

By: Senator(s) Robertson, Gordon, Tollison

To: Finance

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2686

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 OR COMMUNITY OR
5 JUNIOR COLLEGE WHOSE CAMPUS IS NOT LOCATED WITHIN THE CORPORATE
6 LIMITS OF A MUNICIPALITY; TO REQUIRE SUCH AMOUNT TO BE ALLOCATED
7 FOR DISTRIBUTION TO THE STATE INSTITUTION OF HIGHER LEARNING OR
8 COMMUNITY OR JUNIOR COLLEGE AND PAID TO THE STATE INSTITUTION OF
9 HIGHER LEARNING OR COMMUNITY OR JUNIOR COLLEGE; TO AMEND SECTION
10 27-65-53, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR
11 RELATED PURPOSES.

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

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

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

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

31 corporation shall be allocated for distribution to the
32 municipality and paid to the municipal corporation.

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

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

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

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

59 (2) On or before September 15, 1987, and each succeeding
60 month thereafter, from the revenue collected under this chapter
61 during the preceding month, One Million One Hundred Twenty-five
62 Thousand Dollars (\$1,125,000.00) shall be allocated for
63 distribution to municipal corporations as defined under subsection

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

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

96 (4) On or before August 15, 1994, and on or before the
97 fifteenth day of each succeeding month through July 15, 1999, from
98 the proceeds of gasoline, diesel fuel or kerosene taxes as
99 provided in Section 27-5-101(a)(ii)1, Four Million Dollars
100 (\$4,000,000.00) shall be deposited in the State Treasury to the
101 credit of a special fund designated as the "State Aid Road Fund,"
102 created by Section 65-9-17. On or before August 15, 1999, and on
103 or before the fifteenth day of each succeeding month, from the
104 total amount of the proceeds of gasoline, diesel fuel or kerosene
105 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million
106 Dollars (\$4,000,000.00) or an amount equal to twenty-three and
107 one-fourth percent (23-1/4%) of those funds, whichever is the
108 greater amount, shall be deposited in the State Treasury to the
109 credit of the "State Aid Road Fund," created by Section 65-9-17.
110 Those funds shall be pledged to pay the principal of and interest
111 on state aid road bonds heretofore issued under Sections 19-9-51
112 through 19-9-77, in lieu of and in substitution for the funds
113 previously allocated to counties under this section. Those funds
114 may not be pledged for the payment of any state aid road bonds
115 issued after April 1, 1981; however, this prohibition against the
116 pledging of any such funds for the payment of bonds shall not
117 apply to any bonds for which intent to issue those bonds has been
118 published, for the first time, as provided by law before March 29,
119 1981. From the amount of taxes paid into the special fund under
120 this subsection and subsection (9) of this section, there shall be
121 first deducted and paid the amount necessary to pay the expenses
122 of the Office of State Aid Road Construction, as authorized by the
123 Legislature for all other general and special fund agencies. The
124 remainder of the fund shall be allocated monthly to the several
125 counties in accordance with the following formula:

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

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

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

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

139 The amount of funds allocated to any county under this
140 subsection for any fiscal year after fiscal year 1994 shall not be
141 less than the amount allocated to the county for fiscal year 1994.

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

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

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

157 (7) On or before August 15, 1992, and each succeeding month
158 thereafter through July 15, 2000, two and two hundred sixty-six
159 one-thousandths percent (2.266%) of the total sales tax revenue
160 collected during the preceding month under the provisions of this

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

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

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

190 (10) On or before August 15, 1994, and each succeeding month
191 thereafter through August 15, 1995, from the revenue collected
192 under this chapter during the preceding month, Two Million Dollars

193 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
194 Valorem Tax Reduction Fund established in Section 27-51-105.

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

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

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

221 (14) On or before August 15, 1998, and each succeeding month
222 thereafter through July 15, 2005, that portion of the avails of
223 the tax imposed in Section 27-65-23 that is derived from sales by
224 cotton compresses or cotton warehouses and that would otherwise be
225 paid into the General Fund, shall be deposited in an amount not to

226 exceed Two Million Dollars (\$2,000,000.00) into the special fund
227 created under Section 69-37-39.

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

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

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

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

255 (19) (a) On or before August 15, 2005, and each succeeding
256 month thereafter, the sales tax revenue collected during the
257 preceding month under the provisions of this chapter on the gross
258 proceeds of sales of a business enterprise located within a

259 redevelopment project area under the provisions of Sections
260 57-91-1 through 57-91-11, and the revenue collected on the gross
261 proceeds of sales from sales made to a business enterprise located
262 in a redevelopment project area under the provisions of Sections
263 57-91-1 through 57-91-11 (provided that such sales made to a
264 business enterprise are made on the premises of the business
265 enterprise), shall, except as otherwise provided in this
266 subsection (19), be deposited, after all diversions, into the
267 Redevelopment Project Incentive Fund as created in Section
268 57-91-9.

269 (b) For a municipality participating in the Economic
270 Redevelopment Act created in Sections 57-91-1 through 57-91-11,
271 the diversion provided for in subsection (1) of this section
272 attributable to the gross proceeds of sales of a business
273 enterprise located within a redevelopment project area under the
274 provisions of Sections 57-91-1 through 57-91-11, and attributable
275 to the gross proceeds of sales from sales made to a business
276 enterprise located in a redevelopment project area under the
277 provisions of Sections 57-91-1 through 57-91-11 (provided that
278 such sales made to a business enterprise are made on the premises
279 of the business enterprise), shall be deposited into the
280 Redevelopment Project Incentive Fund as created in Section
281 57-91-9, as follows:

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

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

290 (iii) For the eighth year in which such payments
291 are made to a developer from the Redevelopment Project Incentive

292 Fund, seventy percent (70%) of the diversion shall be deposited
293 into the fund;

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

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

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

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

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

319 27-65-53. If the commissioner finds that the taxpayer has
320 overpaid his tax for any reason and the taxpayer has discontinued
321 business and there is no subsequent liability upon which the
322 excess may be credited, or if the amount of the excess so paid
323 shall exceed the estimated liability for the next twelve (12)
324 months, the excess shall be refunded to the taxpayer. Such amount

325 shall be certified to the State Auditor of Public Accounts by the
326 commission. The said auditor is hereby authorized to make such
327 investigation and audit of the claim as he finds necessary. If he
328 finds that the commissioner is correct in his determination, the
329 auditor may issue his warrant to the State Treasurer in favor of
330 the taxpayer for the amount of tax erroneously paid into the State
331 Treasury, such refunds to be made from current sales tax
332 collections. If part of the overpayment has been disbursed to any
333 municipality or state institution of higher learning, under
334 authority of Section 27-65-75, the municipality or state
335 institution of higher learning, having erroneously received the
336 money, shall adjust the amount with the commissioner, or the
337 overpayment may be withheld by the state from any funds due by the
338 state to the municipality or state institution of higher learning.

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

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

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