

By: Representatives Smith (39th), Shirley

To: Ways and Means

HOUSE BILL NO. 844
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 27-65-107, MISSISSIPPI CODE OF 1972,
2 TO EXEMPT FROM SALES TAXATION SALES OF ELECTRICITY, CURRENT,
3 POWER, STEAM, COAL, NATURAL GAS, LIQUEFIED PETROLEUM GAS OR OTHER
4 FUEL TO A MANUFACTURER, CUSTOM PROCESSOR, TECHNOLOGY INTENSIVE
5 ENTERPRISE OR PUBLIC SERVICE COMPANY FOR INDUSTRIAL PURPOSES; TO
6 EXEMPT FROM SALES TAXATION SALES OF ELECTRICITY, CURRENT, POWER,
7 STEAM, COAL, NATURAL GAS, LIQUEFIED PETROLEUM GAS OR OTHER FUEL TO
8 A PRODUCER OR PROCESSOR FOR USE DIRECTLY IN THE PRODUCTION OF
9 POULTRY OR POULTRY PRODUCTS, THE PRODUCTION OF LIVESTOCK AND
10 LIVESTOCK PRODUCTS, THE PRODUCTION OF DOMESTICATED FISH AND
11 DOMESTICATED FISH PRODUCTS, THE PRODUCTION OF MARINE AQUACULTURE
12 PRODUCTS, THE PRODUCTION OF PLANTS OR FOOD BY COMMERCIAL
13 HORTICULTURISTS, THE PROCESSING OF MILK AND MILK PRODUCTS, THE
14 PROCESSING OF POULTRY AND LIVESTOCK FEED, AND THE IRRIGATION OF
15 FARM CROPS; TO AMEND SECTIONS 27-65-19, AS AMENDED BY HOUSE BILL
16 NO. 841, 2013 REGULAR SESSION, 27-65-75, AS AMENDED BY HOUSE BILL
17 NO. 117, 2013 REGULAR SESSION, 27-38-5 AND 19-5-343, MISSISSIPPI
18 CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

20 **SECTION 1.** Section 27-65-107, Mississippi Code of 1972, is
21 amended as follows:

22 27-65-107. The exemptions from the provisions of this
23 chapter which relate to utilities or which are more properly
24 classified as utility exemptions than any other exemption
25 classification of this chapter shall be confined to those persons
26 or property exempted by this section or by provisions of the



27 Constitutions of the United States or the State of Mississippi.
28 No utility exemption as now provided by any other section shall be
29 valid as against the tax herein levied. Any subsequent utility
30 exemption from the tax levied hereunder shall be provided by
31 amendment to this section.

32 No exemption provided in this section shall apply to taxes
33 levied by Section 27-65-15 or 27-65-21, Mississippi Code of 1972.

34 The tax levied by this chapter shall not apply to the
35 following:

36 (a) Sales and rentals of locomotives, rail rolling
37 stock and materials for their repair, locomotive water, when made
38 to a railroad whose rates are fixed by the Interstate Commerce
39 Commission or the Mississippi Public Service Commission.

40 (b) Rentals of manufacturing machinery to a
41 manufacturer or custom processor where such manufacturer or custom
42 processor is engaged in, and such machinery is used in, the
43 manufacture of containers made from timber or wood for sale. The
44 tax, likewise, shall not apply to replacement or repair parts of
45 such machinery used in such manufacture.

46 (c) Sales of tangible personal property and services to
47 nonprofit water associations or corporations in which no part of
48 the net earnings inures to the benefit of any private shareholder,
49 group or individual. Only sales of property or services which are
50 ordinary and necessary to the operation of such organizations are
51 exempt from tax.



52 (d) Wholesale sales of tangible personal property for
53 resale under Section 27-65-19.

54 (e) From and after July 1, 2003, sales of fuel used to
55 produce electric power by a company primarily engaged in the
56 business of producing, generating or distributing electric power
57 for sale.

58 (f) Sales of electricity, current, power, steam, coal,
59 natural gas, liquefied petroleum gas or other fuel to a
60 manufacturer, custom processor, technology intensive enterprise
61 meeting the criteria provided for in Section 27-65-17(1)(f), or
62 public service company for industrial purposes, which shall
63 include that used to generate electricity, to operate an
64 electrical distribution or transmission system, to operate
65 pipeline compressor or pumping stations, or to operate railroad
66 locomotives.

67 (g) Sales of electricity, current, power, steam, coal,
68 natural gas, liquefied petroleum gas or other fuel to a producer
69 or processor for use directly in the production of poultry or
70 poultry products, the production of livestock and livestock
71 products, the production of domesticated fish and domesticated
72 fish products, the production of marine aquaculture products, the
73 production of plants or food by commercial horticulturists, the
74 processing of milk and milk products, the processing of poultry
75 and livestock feed, and the irrigation of farm crops.



