

By: Representatives Gunn, Fleming

To: Ways and Means

HOUSE BILL NO. 470

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, 2006, 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, 2006, 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 a
39 loan if the distribution received by the municipal corporation is
40 otherwise authorized or required by law to be pledged as security
41 for such a loan.

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

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

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

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

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

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

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

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

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

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

129 The amount of funds allocated to any county under this
130 subsection for any fiscal year after fiscal year 1994 shall not be
131 less than the amount allocated to the county for fiscal year 1994.

132 Any reference in the general laws of this state or the
133 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
134 construed to refer and apply to subsection (4) of Section
135 27-65-75.

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

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

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

159 School Ad Valorem Tax Reduction Fund created under Section
160 37-61-35 until such time that the total amount deposited into the
161 fund during a fiscal year equals Forty-two Million Dollars
162 (\$42,000,000.00). Thereafter, the amounts diverted under this
163 subsection (7) during the fiscal year in excess of Forty-two
164 Million Dollars (\$42,000,000.00) shall be deposited into the
165 Education Enhancement Fund created under Section 37-61-33 for
166 appropriation by the Legislature as other education needs and
167 shall not be subject to the percentage appropriation requirements
168 set forth in Section 37-61-33.

169 (8) On or before August 15, 1992, and each succeeding month
170 thereafter, nine and seventy-three one-thousandths percent
171 (9.073%) of the total sales tax revenue collected during the
172 preceding month under the provisions of this chapter, except that
173 collected under the provisions of Section 27-65-17(2), shall be
174 deposited into the Education Enhancement Fund created under
175 Section 37-61-33.

176 (9) On or before August 15, 1994, and each succeeding month
177 thereafter, from the revenue collected under this chapter during
178 the preceding month, Two Hundred Fifty Thousand Dollars
179 (\$250,000.00) shall be paid into the State Aid Road Fund.

180 (10) On or before August 15, 1994, and each succeeding month
181 thereafter through August 15, 1995, from the revenue collected
182 under this chapter during the preceding month, Two Million Dollars
183 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
184 Valorem Tax Reduction Fund established in Section 27-51-105.

185 (11) Notwithstanding any other provision of this section to
186 the contrary, on or before February 15, 1995, and each succeeding
187 month thereafter, the sales tax revenue collected during the
188 preceding month under the provisions of Section 27-65-17(2) and
189 the corresponding levy in Section 27-65-23 on the rental or lease
190 of private carriers of passengers and light carriers of property
191 as defined in Section 27-51-101 shall be deposited, without

192 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund
193 established in Section 27-51-105.

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

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

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

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

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

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

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

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

257 Redevelopment Project Incentive Fund as created in Section
258 57-91-9.

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

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

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

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

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

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

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

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

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