

By: Representative Moore

To: Ways and Means

HOUSE BILL NO. 274

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 SHALL NOT BE PAID TO THE
4 MUNICIPALITY IF THE MUNICIPALITY EXCEPT FOR PROHIBITING THE USE OF
5 TOBACCO BY PERSONS UNDER EIGHTEEN YEARS OF AGE, PROHIBITS OR
6 RESTRICTS SMOKING OR OTHER TOBACCO USE WITHIN THE MUNICIPALITY;
7 AND FOR RELATED PURPOSES.

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

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

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

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



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

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

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

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

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

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



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

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



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

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



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

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

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

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

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

144 Any reference in the general laws of this state or the
145 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
146 construed to refer and apply to subsection (4) of Section
147 27-65-75.

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

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

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



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

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

188 (9) On or before August 15, 1994, and each succeeding month
189 thereafter, from the revenue collected under this chapter during
190 the preceding month, Two Hundred Fifty Thousand Dollars
191 (\$250,000.00) shall be paid into the State Aid Road Fund.

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



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

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

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

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

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



227 paid into the General Fund, shall be deposited in an amount not to
228 exceed Two Million Dollars (\$2,000,000.00) into the special fund
229 created under Section 69-37-39. On or before August 15, 2007, and
230 each succeeding month thereafter through July 15, 2010, that
231 portion of the avails of the tax imposed in Section 27-65-23 that
232 is derived from sales by cotton compresses or cotton warehouses
233 and that would otherwise be paid into the General Fund, shall be
234 deposited in an amount not to exceed Two Million Dollars
235 (\$2,000,000.00) into the special fund created under Section
236 69-37-39 until all debts or other obligations incurred by the
237 Certified Cotton Growers Organization under the Mississippi Boll
238 Weevil Management Act before January 1, 2007, are satisfied in
239 full. On or before August 15, 2010, and each succeeding month
240 thereafter through July 15, 2011, fifty percent (50%) of that
241 portion of the avails of the tax imposed in Section 27-65-23 that
242 is derived from sales by cotton compresses or cotton warehouses
243 and that would otherwise be paid into the General Fund, shall be
244 deposited into the special fund created under Section 69-37-39
245 until such time that the total amount deposited into the fund
246 during a fiscal year equals One Million Dollars (\$1,000,000.00).
247 On or before August 15, 2011, and each succeeding month
248 thereafter, that portion of the avails of the tax imposed in
249 Section 27-65-23 that is derived from sales by cotton compresses
250 or cotton warehouses and that would otherwise be paid into the
251 General Fund, shall be deposited into the special fund created
252 under Section 69-37-39 until such time that the total amount
253 deposited into the fund during a fiscal year equals One Million
254 Dollars (\$1,000,000.00).

255 (15) Notwithstanding any other provision of this section to
256 the contrary, on or before September 15, 2000, and each succeeding
257 month thereafter, the sales tax revenue collected during the
258 preceding month under the provisions of Section 27-65-19(1)(f) and
259 (g)(i)2, shall be deposited, without diversion, into the



260 Telecommunications Ad Valorem Tax Reduction Fund established in
261 Section 27-38-7.

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

269 (b) On or before August 15, 2007, and each succeeding
270 month thereafter, eighty percent (80%) of the sales tax revenue
271 collected during the preceding month under the provisions of this
272 chapter from the operation of a tourism project under the
273 provisions of Sections 57-26-1 through 57-26-5, shall be
274 deposited, after the diversions required in subsections (7) and
275 (8) of this section, into the Tourism Project Sales Tax Incentive
276 Fund created in Section 57-26-3.

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

284 (18) [Repealed]

285 (19) (a) On or before August 15, 2005, and each succeeding
286 month thereafter, the sales tax revenue collected during the
287 preceding month under the provisions of this chapter on the gross
288 proceeds of sales of a business enterprise located within a
289 redevelopment project area under the provisions of Sections
290 57-91-1 through 57-91-11, and the revenue collected on the gross
291 proceeds of sales from sales made to a business enterprise located
292 in a redevelopment project area under the provisions of Sections



293 57-91-1 through 57-91-11 (provided that such sales made to a
294 business enterprise are made on the premises of the business
295 enterprise), shall, except as otherwise provided in this
296 subsection (19), be deposited, after all diversions, into the
297 Redevelopment Project Incentive Fund as created in Section
298 57-91-9.

299 (b) For a municipality participating in the Economic
300 Redevelopment Act created in Sections 57-91-1 through 57-91-11,
301 the diversion provided for in subsection (1) of this section
302 attributable to the gross proceeds of sales of a business
303 enterprise located within a redevelopment project area under the
304 provisions of Sections 57-91-1 through 57-91-11, and attributable
305 to the gross proceeds of sales from sales made to a business
306 enterprise located in a redevelopment project area under the
307 provisions of Sections 57-91-1 through 57-91-11 (provided that
308 such sales made to a business enterprise are made on the premises
309 of the business enterprise), shall be deposited into the
310 Redevelopment Project Incentive Fund as created in Section
311 57-91-9, as follows:

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

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

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

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



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

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

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

339 (21) On or before April 15, 2007, and each succeeding month
340 thereafter, One Hundred Fifty Thousand Dollars (\$150,000.00) of
341 the sales tax revenue collected during the preceding month under
342 the provisions of this chapter shall be deposited into the MMEIA
343 Tax Incentive Fund created in Section 57-101-3.

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

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

353 (24) It shall be the duty of the municipal officials of any
354 municipality that expands its limits, or of any community that
355 incorporates as a municipality, to notify the commissioner of that
356 action thirty (30) days before the effective date. Failure to so
357 notify the commissioner shall cause the municipality to forfeit
358 the revenue that it would have been entitled to receive during



359 this period of time when the commissioner had no knowledge of the
360 action. If any funds have been erroneously disbursed to any
361 municipality or any overpayment of tax is recovered by the
362 taxpayer, the commissioner may make correction and adjust the
363 error or overpayment with the municipality by withholding the
364 necessary funds from any later payment to be made to the
365 municipality.

366 **SECTION 2.** This act shall take effect and be in force from
367 and after July 1, 2011.