76 (h) Sales of electricity, current, power, steam, coal,
77 natural gas, liquefied petroleum gas or other fuel to a commercial
78 fisherman, shrimper or oysterman.

79 **SECTION 2.** Section 27-65-19, Mississippi Code of 1972, as
80 amended by House Bill No. 841, 2013 Regular Session, is amended as
81 follows:

82 27-65-19. (1) (a) (i) Except as otherwise provided in
83 this subsection, upon every person selling to consumers,
84 electricity, current, power, potable water, steam, coal, natural
85 gas, liquefied petroleum gas or other fuel, there is hereby
86 levied, assessed and shall be collected a tax equal to seven
87 percent (7%) of the gross income of the business. Provided, gross
88 income from sales to consumers of electricity, current, power,
89 natural gas, liquefied petroleum gas or other fuel for residential
90 heating, lighting or other residential noncommercial or
91 nonagricultural use, and sales of potable water for residential,
92 noncommercial or nonagricultural use shall be excluded from
93 taxable gross income of the business. Provided further, upon
94 every such seller using electricity, current, power, potable
95 water, steam, coal, natural gas, liquefied petroleum gas or other
96 fuel for nonindustrial purposes, there is hereby levied, assessed
97 and shall be collected a tax equal to seven percent (7%) of the
98 cost or value of the product or service used.

99 (ii) Gross income from sales to a church that is
100 exempt from federal income taxation under 26 USCS Section



101 501(c) (3) of electricity, current, power, natural gas, liquefied
102 petroleum gas or other fuel for heating, lighting or other use,
103 and sales of potable water to such a church shall be excluded from
104 taxable gross income of the business if the electricity, current,
105 power, natural gas, liquefied petroleum gas or potable water is
106 utilized on property that is primarily used for religious or
107 educational purposes.

108 (b) (i) There is hereby levied, assessed and shall be
109 collected a tax equal to one and one-half percent (1-1/2%) of the
110 gross income of the business * * * from the sale of naturally
111 occurring carbon dioxide and anthropogenic carbon dioxide lawfully
112 injected into the earth for:

113 1. Use in an enhanced oil recovery project,
114 including, but not limited to, use for cycling, repressuring or
115 lifting of oil; or

116 2. Permanent sequestration in a geological
117 formation.

118 (* * * ii) The one and one-half percent
119 (1-1/2%) * * * rate provided for in this subsection shall * * *
120 apply * * * to electricity, current, power, steam, coal, natural
121 gas, liquefied petroleum gas or other fuel that is sold to a
122 producer of oil and gas for use directly in enhanced oil recovery
123 using carbon dioxide and/or the permanent sequestration of carbon
124 dioxide in a geological formation.



125 (* * *c) The one and one-half percent (1-1/2%) rate
126 provided for in this subsection shall not apply to sales of fuel
127 for automobiles, trucks, truck-tractors, buses, farm tractors or
128 airplanes.

129 (* * *d) (i) Upon every person providing services in
130 this state, there is hereby levied, assessed and shall be
131 collected:

132 1. A tax equal to seven percent (7%) of the
133 gross income received from all charges for intrastate
134 telecommunications services.

135 2. A tax equal to seven percent (7%) of the
136 gross income received from all charges for interstate
137 telecommunications services.

138 3. A tax equal to seven percent (7%) of the
139 gross income received from all charges for international
140 telecommunications services.

141 4. A tax equal to seven percent (7%) of the
142 gross income received from all charges for ancillary services.

143 5. A tax equal to seven percent (7%) of the
144 gross income received from all charges for products delivered
145 electronically, including, but not limited to, software, music,
146 games, reading materials or ring tones.

147 (ii) A person, upon proof that he has paid a tax
148 in another state on an event described in subparagraph (i) of this
149 paragraph (* * *d), shall be allowed a credit against the tax



150 imposed in this paragraph (* * *d) on interstate
151 telecommunications service charges to the extent that the amount
152 of such tax is properly due and actually paid in such other state
153 and to the extent that the rate of sales tax imposed by and paid
154 in such other state does not exceed the rate of sales tax imposed
155 by this paragraph (* * *d).

156 (iii) Charges by one (1) telecommunications
157 provider to another telecommunications provider holding a permit
158 issued under Section 27-65-27 for services that are resold by such
159 other telecommunications provider, including, but not limited to,
160 access charges, shall not be subject to the tax levied pursuant to
161 this paragraph (* * *d).

