

By: Representative Formby

To: Ways and Means

HOUSE BILL NO. 628

1 AN ACT TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE FOR THE PAYMENT OF A PERCENTAGE OF SALES TAX REVENUES
3 GENERATED FROM BUSINESS ACTIVITIES OUTSIDE MUNICIPALITIES TO THE
4 COUNTIES IN WHICH SUCH BUSINESS ACTIVITIES OCCURRED; TO AMEND
5 SECTION 27-65-53, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO;
6 AND FOR RELATED PURPOSES.

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

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

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

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

28 A municipal corporation, for the purpose of distributing the
29 tax under this subsection, shall mean and include all incorporated
30 cities, towns and villages.

31 Monies allocated for distribution and credited to a municipal
32 corporation under this subsection may be pledged as security for
33 a loan if the distribution received by the municipal corporation
34 is otherwise authorized or required by law to be pledged as
35 security for such a loan.

36 In any county having a county seat that is not an
37 incorporated municipality, the distribution provided under this
38 subsection shall be made as though the county seat was an
39 incorporated municipality; however, the distribution to the
40 municipality shall be paid to the county treasury in which the
41 municipality is located, and those funds shall be used for road,
42 bridge and street construction or maintenance in the county.

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

61 consumers and retailers in each municipality. In determining the
62 percentage allocation of funds under this subsection for the
63 fiscal year beginning July 1, 1987, and ending June 30, 1988, the
64 State Tax Commission may consider gallons of gasoline and diesel
65 fuel sold for a period of less than one (1) fiscal year. For the
66 purposes of this subsection, the term "fiscal year" means the
67 fiscal year beginning July 1 of a year.

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

80 (4) On or before August 15, 1994, and on or before the
81 fifteenth day of each succeeding month through July 15, 1999, from
82 the proceeds of gasoline, diesel fuel or kerosene taxes as
83 provided in Section 27-5-101(a)(ii)1, Four Million Dollars
84 (\$4,000,000.00) shall be deposited in the State Treasury to the
85 credit of a special fund designated as the "State Aid Road Fund,"
86 created by Section 65-9-17. On or before August 15, 1999, and on
87 or before the fifteenth day of each succeeding month, from the
88 total amount of the proceeds of gasoline, diesel fuel or kerosene
89 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million
90 Dollars (\$4,000,000.00) or an amount equal to twenty-three and
91 one-fourth percent (23-1/4%) of those funds, whichever is the
92 greater amount, shall be deposited in the State Treasury to the
93 credit of the "State Aid Road Fund," created by Section 65-9-17.

94 Those funds shall be pledged to pay the principal of and interest
95 on state aid road bonds heretofore issued under Sections 19-9-51
96 through 19-9-77, in lieu of and in substitution for the funds
97 previously allocated to counties under this section. Those funds
98 may not be pledged for the payment of any state aid road bonds
99 issued after April 1, 1981; however, this prohibition against the
100 pledging of any such funds for the payment of bonds shall not
101 apply to any bonds for which intent to issue those bonds has been
102 published, for the first time, as provided by law before March 29,
103 1981. From the amount of taxes paid into the special fund under
104 this subsection and subsection (9) of this section, there shall be
105 first deducted and paid the amount necessary to pay the expenses
106 of the Office of State Aid Road Construction, as authorized by the
107 Legislature for all other general and special fund agencies. The
108 remainder of the fund shall be allocated monthly to the several
109 counties in accordance with the following formula:

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

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

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

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

123 The amount of funds allocated to any county under this
124 subsection for any fiscal year after fiscal year 1994 shall not be
125 less than the amount allocated to the county for fiscal year
126 1994.

127 Any reference in the general laws of this state or the
128 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
129 construed to refer and apply to subsection (4) of Section
130 27-65-75.

