

By: Senator(s) Gordon

To: Appropriations

SENATE BILL NO. 2985
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972,
2 TO DELETE THE PROVISION FOR THE DIVERSION OF CERTAIN SALES TAX
3 REVENUES TO THE SPECIAL FUNDS TRANSFER FUND; TO REPEAL SECTION 4
4 OF CHAPTER 556, LAWS OF 2003, AS LAST AMENDED BY SECTION 5 OF
5 CHAPTER 2, LAWS OF SECOND EXTRAORDINARY SESSION OF 2005, WHICH
6 CREATED THE SPECIAL FUNDS TRANSFER FUND; TO PROVIDE THAT THE
7 LEGISLATURE SHALL APPROPRIATE SUFFICIENT FUNDS TO REPAY THE TORT
8 CLAIMS FUND FOR THE AMOUNT THAT WAS TRANSFERRED TO THE BUDGET
9 CONTINGENCY FUND IN 2003; 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 * * *

248 (18) (a) On or before August 15, 2005, and each succeeding
249 month thereafter, the sales tax revenue collected during the
250 preceding month under the provisions of this chapter on the gross
251 proceeds of sales of a business enterprise located within a
252 redevelopment project area under the provisions of Sections
253 57-91-1 through 57-91-11, and the revenue collected on the gross
254 proceeds of sales from sales made to a business enterprise located
255 in a redevelopment project area under the provisions of Sections
256 57-91-1 through 57-91-11 (provided that such sales made to a
257 business enterprise are made on the premises of the business
258 enterprise), shall, except as otherwise provided in this
259 subsection (19), be deposited, after all diversions, into the
260 Redevelopment Project Incentive Fund as created in Section
261 57-91-9.

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

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

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

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

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

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

294 (19) On or before January 15, 2007, and each succeeding
295 month thereafter, eighty percent (80%) of the sales tax revenue
296 collected during the preceding month under the provisions of this
297 chapter from the operation of a tourism project under the
298 provisions of Sections 57-28-1 through 57-28-5, shall be
299 deposited, after the diversions required in subsections (7) and
300 (8) of this section, into the Tourism Sales Tax Incentive Fund
301 created in Section 57-28-3.

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

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

318 **SECTION 2.** Section 4 of Chapter 556, Laws of 2003, as
319 amended by Section 10 of Chapter 595, Laws of 2004, as amended by
320 Section 5 of Chapter 2, Laws of Second Extraordinary Session of
321 2005, which created the Special Funds Transfer Fund, is repealed.

322 **SECTION 3.** The Legislature, in its discretion and as funds
323 become available for that purpose, shall appropriate sufficient
324 funds to repay the Tort Claims Fund (Fund No. 3080) for the
325 Fourteen Million Dollars (\$14,000,000.00) that was transferred

326 from the Tort Claims Fund to the Budget Contingency Fund under the
327 provisions of Section 2 of Chapter 556, Laws of 2003.

328 **SECTION 4.** This act shall take effect and be in force from
329 and after its passage.