162 (iv) For purposes of this paragraph (* * *d):

163 1. "Telecommunications service" means the
164 electronic transmission, conveyance or routing of voice, data,
165 audio, video or any other information or signals to a point, or
166 between points. The term "telecommunications service" includes
167 such transmission, conveyance or routing in which computer
168 processing applications are used to act on the form, code or
169 protocol of the content for purposes of transmission, conveyance
170 or routing without regard to whether such service is referred to
171 as voice over Internet protocol services or is classified by the
172 Federal Communications Commission as enhanced or value added. The
173 term "telecommunications service" shall not include:



174 a. Data processing and information
175 services that allow data to be generated, acquired, stored,
176 processed or retrieved and delivered by an electronic transmission
177 to a purchaser where such purchaser's primary purpose for the
178 underlying transaction is the processed data or information;

179 b. Installation or maintenance of wiring
180 or equipment on a customer's premises;

181 c. Tangible personal property;

182 d. Advertising, including, but not
183 limited to, directory advertising;

184 e. Billing and collection services
185 provided to third parties;

186 f. Internet access service;

187 g. Radio and television audio and video
188 programming services regardless of the medium, including the
189 furnishing of transmission, conveyance and routing of such
190 services by the programming service provider. Radio and
191 television audio and video programming services shall include, but
192 not be limited to, cable service as defined in 47 USCS 522(6) and
193 audio and video programming services delivered by commercial
194 mobile radio service providers, as defined in 47 CFR 20.3;

195 h. Ancillary services; or

196 i. Digital products delivered
197 electronically, including, but not limited to, software, music,
198 video, reading materials or ring tones.



199 2. "Ancillary services" means services that
200 are associated with or incidental to the provision of
201 telecommunications services, including, but not limited to,
202 detailed telecommunications billing, directory assistance,
203 vertical service and voice mail service.

204 a. "Conference bridging" means an
205 ancillary service that links two (2) or more participants of an
206 audio or video conference call and may include the provision of a
207 telephone number. Conference bridging does not include the
208 telecommunications services used to reach the conference bridge.

209 b. "Detailed telecommunications billing
210 service" means an ancillary service of separately stating
211 information pertaining to individual calls on a customer's billing
212 statement.

213 c. "Directory assistance" means an
214 ancillary service of providing telephone number information and/or
215 address information.

216 d. "Vertical service" means an ancillary
217 service that is offered in connection with one or more
218 telecommunications services, which offers advanced calling
219 features that allow customers to identify callers and to manage
220 multiple calls and call connections, including conference bridging
221 services.

222 e. "Voice mail service" means an
223 ancillary service that enables the customer to store, send or



224 receive recorded messages. Voice mail service does not include
225 any vertical services that the customer may be required to have in
226 order to utilize the voice mail service.

227 3. "Intrastate" means telecommunications
228 service that originates in one (1) United States state or United
229 States territory or possession, and terminates in the same United
230 States state or United States territory or possession.

231 4. "Interstate" means a telecommunications
232 service that originates in one (1) United States state or United
233 States territory or possession, and terminates in a different
234 United States state or United States territory or possession.

235 5. "International" means a telecommunications
236 service that originates or terminates in the United States and
237 terminates or originates outside the United States, respectively.

238 (v) For purposes of paragraph (* * *d), the
239 following sourcing rules shall apply:

240 1. Except for the defined telecommunications
241 services in item 3 of this subparagraph, the sales of
242 telecommunications services sold on a call-by-call basis shall be
243 sourced to:

244 a. Each level of taxing jurisdiction
245 where the call originates and terminates in that jurisdiction, or

246 b. Each level of taxing jurisdiction
247 where the call either originates or terminates and in which the
248 service address is also located.



249 2. Except for the defined telecommunications
250 services in item 3 of this subparagraph, a sale of
251 telecommunications services sold on a basis other than a
252 call-by-call basis, is sourced to the customer's place of primary
253 use.

254 3. The sale of the following
255 telecommunications services shall be sourced to each level of
256 taxing jurisdiction as follows:

257 a. A sale of mobile telecommunications
258 services other than air-to-ground radiotelephone service and
259 prepaid calling service is sourced to the customer's place of
260 primary use as required by the Mobile Telecommunication Sourcing
261 Act.

262 A. A home service provider shall be
263 responsible for obtaining and maintaining the customer's place of
264 primary use. The home service provider shall be entitled to rely
265 on the applicable residential or business street address supplied
266 by such customer, if the home service provider's reliance is in
267 good faith; and the home service provider shall be held harmless
268 from liability for any additional taxes based on a different
269 determination of the place of primary use for taxes that are
270 customarily passed on to the customer as a separate itemized
271 charge. A home service provider shall be allowed to treat the
272 address used for purposes of the tax levied by this chapter for
273 any customer under a service contract in effect on August 1, 2002,



274 as that customer's place of primary use for the remaining term of
275 such service contract or agreement, excluding any extension or
276 renewal of such service contract or agreement. Month-to-month
277 services provided after the expiration of a contract shall be
278 treated as an extension or renewal of such contract or agreement.

279 B. If the commissioner determines
280 that the address used by a home service provider as a customer's
281 place of primary use does not meet the definition of the term
282 "place of primary use" as defined in subitem a.A. of this item 3,
283 the commissioner shall give binding notice to the home service
284 provider to change the place of primary use on a prospective basis
285 from the date of notice of determination; however, the customer
286 shall have the opportunity, prior to such notice of determination,
287 to demonstrate that such address satisfies the definition.