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

137 (6) An amount each month beginning August 15, 1983, through
138 November 15, 1986, as specified in Section 6 of Chapter 542, Laws
139 of 1983, shall be paid into the special fund known as the
140 Correctional Facilities Construction Fund created in Section 6 of
141 Chapter 542, Laws of 1983.

142 (7) On or before August 15, 1992, and each succeeding month
143 thereafter through July 15, 2000, two and two hundred sixty-six
144 one-thousandths percent (2.266%) of the total sales tax revenue
145 collected during the preceding month under the provisions of this
146 chapter, except that collected under the provisions of Section
147 27-65-17(2) shall be deposited by the commission into the School
148 Ad Valorem Tax Reduction Fund created under Section 37-61-35. On
149 or before August 15, 2000, and each succeeding month thereafter,
150 two and two hundred sixty-six one-thousandths percent (2.266%) of
151 the total sales tax revenue collected during the preceding month
152 under the provisions of this chapter, except that collected under
153 the provisions of Section 27-65-17(2), shall be deposited into the
154 School Ad Valorem Tax Reduction Fund created under Section
155 37-61-35 until such time that the total amount deposited into the
156 fund during a fiscal year equals Forty-two Million Dollars
157 (\$42,000,000.00). Thereafter, the amounts diverted under this
158 subsection (7) during the fiscal year in excess of Forty-two
159 Million Dollars (\$42,000,000.00) shall be deposited into the

160 Education Enhancement Fund created under Section 37-61-33 for
161 appropriation by the Legislature as other education needs and
162 shall not be subject to the percentage appropriation requirements
163 set forth in Section 37-61-33.

164 (8) On or before August 15, 1992, and each succeeding month
165 thereafter, nine and seventy-three one-thousandths percent
166 (9.073%) of the total sales tax revenue collected during the
167 preceding month under the provisions of this chapter, except that
168 collected under the provisions of Section 27-65-17(2), shall be
169 deposited into the Education Enhancement Fund created under
170 Section 37-61-33.

171 (9) On or before August 15, 1994, and each succeeding month
172 thereafter, from the revenue collected under this chapter during
173 the preceding month, Two Hundred Fifty Thousand Dollars
174 (\$250,000.00) shall be paid into the State Aid Road Fund.

175 (10) On or before August 15, 1994, and each succeeding month
176 thereafter through August 15, 1995, from the revenue collected
177 under this chapter during the preceding month, Two Million Dollars
178 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
179 Valorem Tax Reduction Fund established in Section 27-51-105.

180 (11) Notwithstanding any other provision of this section to
181 the contrary, on or before February 15, 1995, and each succeeding
182 month thereafter, the sales tax revenue collected during the
183 preceding month under the provisions of Section 27-65-17(2) and
184 the corresponding levy in Section 27-65-23 on the rental or lease
185 of private carriers of passengers and light carriers of property
186 as defined in Section 27-51-101 shall be deposited, without
187 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund
188 established in Section 27-51-105.

189 (12) Notwithstanding any other provision of this section to
190 the contrary, on or before August 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(1) on

193 retail sales of private carriers of passengers and light carriers
194 of property, as defined in Section 27-51-101 and the corresponding
195 levy in Section 27-65-23 on the rental or lease of these vehicles,
196 shall be deposited, after diversion, into the Motor Vehicle Ad
197 Valorem Tax Reduction Fund established in Section 27-51-105.

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

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

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

220 (16) On or before August 15, 2000, and each succeeding month
221 thereafter, the sales tax revenue collected during the preceding
222 month under the provisions of this chapter on the gross proceeds
223 of sales of a project as defined in Section 57-30-1 shall be
224 deposited, after all diversions except the diversion provided for

225 in subsection (1) of this section, into the Sales Tax Incentive
226 Fund created in Section 57-30-3.

