

By: Representative Guice

To: Ways and Means

HOUSE BILL NO. 75

1 AN ACT TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972,  
 2 TO TEMPORARILY PROVIDE FOR THE PAYMENT OF A PERCENTAGE OF SALES  
 3 TAX REVENUES GENERATED FROM BUSINESS ACTIVITIES OUTSIDE  
 4 MUNICIPALITIES IN CERTAIN COUNTIES TO THE COUNTIES IN WHICH SUCH  
 5 BUSINESS ACTIVITIES OCCURRED; TO PROVIDE THAT BEFORE A COUNTY MAY  
 6 RECEIVE SUCH PAYMENTS, THE BOARD OF SUPERVISORS OF THE COUNTY MUST  
 7 ADOPT A RESOLUTION STATING THAT THE COUNTY DESIRES TO RECEIVE SUCH  
 8 PAYMENTS; TO AMEND SECTION 27-65-53, MISSISSIPPI CODE OF 1972, IN  
 9 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 or community or junior college whose campus is not  
53 located within the corporate limits of a municipality, shall be  
54 allocated for distribution to the state institution of higher  
55 learning or community or junior college and paid to the state  
56 institution of higher learning or community or junior college.

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



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

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

94 (4) On or before August 15, 1994, and on or before the  
95 fifteenth day of each succeeding month through July 15, 1999, from  
96 the proceeds of gasoline, diesel fuel or kerosene taxes as



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

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

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



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

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

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

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

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

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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

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

253 (19) (a) On or before August 15, 2005, and each succeeding  
254 month thereafter, the sales tax revenue collected during the  
255 preceding month under the provisions of this chapter on the gross  
256 proceeds of sales of a business enterprise located within a  
257 redevelopment project area under the provisions of Sections  
258 57-91-1 through 57-91-11, and the revenue collected on the gross  
259 proceeds of sales from sales made to a business enterprise located  
260 in a redevelopment project area under the provisions of Sections  
261 57-91-1 through 57-91-11 (provided that such sales made to a





262 business enterprise are made on the premises of the business  
263 enterprise), shall, except as otherwise provided in this  
264 subsection (19), be deposited, after all diversions, into the  
265 Redevelopment Project Incentive Fund as created in Section  
266 57-91-9.

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

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

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

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

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



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

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

299 (20) On or before January 15, 2007, and each succeeding  
300 month thereafter, eighty percent (80%) of the sales tax revenue  
301 collected during the preceding month under the provisions of this  
302 chapter from the operation of a tourism project under the  
303 provisions of Sections 4 through 6 of House Bill No. 25, 2006  
304 First Extraordinary Session, shall be deposited, after the  
305 diversions required in subsections (7) and (8) of this section,  
306 into the Tourism Sales Tax Incentive Fund created in Section 5 of  
307 this act.

308 (21) (a) Subject to the provisions of this subsection (21),  
309 for the purpose of offsetting losses in revenue as a result of  
310 Hurricane Katrina, on or before August 15, 2007, and each  
311 succeeding month thereafter through July 15, 2012, eighteen and  
312 one-half percent (18-1/2%) of the total sales tax revenue  
313 collected during the preceding month under the provisions of this  
314 chapter, except that collected under the provisions of Sections  
315 27-65-15, 27-65-19(3) and 27-65-21, on business activities within  
316 Hancock County, Harrison County, Jackson County, Pearl River  
317 County, George County and/or Stone County, but outside any  
318 municipal corporation as defined in subsection (1) of this  
319 section, shall be allocated for distribution to such county and  
320 paid to such county. The amount paid to a county under this  
321 subsection (21) shall be in addition to any other funds allocated  
322 for distribution to the various counties under this section.

323 (b) Before a county may receive funds under this  
324 subsection (21), the board of supervisors of the county, by  
325 resolution duly adopted and entered upon its minutes, must state



326 that the county desires to receive such funds. The board shall  
327 provide a copy of such resolution to the State Tax Commission.

328 (22) The remainder of the amounts collected under the  
329 provisions of this chapter shall be paid into the State Treasury  
330 to the credit of the General Fund.

331 (23) It shall be the duty of the municipal officials of any  
332 municipality that expands its limits, or of any community that  
333 incorporates as a municipality, to notify the commissioner of that  
334 action thirty (30) days before the effective date. Failure to so  
335 notify the commissioner shall cause the municipality to forfeit  
336 the revenue that it would have been entitled to receive during  
337 this period of time when the commissioner had no knowledge of the  
338 action. If any funds have been erroneously disbursed to any  
339 municipality or county or any overpayment of tax is recovered by  
340 the taxpayer, the commissioner may make correction and adjust the  
341 error or overpayment with the municipality or county by  
342 withholding the necessary funds from any later payment to be made  
343 to the municipality or county.

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

346 27-65-53. If the commissioner finds that the taxpayer has  
347 overpaid his tax for any reason and the taxpayer has discontinued  
348 business and there is no subsequent liability upon which the  
349 excess may be credited, or if the amount of the excess so paid  
350 shall exceed the estimated liability for the next twelve (12)  
351 months, the excess shall be refunded to the taxpayer. Such amount  
352 shall be certified to the State Auditor of Public Accounts by the  
353 commission. The said auditor is hereby authorized to make such  
354 investigation and audit of the claim as he finds necessary. If he  
355 finds that the commissioner is correct in his determination, the  
356 auditor may issue his warrant to the State Treasurer in favor of  
357 the taxpayer for the amount of tax erroneously paid into the State  
358 Treasury, such refunds to be made from current sales tax



359 collections. If part of the overpayment has been disbursed to any  
360 municipality, county or state institution of higher learning,  
361 under authority of Section 27-65-75, the municipality, county or  
362 state institution of higher learning, having erroneously received  
363 the money, shall adjust the amount with the commissioner, or the  
364 overpayment may be withheld by the state from any funds due by the  
365 state to the municipality, county or state institution of higher  
366 learning.

367         Provided, that where the taxpayer has overpaid his tax, the  
368 commissioner may give credit for same and allow the taxpayer to  
369 take credit on a subsequent return or, if necessary, in his  
370 discretion, have the taxpayer file for a refund as provided  
371 herein.

372         If any overpayment of tax as reflected in an application or  
373 amended return, or both, filed by the taxpayer, and verified by  
374 the commissioner or otherwise determined to be due by the  
375 commissioner or commission, is not refunded or credited to a  
376 taxpayer's account within ninety (90) days after the application  
377 or amended return is filed or the date the commission or  
378 commissioner determines a refund is due, whichever is later,  
379 interest at the rate of one percent (1%) per month shall be  
380 allowed on such overpayment computed for the period after  
381 expiration of the ninety-day period provided herein to the date of  
382 payment.

383         **SECTION 3.** This act shall take effect and be in force from  
384 and after July 1, 2007.