288 C. The department has the right to
289 collect any taxes due directly from the home service provider's
290 customer that has failed to provide an address that meets the
291 definition of the term "place of primary use" which resulted in a
292 failure of tax otherwise due being remitted.

293 b. A sale of postpaid calling service is
294 sourced to the origination point of the telecommunications signal
295 as first identified by either:

296 A. The seller's telecommunications
297 system; or



298 B. Information received by the
299 seller from its service provider, where the system used to
300 transport such signals is not that of the seller.

301 c. A sale of a prepaid calling service
302 or prepaid wireless calling service shall be subject to the tax
303 imposed by this paragraph if the sale takes place in this state.
304 If the customer physically purchases a prepaid calling service or
305 prepaid wireless calling service at the vendor's place of
306 business, the sale is deemed to take place at the vendor's place
307 of business. If the customer does not physically purchase the
308 service at the vendor's place of business, the sale of a prepaid
309 calling card or prepaid wireless calling card is deemed to take
310 place at the first of the following locations that applies to the
311 sale:

312 A. The customer's shipping address,
313 if the sale involves a shipment;

314 B. The customer's billing address;

315 C. Any other address of the
316 customer that is known by the vendor; or

317 D. The address of the vendor, or
318 alternatively, in the case of a prepaid wireless calling service,
319 the location associated with the mobile telephone number.

320 4. A sale of a private communication service
321 is sourced as follows:



322 a. Service for a separate charge related
323 to a customer channel termination point is sourced to each level
324 of jurisdiction in which such customer channel termination point
325 is located.

326 b. Service where all customer
327 termination points are located entirely within one (1)
328 jurisdiction or levels of jurisdiction is sourced in such
329 jurisdiction in which the customer channel termination points are
330 located.

331 c. Service for segments of a channel
332 between two (2) customer channel termination points located in
333 different jurisdictions and which segments of a channel are
334 separately charged is sourced fifty percent (50%) in each level of
335 jurisdiction in which the customer channel termination points are
336 located.

337 d. Service for segments of a channel
338 located in more than one (1) jurisdiction or levels of
339 jurisdiction and which segments are not separately billed is
340 sourced in each jurisdiction based on the percentage determined by
341 dividing the number of customer channel termination points in such
342 jurisdiction by the total number of customer channel termination
343 points.

344 5. A sale of ancillary services is sourced to
345 the customer's place of primary use.



346 (vi) For purposes of subparagraph (v) of this
347 paragraph (* * *d):

348 1. "Air-to-ground radiotelephone service"
349 means a radio service, as that term is defined in 47 CFR 22.99, in
350 which common carriers are authorized to offer and provide radio
351 telecommunications service for hire to subscribers in aircraft.

352 2. "Call-by-call basis" means any method of
353 charging for telecommunications services where the price is
354 measured by individual calls.

355 3. "Communications channel" means a physical
356 or virtual path of communications over which signals are
357 transmitted between or among customer channel termination points.

358 4. "Customer" means the person or entity that
359 contracts with the seller of telecommunications services. If the
360 end user of telecommunications services is not the contracting
361 party, the end user of the telecommunications service is the
362 customer of the telecommunications service. Customer does not
363 include a reseller of telecommunications service or for mobile
364 telecommunications service of a serving carrier under an agreement
365 to serve the customer outside the home service provider's licensed
366 service area.

367 5. "Customer channel termination point" means
368 the location where the customer either inputs or receives the
369 communications.



370 6. "End user" means the person who utilizes
371 the telecommunications service. In the case of an entity, "end
372 user" means the individual who utilizes the service on behalf of
373 the entity.

374 7. "Home service provider" has the meaning
375 ascribed to such term in Section 124(5) of Public Law 106-252
376 (Mobile Telecommunications Sourcing Act).

377 8. "Mobile telecommunications service" has
378 the meaning ascribed to such term in Section 124(7) of Public Law
379 106-252 (Mobile Telecommunications Sourcing Act).

380 9. "Place of primary use" means the street
381 address representative of where the customer's use of the
382 telecommunications service primarily occurs, which must be the
383 residential street address or the primary business street address
384 of the customer. In the case of mobile telecommunications
385 services, the place of primary use must be within the licensed
386 service area of the home service provider.

387 10. "Post-paid calling service" means the
388 telecommunications service obtained by making a payment on a
389 call-by-call basis either through the use of a credit card or
390 payment mechanism such as a bank card, travel card, credit card or
391 debit card, or by charge made to a telephone number which is not
392 associated with the origination or termination of the
393 telecommunications service. A post-paid calling service includes
394 a telecommunications service, except a prepaid wireless calling



395 service that would be a prepaid calling service except it is not
396 exclusively a telecommunications service.

