

By: Senator(s) Robertson, Gordon, Tollison

To: Finance

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 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.