

By: Representative Moore

To: Ways and Means

HOUSE BILL NO. 486

1 AN ACT TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT SALES TAX REVENUE COLLECTED FROM THE SALE OF
3 TOBACCO WITHIN A MUNICIPALITY THAT, EXCEPT FOR PROHIBITING THE USE
4 OF TOBACCO BY PERSONS UNDER EIGHTEEN YEARS OF AGE, PROHIBITS OR
5 RESTRICTS SMOKING OR OTHER TOBACCO USE WITHIN THE MUNICIPALITY
6 SHALL NOT BE PAID TO THE MUNICIPALITY; AND FOR RELATED PURPOSES.

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

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

10 27-65-75. On or before the fifteenth day of each month, the
11 revenue collected under the provisions of this chapter during the
12 preceding month shall be paid and distributed as follows:

13 (1) (a) On or before August 15, 1992, and each succeeding
14 month thereafter through July 15, 1993, eighteen percent (18%) of
15 the total sales tax revenue collected during the preceding month
16 under the provisions of this chapter, except that collected under
17 the provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
18 business activities within a municipal corporation shall be
19 allocated for distribution to the municipality and paid to the
20 municipal corporation. On or before August 15, 1993, and each
21 succeeding month thereafter, eighteen and one-half percent
22 (18-1/2%) of the total sales tax revenue collected during the
23 preceding month under the provisions of this chapter, except that
24 collected under the provisions of Sections 27-65-15, 27-65-19(3)
25 and 27-65-21, on business activities within a municipal
26 corporation shall be allocated for distribution to the
27 municipality and paid to the municipal corporation. However, no
28 such sales tax revenue collected from the sale of tobacco, as



29 defined in Section 27-69-3, shall be paid to a municipality that,
30 except for any ordinance or other provision prohibiting or
31 restricting the use of tobacco by persons under eighteen (18)
32 years of age, prohibits or restricts smoking or other tobacco use
33 within the municipality.

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

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

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

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

60 (2) On or before September 15, 1987, and each succeeding
61 month thereafter, from the revenue collected under this chapter



62 during the preceding month, One Million One Hundred Twenty-five
63 Thousand Dollars (\$1,125,000.00) shall be allocated for
64 distribution to municipal corporations as defined under subsection
65 (1) of this section in the proportion that the number of gallons
66 of gasoline and diesel fuel sold by distributors to consumers and
67 retailers in each such municipality during the preceding fiscal
68 year bears to the total gallons of gasoline and diesel fuel sold
69 by distributors to consumers and retailers in municipalities
70 statewide during the preceding fiscal year. The State Tax
71 Commission shall require all distributors of gasoline and diesel
72 fuel to report to the commission monthly the total number of
73 gallons of gasoline and diesel fuel sold by them to consumers and
74 retailers in each municipality during the preceding month. The
75 State Tax Commission shall have the authority to promulgate such
76 rules and regulations as is necessary to determine the number of
77 gallons of gasoline and diesel fuel sold by distributors to
78 consumers and retailers in each municipality. In determining the
79 percentage allocation of funds under this subsection for the
80 fiscal year beginning July 1, 1987, and ending June 30, 1988, the
81 State Tax Commission may consider gallons of gasoline and diesel
82 fuel sold for a period of less than one (1) fiscal year. For the
83 purposes of this subsection, the term "fiscal year" means the
84 fiscal year beginning July 1 of a year.

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



95 necessary to determine the amount of proceeds to be distributed
96 under this subsection.

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



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

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

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

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

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

143 Any reference in the general laws of this state or the
144 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
145 construed to refer and apply to subsection (4) of Section
146 27-65-75.

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

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

158 (7) On or before August 15, 1992, and each succeeding month
159 thereafter through July 15, 2000, two and two hundred sixty-six



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

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

187 (9) On or before August 15, 1994, and each succeeding month
188 thereafter, from the revenue collected under this chapter during
189 the preceding month, Two Hundred Fifty Thousand Dollars
190 (\$250,000.00) shall be paid into the State Aid Road Fund.

191 (10) On or before August 15, 1994, and each succeeding month
192 thereafter through August 15, 1995, from the revenue collected



193 under this chapter during the preceding month, Two Million Dollars
194 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
195 Valorem Tax Reduction Fund established in Section 27-51-105.