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

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

240 (19) (a) On or before August 15, 2005, and each succeeding
241 month thereafter, the sales tax revenue collected during the
242 preceding month under the provisions of this chapter on the gross
243 proceeds of sales of a business enterprise located within a
244 redevelopment project area under the provisions of Sections
245 57-91-1 through 57-91-11, and the revenue collected on the gross
246 proceeds of sales from sales made to a business enterprise located
247 in a redevelopment project area under the provisions of Sections
248 57-91-1 through 57-91-11 (provided that such sales made to a
249 business enterprise are made on the premises of the business
250 enterprise), shall, except as otherwise provided in this
251 subsection (19), be deposited, after all diversions, into the
252 Redevelopment Project Incentive Fund as created in Section
253 57-91-9.

254 (b) For a municipality participating in the Economic
255 Redevelopment Act created in Sections 57-91-1 through 57-91-11,
256 the diversion provided for in subsection (1) of this section
257 attributable to the gross proceeds of sales of a business

258 enterprise located within a redevelopment project area under the
259 provisions of Sections 57-91-1 through 57-91-11, and attributable
260 to the gross proceeds of sales from sales made to a business
261 enterprise located in a redevelopment project area under the
262 provisions of Sections 57-91-1 through 57-91-11 (provided that
263 such sales made to a business enterprise are made on the premises
264 of the business enterprise), shall be deposited into the
265 Redevelopment Project Incentive Fund as created in Section
266 57-91-9, as follows:

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

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

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

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

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

286 (20) On or before August 15, 2006, and each succeeding month
287 thereafter, eighteen and one-half percent (18-1/2%) of the total
288 sales tax revenue collected during the preceding month under the
289 provisions of this chapter, except that collected under the
290 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on

291 business activities within a county but outside any municipal
292 corporation, as defined in subsection (1) of this section, shall
293 be allocated for distribution to such county and paid to such
294 county. The amount paid to a county under this subsection (20)
295 shall be in addition to any other funds allocated for distribution
296 to the various counties under this section.

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

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

313 **SECTION 2.** Section 27-65-53, Mississippi Code of 1972, is
314 amended as follows:

315 27-65-53. If the commissioner finds that the taxpayer has
316 overpaid his tax for any reason and the taxpayer has discontinued
317 business and there is no subsequent liability upon which the
318 excess may be credited, or if the amount of the excess so paid
319 shall exceed the estimated liability for the next twelve (12)
320 months, the excess shall be refunded to the taxpayer. Such amount
321 shall be certified to the State Auditor of Public Accounts by the
322 commission. The said auditor is hereby authorized to make such
323 investigation and audit of the claim as he finds necessary. If he

324 finds that the commissioner is correct in his determination, the
325 auditor may issue his warrant to the State Treasurer in favor of
326 the taxpayer for the amount of tax erroneously paid into the State
327 Treasury, such refunds to be made from current sales tax
328 collections. If part of the overpayment has been disbursed to any
329 municipality or county, under authority of Section 27-65-75, the
330 municipality or county, having erroneously received the money,
331 shall adjust the amount with the commissioner, or the overpayment
332 may be withheld by the state from any funds due by the state to
333 the municipality or county.

334 * * * Where the taxpayer has overpaid his tax, the
335 commissioner may give credit for same and allow the taxpayer to
336 take credit on a subsequent return or, if necessary, in his
337 discretion, have the taxpayer file for a refund as provided
338 herein.

339 If any overpayment of tax as reflected in an application or
340 amended return, or both, filed by the taxpayer, and verified by
341 the commissioner or otherwise determined to be due by the
342 commissioner or commission, is not refunded or credited to a
343 taxpayer's account within ninety (90) days after the application
344 or amended return is filed or the date the commission or
345 commissioner determines a refund is due, whichever is later,
346 interest at the rate of one percent (1%) per month shall be
347 allowed on such overpayment computed for the period after
348 expiration of the ninety-day period provided herein to the date of
349 payment.

350 **SECTION 3.** This act shall take effect and be in force from
351 and after July 1, 2006.