397 11. "Prepaid calling service" means the right
398 to access exclusively telecommunications services, which must be
399 paid for in advance and which enables the origination of calls
400 using an access number or authorization code, whether manually or
401 electronically dialed, and that is sold in predetermined units or
402 dollars of which the number declines with use in a known amount.

403 12. "Prepaid wireless calling service" means
404 a telecommunications service that provides the right to utilize
405 mobile wireless service as well as other nontelecommunications
406 services, including the download of digital products delivered
407 electronically, content and ancillary service, which must be paid
408 for in advance that is sold in predetermined units or dollars of
409 which the number declines with use in a known amount.

410 13. "Private communication service" means a
411 telecommunications service that entitles the customer to exclusive
412 or priority use of a communications channel or group of channels
413 between or among termination points, regardless of the manner in
414 which such channel or channels are connected, and includes
415 switching capacity, extension lines, stations and any other
416 associated services that are provided in connection with the use
417 of such channel or channels.

418 14. "Service address" means:



419 a. The location of the
420 telecommunications equipment to which a customer's call is charged
421 and from which the call originates or terminates, regardless of
422 where the call is billed or paid.

423 b. If the location in subitem a of this
424 item 14 is not known, the origination point of the signal of the
425 telecommunications services first identified by either the
426 seller's telecommunications system or in information received by
427 the seller from its service provider, where the system used to
428 transport such signals is not that of the seller.

429 c. If the location in subitems a and b
430 of this item 14 are not known, the location of the customer's
431 place of primary use.

432 (vii) 1. For purposes of this subparagraph (vii),
433 "bundled transaction" means a transaction that consists of
434 distinct and identifiable properties or services which are sold
435 for a single nonitemized price but which are treated differently
436 for tax purposes.

437 2. In the case of a bundled transaction that
438 includes telecommunications services, ancillary services, Internet
439 access, or audio or video programming services taxed under this
440 chapter in which the price of the bundled transaction is
441 attributable to properties or services that are taxable and
442 nontaxable, the portion of the price that is attributable to any
443 nontaxable property or service shall be subject to the tax unless



444 the provider can reasonably identify that portion from its books
445 and records kept in the regular course of business.

446 3. In the case of a bundled transaction that
447 includes telecommunications services, ancillary services, Internet
448 access, audio or video programming services subject to tax under
449 this chapter in which the price is attributable to properties or
450 services that are subject to the tax but the tax revenue from the
451 different properties or services are dedicated to different funds
452 or purposes, the provider shall allocate the price among the
453 properties or services:

454 a. By reasonably identifying the portion
455 of the price attributable to each of the properties and services
456 from its books and records kept in the regular course of business;
457 or

458 b. Based on a reasonable allocation
459 methodology approved by the department.

460 4. This subparagraph (vii) shall not create a
461 right of action for a customer to require that the provider or the
462 department, for purposes of determining the amount of tax
463 applicable to a bundled transaction, allocate the price to the
464 different portions of the transaction in order to minimize the
465 amount of tax charged to the customer. A customer shall not be
466 entitled to rely on the fact that a portion of the price is
467 attributable to properties or services not subject to tax unless
468 the provider elects, after receiving a written request from the



469 customer in the form required by the provider, to provide
470 verifiable data based upon the provider's books and records that
471 are kept in the regular course of business that reasonably
472 identifies the portion of the price attributable to the properties
473 or services not subject to the tax.

474 (2) Persons making sales to consumers of electricity,
475 current, power, natural gas, liquefied petroleum gas or other fuel
476 for residential heating, lighting or other residential
477 noncommercial or nonagricultural use or sales of potable water for
478 residential, noncommercial or nonagricultural use shall indicate
479 on each statement rendered to customers that such charges are
480 exempt from sales taxes.

481 (3) There is hereby levied, assessed and shall be paid on
482 transportation charges on shipments moving between points within
483 this state when paid directly by the consumer, a tax equal to the
484 rate applicable to the sale of the property being transported.
485 Such tax shall be reported and paid directly to the Department of
486 Revenue by the consumer.

487 **SECTION 3.** Section 27-65-75, Mississippi Code of 1972, as
488 amended by House Bill No. 117, 2013 Regular Session, is amended as
489 follows:

490 27-65-75. On or before the fifteenth day of each month, the
491 revenue collected under the provisions of this chapter during the
492 preceding month shall be paid and distributed as follows:



493 (1) (a) On or before August 15, 1992, and each succeeding
494 month thereafter through July 15, 1993, eighteen percent (18%) of
495 the total sales tax revenue collected during the preceding month
496 under the provisions of this chapter, except that collected under
497 the provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
498 business activities within a municipal corporation shall be
499 allocated for distribution to the municipality and paid to the
500 municipal corporation. On or before August 15, 1993, and each
501 succeeding month thereafter, eighteen and one-half percent
502 (18-1/2%) of the total sales tax revenue collected during the
503 preceding month under the provisions of this chapter, except that
504 collected under the provisions of Sections 27-65-15, 27-65-19(3),
505 27-65-21 and 27-65-24, on business activities within a municipal
506 corporation shall be allocated for distribution to the
507 municipality and paid to the municipal corporation.

