

By: Representative Watson

To: Ways and Means

HOUSE BILL NO. 1251

1 AN ACT TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE A SALES TAX DIVERSION IN THE AMOUNT OF 18-1/2% OF THE
3 TOTAL SALES TAX REVENUE COLLECTED ON BUSINESS ACTIVITIES ON THE
4 CAMPUS OF A STATE INSTITUTION OF HIGHER LEARNING WHOSE CAMPUS IS
5 NOT LOCATED WITHIN THE CORPORATE LIMITS OF A MUNICIPALITY; TO
6 REQUIRE SUCH AMOUNT TO BE ALLOCATED FOR DISTRIBUTION TO THE STATE
7 INSTITUTION OF HIGHER LEARNING AND PAID TO THE STATE INSTITUTION
8 OF HIGHER LEARNING; TO AMEND SECTION 27-65-53, MISSISSIPPI CODE OF
9 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

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

13 27-65-75. On or before the fifteenth day of each month, the
14 revenue collected under the provisions of this chapter during the
15 preceding month shall be paid and distributed as follows:

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

31 A municipal corporation, for the purpose of distributing the
32 tax under this subsection, shall mean and include all incorporated
33 cities, towns and villages.

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

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

46 (b) On or before August 15, 2006, and each succeeding
47 month thereafter, eighteen and one-half percent (18-1/2%) of the
48 total sales tax revenue collected during the preceding month under
49 the provisions of this chapter, except that collected under the
50 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
51 business activities on the campus of a state institution of higher
52 learning whose campus is not located within the corporate limits
53 of a municipality, shall be allocated for distribution to the
54 state institution of higher learning and paid to the state
55 institution of higher learning.

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

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

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

93 (4) On or before August 15, 1994, and on or before the
94 fifteenth day of each succeeding month through July 15, 1999, from
95 the proceeds of gasoline, diesel fuel or kerosene taxes as
96 provided in Section 27-5-101(a)(ii)1, Four Million Dollars

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

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

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

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

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

136 The amount of funds allocated to any county under this
137 subsection for any fiscal year after fiscal year 1994 shall not be
138 less than the amount allocated to the county for fiscal year 1994.

139 Any reference in the general laws of this state or the
140 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
141 construed to refer and apply to subsection (4) of Section
142 27-65-75.

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

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

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

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

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

183 (9) On or before August 15, 1994, and each succeeding month
184 thereafter, from the revenue collected under this chapter during
185 the preceding month, Two Hundred Fifty Thousand Dollars
186 (\$250,000.00) shall be paid into the State Aid Road Fund.

187 (10) On or before August 15, 1994, and each succeeding month
188 thereafter through August 15, 1995, from the revenue collected
189 under this chapter during the preceding month, Two Million Dollars
190 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
191 Valorem Tax Reduction Fund established in Section 27-51-105.

192 (11) Notwithstanding any other provision of this section to
193 the contrary, on or before February 15, 1995, and each succeeding
194 month thereafter, the sales tax revenue collected during the

195 preceding month under the provisions of Section 27-65-17(2) and
196 the corresponding levy in Section 27-65-23 on the rental or lease
197 of private carriers of passengers and light carriers of property
198 as defined in Section 27-51-101 shall be deposited, without
199 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund
200 established in Section 27-51-105.

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

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

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

225 (15) Notwithstanding any other provision of this section to
226 the contrary, on or before September 15, 2000, and each succeeding
227 month thereafter, the sales tax revenue collected during the

228 preceding month under the provisions of Section 27-65-19(1)(f) and
229 (g)(i)2, shall be deposited, without diversion, into the
230 Telecommunications Ad Valorem Tax Reduction Fund established in
231 Section 27-38-7.

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

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

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

252 (19) (a) On or before August 15, 2005, and each succeeding
253 month thereafter, the sales tax revenue collected during the
254 preceding month under the provisions of this chapter on the gross
255 proceeds of sales of a business enterprise located within a
256 redevelopment project area under the provisions of Sections
257 57-91-1 through 57-91-11, and the revenue collected on the gross
258 proceeds of sales from sales made to a business enterprise located
259 in a redevelopment project area under the provisions of Sections
260 57-91-1 through 57-91-11 (provided that such sales made to a

261 business enterprise are made on the premises of the business
262 enterprise), shall, except as otherwise provided in this
263 subsection (19), be deposited, after all diversions, into the
264 Redevelopment Project Incentive Fund as created in Section
265 57-91-9.

266 (b) For a municipality participating in the Economic
267 Redevelopment Act created in Sections 57-91-1 through 57-91-11,
268 the diversion provided for in subsection (1) of this section
269 attributable to the gross proceeds of sales of a business
270 enterprise located within a redevelopment project area under the
271 provisions of Sections 57-91-1 through 57-91-11, and attributable
272 to the gross proceeds of sales from sales made to a business
273 enterprise located in a redevelopment project area under the
274 provisions of Sections 57-91-1 through 57-91-11 (provided that
275 such sales made to a business enterprise are made on the premises
276 of the business enterprise), shall be deposited into the
277 Redevelopment Project Incentive Fund as created in Section
278 57-91-9, as follows:

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

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

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

291 (iv) For the ninth year in which such payments are
292 made to a developer from the Redevelopment Project Incentive Fund,

293 sixty percent (60%) of the diversion shall be deposited into the
294 fund; and

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

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

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

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

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

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

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

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

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