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

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

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

222 (14) On or before August 15, 1998, and each succeeding month
223 thereafter through July 15, 2005, that portion of the avails of
224 the tax imposed in Section 27-65-23 that is derived from sales by
225 cotton compresses or cotton warehouses and that would otherwise be



226 paid into the General Fund, shall be deposited in an amount not to
227 exceed Two Million Dollars (\$2,000,000.00) into the special fund
228 created under Section 69-37-39. On or before August 15, 2007, and
229 each succeeding month thereafter, that portion of the avails of
230 the tax imposed in Section 27-65-23 that is derived from sales by
231 cotton compresses or cotton warehouses and that would otherwise be
232 paid into the General Fund, shall be deposited in an amount not to
233 exceed Two Million Dollars (\$2,000,000.00) into the special fund
234 created under Section 69-37-39 until all debts or other
235 obligations incurred by the Certified Cotton Growers Organization
236 under the Mississippi Boll Weevil Management Act before January 1,
237 2007, are satisfied in full.

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

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

252 (b) On or before August 15, 2007, and each succeeding
253 month thereafter, eighty percent (80%) of the sales tax revenue
254 collected during the preceding month under the provisions of this
255 chapter from the operation of a tourism project under the
256 provisions of Sections 57-26-1 through 57-26-5, shall be
257 deposited, after the diversions required in subsections (7) and



258 (8) of this section, into the Tourism Project Sales Tax Incentive
259 Fund created in Section 57-26-3.

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

267 (18) [Repealed]

268 (19) (a) On or before August 15, 2005, and each succeeding
269 month thereafter, the sales tax revenue collected during the
270 preceding month under the provisions of this chapter on the gross
271 proceeds of sales of a business enterprise located within a
272 redevelopment project area under the provisions of Sections
273 57-91-1 through 57-91-11, and the revenue collected on the gross
274 proceeds of sales from sales made to a business enterprise located
275 in a redevelopment project area under the provisions of Sections
276 57-91-1 through 57-91-11 (provided that such sales made to a
277 business enterprise are made on the premises of the business
278 enterprise), shall, except as otherwise provided in this
279 subsection (19), be deposited, after all diversions, into the
280 Redevelopment Project Incentive Fund as created in Section
281 57-91-9.

282 (b) For a municipality participating in the Economic
283 Redevelopment Act created in Sections 57-91-1 through 57-91-11,
284 the diversion provided for in subsection (1) of this section
285 attributable to the gross proceeds of sales of a business
286 enterprise located within a redevelopment project area under the
287 provisions of Sections 57-91-1 through 57-91-11, and attributable
288 to the gross proceeds of sales from sales made to a business
289 enterprise located in a redevelopment project area under the
290 provisions of Sections 57-91-1 through 57-91-11 (provided that



291 such sales made to a business enterprise are made on the premises
292 of the business enterprise), shall be deposited into the
293 Redevelopment Project Incentive Fund as created in Section
294 57-91-9, as follows:

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

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

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

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

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

314 (20) On or before January 15, 2007, and each succeeding
315 month thereafter, eighty percent (80%) of the sales tax revenue
316 collected during the preceding month under the provisions of this
317 chapter from the operation of a tourism project under the
318 provisions of Sections 57-28-1 through 57-28-5, shall be
319 deposited, after the diversions required in subsections (7) and
320 (8) of this section, into the Tourism Sales Tax Incentive Fund
321 created in Section 57-28-3.

322 (21) On or before April 15, 2007, and each succeeding month
323 thereafter, One Hundred Fifty Thousand Dollars (\$150,000.00) of



324 the sales tax revenue collected during the preceding month under
325 the provisions of this chapter shall be deposited into the MMEIA
326 Tax Incentive Fund created in Section 57-101-3.

327 (22) Notwithstanding any other provision of this section to
328 the contrary, on or before August 15, 2009, and each succeeding
329 month thereafter, the sales tax revenue collected during the
330 preceding month under the provisions of Section 27-65-201 shall be
331 deposited, without diversion, into the Motor Vehicle Ad Valorem
332 Tax Reduction Fund established in Section 27-51-105.

333 (23) The remainder of the amounts collected under the
334 provisions of this chapter shall be paid into the State Treasury
335 to the credit of the General Fund.

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

349 **SECTION 2.** This act shall take effect and be in force from
350 and after July 1, 2010.