508 A municipal corporation, for the purpose of distributing the
509 tax under this subsection, shall mean and include all incorporated
510 cities, towns and villages.

511 Monies allocated for distribution and credited to a municipal
512 corporation under this paragraph may be pledged as security for a
513 loan if the distribution received by the municipal corporation is
514 otherwise authorized or required by law to be pledged as security
515 for such a loan.

516 In any county having a county seat that is not an
517 incorporated municipality, the distribution provided under this



518 subsection shall be made as though the county seat was an
519 incorporated municipality; however, the distribution to the
520 municipality shall be paid to the county treasury in which the
521 municipality is located, and those funds shall be used for road,
522 bridge and street construction or maintenance in the county.

523 (b) On or before August 15, 2006, and each succeeding
524 month thereafter, eighteen and one-half percent (18-1/2%) of the
525 total sales tax revenue collected during the preceding month under
526 the provisions of this chapter, except that collected under the
527 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
528 business activities on the campus of a state institution of higher
529 learning or community or junior college whose campus is not
530 located within the corporate limits of a municipality, shall be
531 allocated for distribution to the state institution of higher
532 learning or community or junior college and paid to the state
533 institution of higher learning or community or junior college.

534 (2) On or before September 15, 1987, and each succeeding
535 month thereafter, from the revenue collected under this chapter
536 during the preceding month, One Million One Hundred Twenty-five
537 Thousand Dollars (\$1,125,000.00) shall be allocated for
538 distribution to municipal corporations as defined under subsection
539 (1) of this section in the proportion that the number of gallons
540 of gasoline and diesel fuel sold by distributors to consumers and
541 retailers in each such municipality during the preceding fiscal
542 year bears to the total gallons of gasoline and diesel fuel sold



543 by distributors to consumers and retailers in municipalities
544 statewide during the preceding fiscal year. The Department of
545 Revenue shall require all distributors of gasoline and diesel fuel
546 to report to the department monthly the total number of gallons of
547 gasoline and diesel fuel sold by them to consumers and retailers
548 in each municipality during the preceding month. The Department
549 of Revenue shall have the authority to promulgate such rules and
550 regulations as is necessary to determine the number of gallons of
551 gasoline and diesel fuel sold by distributors to consumers and
552 retailers in each municipality. In determining the percentage
553 allocation of funds under this subsection for the fiscal year
554 beginning July 1, 1987, and ending June 30, 1988, the Department
555 of Revenue may consider gallons of gasoline and diesel fuel sold
556 for a period of less than one (1) fiscal year. For the purposes
557 of this subsection, the term "fiscal year" means the fiscal year
558 beginning July 1 of a year.

559 (3) On or before September 15, 1987, and on or before the
560 fifteenth day of each succeeding month, until the date specified
561 in Section 65-39-35, the proceeds derived from contractors' taxes
562 levied under Section 27-65-21 on contracts for the construction or
563 reconstruction of highways designated under the highway program
564 created under Section 65-3-97 shall, except as otherwise provided
565 in Section 31-17-127, be deposited into the State Treasury to the
566 credit of the State Highway Fund to be used to fund that highway
567 program. The Mississippi Department of Transportation shall



568 provide to the Department of Revenue such information as is
569 necessary to determine the amount of proceeds to be distributed
570 under this subsection.

571 (4) On or before August 15, 1994, and on or before the
572 fifteenth day of each succeeding month through July 15, 1999, from
573 the proceeds of gasoline, diesel fuel or kerosene taxes as
574 provided in Section 27-5-101(a)(ii)1, Four Million Dollars
575 (\$4,000,000.00) shall be deposited in the State Treasury to the
576 credit of a special fund designated as the "State Aid Road Fund,"
577 created by Section 65-9-17. On or before August 15, 1999, and on
578 or before the fifteenth day of each succeeding month, from the
579 total amount of the proceeds of gasoline, diesel fuel or kerosene
580 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million
581 Dollars (\$4,000,000.00) or an amount equal to twenty-three and
582 one-fourth percent (23-1/4%) of those funds, whichever is the
583 greater amount, shall be deposited in the State Treasury to the
584 credit of the "State Aid Road Fund," created by Section 65-9-17.
585 Those funds shall be pledged to pay the principal of and interest
586 on state aid road bonds heretofore issued under Sections 19-9-51
587 through 19-9-77, in lieu of and in substitution for the funds
588 previously allocated to counties under this section. Those funds
589 may not be pledged for the payment of any state aid road bonds
590 issued after April 1, 1981; however, this prohibition against the
591 pledging of any such funds for the payment of bonds shall not
592 apply to any bonds for which intent to issue those bonds has been



593 published for the first time, as provided by law before March 29,
594 1981. From the amount of taxes paid into the special fund under
595 this subsection and subsection (9) of this section, there shall be
596 first deducted and paid the amount necessary to pay the expenses
597 of the Office of State Aid Road Construction, as authorized by the
598 Legislature for all other general and special fund agencies. The
599 remainder of the fund shall be allocated monthly to the several
600 counties in accordance with the following formula:

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

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

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

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

614 The amount of funds allocated to any county under this
615 subsection for any fiscal year after fiscal year 1994 shall not be
616 less than the amount allocated to the county for fiscal year 1994.



