 thereafter, from the revenue collected under this chapter during
182 the preceding month, Two Hundred Fifty Thousand Dollars
183 (\$250,000.00) shall be paid into the State Aid Road Fund.

184 (10) On or before August 15, 1994, and each succeeding month
185 thereafter through August 15, 1995, from the revenue collected
186 under this chapter during the preceding month, Two Million Dollars
187 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
188 Valorem Tax Reduction Fund established in Section 27-51-105.

189 (11) Notwithstanding any other provision of this section to
190 the contrary, on or before February 15, 1995, and each succeeding
191 month thereafter, the sales tax revenue collected during the
192 preceding month under the provisions of Section 27-65-17(2) and
193 the corresponding levy in Section 27-65-23 on the rental or lease

194 of private carriers of passengers and light carriers of property
195 as defined in Section 27-51-101 shall be deposited, without
196 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund
197 established in Section 27-51-105.

198 (12) Notwithstanding any other provision of this section to
199 the contrary, on or before August 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(1) on
202 retail sales of private carriers of passengers and light carriers
203 of property, as defined in Section 27-51-101 and the corresponding
204 levy in Section 27-65-23 on the rental or lease of these vehicles,
205 shall be deposited, after diversion, into the Motor Vehicle Ad
206 Valorem Tax Reduction Fund established in Section 27-51-105.

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

215 (14) On or before August 15, 1998, and each succeeding month
216 thereafter through July 15, 2005, that portion of the avails of
217 the tax imposed in Section 27-65-23 that is derived from sales by
218 cotton compresses or cotton warehouses and that would otherwise be
219 paid into the General Fund, shall be deposited in an amount not to
220 exceed Two Million Dollars (\$2,000,000.00) into the special fund
221 created under Section 69-37-39.

222 (15) Notwithstanding any other provision of this section to
223 the contrary, on or before September 15, 2000, and each succeeding
224 month thereafter, the sales tax revenue collected during the
225 preceding month under the provisions of Section 27-65-19(1)(f) and
226 (g)(i)2, shall be deposited, without diversion, into the

227 Telecommunications Ad Valorem Tax Reduction Fund established in
228 Section 27-38-7.

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

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

243 (18) On or before August 15, 2007, and each succeeding month
244 thereafter through July 15, 2008, from the sales tax revenue
245 collected during the preceding month under the provisions of this
246 chapter, Two Million Five Hundred Thousand Dollars (\$2,500,000.00)
247 shall be deposited into the Special Funds Transfer Fund created in
248 Section 4 of Chapter 556, Laws of 2003.

249 (19) (a) On or before August 15, 2005, and each succeeding
250 month thereafter, the sales tax revenue collected during the
251 preceding month under the provisions of this chapter on the gross
252 proceeds of sales of a business enterprise located within a
253 redevelopment project area under the provisions of Sections
254 57-91-1 through 57-91-11, and the revenue collected on the gross
255 proceeds of sales from sales made to a business enterprise located
256 in a redevelopment project area under the provisions of Sections
257 57-91-1 through 57-91-11 (provided that such sales made to a
258 business enterprise are made on the premises of the business
259 enterprise), shall, except as otherwise provided in this

260 subsection (19), be deposited, after all diversions, into the
261 Redevelopment Project Incentive Fund as created in Section
262 57-91-9.

263 (b) For a municipality participating in the Economic
264 Redevelopment Act created in Sections 57-91-1 through 57-91-11,
265 the diversion provided for in subsection (1) of this section
266 attributable to the gross proceeds of sales of a business
267 enterprise located within a redevelopment project area under the
268 provisions of Sections 57-91-1 through 57-91-11, and attributable
269 to the gross proceeds of sales from sales made to a business
270 enterprise located in a redevelopment project area under the
271 provisions of Sections 57-91-1 through 57-91-11 (provided that
272 such sales made to a business enterprise are made on the premises
273 of the business enterprise), shall be deposited into the
274 Redevelopment Project Incentive Fund as created in Section
275 57-91-9, as follows:

276 (i) For the first six (6) years in which payments
277 are made to a developer from the Redevelopment Project Incentive
278 Fund, one hundred percent (100%) of the diversion shall be
279 deposited into the fund;

280 (ii) For the seventh year in which such payments
281 are made to a developer from the Redevelopment Project Incentive
282 Fund, eighty percent (80%) of the diversion shall be deposited
283 into the fund;

284 (iii) For the eighth year in which such payments
285 are made to a developer from the Redevelopment Project Incentive
286 Fund, seventy percent (70%) of the diversion shall be deposited
287 into the fund;

288 (iv) For the ninth year in which such payments are
289 made to a developer from the Redevelopment Project Incentive Fund,
290 sixty percent (60%) of the diversion shall be deposited into the
291 fund; and

292 (v) For the tenth year in which such payments are
293 made to a developer from the Redevelopment Project Incentive Fund,
294 fifty percent (50%) of the funds shall be deposited into the fund.

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

298 (21) It shall be the duty of the municipal officials of any
299 municipality that expands its limits, or of any community that
300 incorporates as a municipality, to notify the commissioner of that
301 action thirty (30) days before the effective date. Failure to so
302 notify the commissioner shall cause the municipality to forfeit
303 the revenue that it would have been entitled to receive during
304 this period of time when the commissioner had no knowledge of the
305 action. If any funds have been erroneously disbursed to any
306 municipality or any overpayment of tax is recovered by the
307 taxpayer, the commissioner may make correction and adjust the
308 error or overpayment with the municipality by withholding the
309 necessary funds from any later payment to be made to the
310 municipality.

311 **SECTION 2.** This act shall take effect and be in force from
312 and after July 1, 2006.