617 Any reference in the general laws of this state or the
618 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
619 construed to refer and apply to subsection (4) of Section
620 27-65-75.

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

627 (6) An amount each month beginning August 15, 1983, through
628 November 15, 1986, as specified in Section 6 of Chapter 542, Laws
629 of 1983, shall be paid into the special fund known as the
630 Correctional Facilities Construction Fund created in Section 6 of
631 Chapter 542, Laws of 1983.

632 (7) On or before August 15, 1992, and each succeeding month
633 thereafter through July 15, 2000, two and two hundred sixty-six
634 one-thousandths percent (2.266%) of the total sales tax revenue
635 collected during the preceding month under the provisions of this
636 chapter, except that collected under the provisions of Section
637 27-65-17(2), shall be deposited by the department into the School
638 Ad Valorem Tax Reduction Fund created under Section 37-61-35. On
639 or before August 15, 2000, and each succeeding month thereafter,
640 two and two hundred sixty-six one-thousandths percent (2.266%) of
641 the total sales tax revenue collected during the preceding month



642 under the provisions of this chapter, except that collected under
643 the provisions of Section 27-65-17(2), shall be deposited into the
644 School Ad Valorem Tax Reduction Fund created under Section
645 37-61-35 until such time that the total amount deposited into the
646 fund during a fiscal year equals Forty-two Million Dollars
647 (\$42,000,000.00). Thereafter, the amounts diverted under this
648 subsection (7) during the fiscal year in excess of Forty-two
649 Million Dollars (\$42,000,000.00) shall be deposited into the
650 Education Enhancement Fund created under Section 37-61-33 for
651 appropriation by the Legislature as other education needs and
652 shall not be subject to the percentage appropriation requirements
653 set forth in Section 37-61-33.

654 (8) On or before August 15, 1992, and each succeeding month
655 thereafter, nine and seventy-three one-thousandths percent
656 (9.073%) of the total sales tax revenue collected during the
657 preceding month under the provisions of this chapter, except that
658 collected under the provisions of Section 27-65-17(2), shall be
659 deposited into the Education Enhancement Fund created under
660 Section 37-61-33.

661 (9) On or before August 15, 1994, and each succeeding month
662 thereafter, from the revenue collected under this chapter during
663 the preceding month, Two Hundred Fifty Thousand Dollars
664 (\$250,000.00) shall be paid into the State Aid Road Fund.

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



667 under this chapter during the preceding month, Two Million Dollars
668 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
669 Valorem Tax Reduction Fund established in Section 27-51-105.

670 (11) Notwithstanding any other provision of this section to
671 the contrary, on or before February 15, 1995, and each succeeding
672 month thereafter, the sales tax revenue collected during the
673 preceding month under the provisions of Section 27-65-17(2) and
674 the corresponding levy in Section 27-65-23 on the rental or lease
675 of private carriers of passengers and light carriers of property
676 as defined in Section 27-51-101 shall be deposited, without
677 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund
678 established in Section 27-51-105.

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

688 (13) On or before July 15, 1994, and on or before the
689 fifteenth day of each succeeding month thereafter, that portion of
690 the avails of the tax imposed in Section 27-65-22 that is derived
691 from activities held on the Mississippi State Fairgrounds Complex



692 shall be paid into a special fund that is created in the State
693 Treasury and shall be expended upon legislative appropriation
694 solely to defray the costs of repairs and renovation at the Trade
695 Mart and Coliseum.

696 (14) On or before August 15, 1998, and each succeeding month
697 thereafter through July 15, 2005, that portion of the avails of
698 the tax imposed in Section 27-65-23 that is derived from sales by
699 cotton compresses or cotton warehouses and that would otherwise be
700 paid into the General Fund shall be deposited in an amount not to
701 exceed Two Million Dollars (\$2,000,000.00) into the special fund
702 created under Section 69-37-39. On or before August 15, 2007, and
703 each succeeding month thereafter through July 15, 2010, that
704 portion of the avails of the tax imposed in Section 27-65-23 that
705 is derived from sales by cotton compresses or cotton warehouses
706 and that would otherwise be paid into the General Fund shall be
707 deposited in an amount not to exceed Two Million Dollars
708 (\$2,000,000.00) into the special fund created under Section
709 69-37-39 until all debts or other obligations incurred by the
710 Certified Cotton Growers Organization under the Mississippi Boll
711 Weevil Management Act before January 1, 2007, are satisfied in
712 full. On or before August 15, 2010, and each succeeding month
713 thereafter through July 15, 2011, fifty percent (50%) of that
714 portion of the avails of the tax imposed in Section 27-65-23 that
715 is derived from sales by cotton compresses or cotton warehouses
716 and that would otherwise be paid into the General Fund shall be



717 deposited into the special fund created under Section 69-37-39
718 until such time that the total amount deposited into the fund
719 during a fiscal year equals One Million Dollars (\$1,000,000.00).
720 On or before August 15, 2011, and each succeeding month
721 thereafter, that portion of the avails of the tax imposed in
722 Section 27-65-23 that is derived from sales by cotton compresses
723 or cotton warehouses and that would otherwise be paid into the
724 General Fund shall be deposited into the special fund created
725 under Section 69-37-39 until such time that the total amount
726 deposited into the fund during a fiscal year equals One Million
727 Dollars (\$1,000,000.00).

728 (15) Notwithstanding any other provision of this section to
729 the contrary, on or before September 15, 2000, and each succeeding
730 month thereafter, the sales tax revenue collected during the
731 preceding month under the provisions of Section
732 27-65-19(1) (* * *d) (i)2, and 27-65-19(* * *d) (i)3 shall be
733 deposited, without diversion, into the Telecommunications Ad
734 Valorem Tax Reduction Fund established in Section 27-38-7.

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



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

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

757 (18) [Repealed]

758 (19) (a) On or before August 15, 2005, and each succeeding
759 month thereafter, the sales tax revenue collected during the
760 preceding month under the provisions of this chapter on the gross
761 proceeds of sales of a business enterprise located within a
762 redevelopment project area under the provisions of Sections
763 57-91-1 through 57-91-11, and the revenue collected on the gross
764 proceeds of sales from sales made to a business enterprise located
765 in a redevelopment project area under the provisions of Sections
766 57-91-1 through 57-91-11 (provided that such sales made to a



767 business enterprise are made on the premises of the business
768 enterprise), shall, except as otherwise provided in this
769 subsection (19), be deposited, after all diversions, into the
770 Redevelopment Project Incentive Fund as created in Section
771 57-91-9.

772 (b) For a municipality participating in the Economic
773 Redevelopment Act created in Sections 57-91-1 through 57-91-11,
774 the diversion provided for in subsection (1) of this section
775 attributable to the gross proceeds of sales of a business
776 enterprise located within a redevelopment project area under the
777 provisions of Sections 57-91-1 through 57-91-11, and attributable
778 to the gross proceeds of sales from sales made to a business
779 enterprise located in a redevelopment project area under the
780 provisions of Sections 57-91-1 through 57-91-11 (provided that
781 such sales made to a business enterprise are made on the premises
782 of the business enterprise), shall be deposited into the
783 Redevelopment Project Incentive Fund as created in Section
784 57-91-9, as follows:

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

789 (ii) For the seventh year in which such payments
790 are made to a developer from the Redevelopment Project Incentive



791 Fund, eighty percent (80%) of the diversion shall be deposited
792 into the fund;

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

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

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

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

812 (21) (a) On or before April 15, 2007, and each succeeding
813 month thereafter through June 15, 2013, One Hundred Fifty Thousand
814 Dollars (\$150,000.00) of the sales tax revenue collected during
815 the preceding month under the provisions of this chapter shall be



816 deposited into the MMEIA Tax Incentive Fund created in Section
817 57-101-3.

818 (b) On or before July 15, 2013, and each succeeding
819 month thereafter, One Hundred Fifty Thousand Dollars (\$150,000.00)
820 of the sales tax revenue collected during the preceding month
821 under the provisions of this chapter shall be deposited into the
822 Mississippi Development Authority Job Training Grant Fund created
823 in Section 1 of this act.

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

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

833 (24) It shall be the duty of the municipal officials of any
834 municipality that expands its limits, or of any community that
835 incorporates as a municipality, to notify the commissioner of that
836 action thirty (30) days before the effective date. Failure to so
837 notify the commissioner shall cause the municipality to forfeit
838 the revenue that it would have been entitled to receive during
839 this period of time when the commissioner had no knowledge of the
840 action. If any funds have been erroneously disbursed to any



841 municipality or any overpayment of tax is recovered by the
842 taxpayer, the commissioner may make correction and adjust the
843 error or overpayment with the municipality by withholding the
844 necessary funds from any later payment to be made to the
845 municipality.

846 **SECTION 4.** Section 27-38-5, Mississippi Code of 1972, is
847 amended as follows:

848 27-38-5. (1) With respect to ad valorem taxes becoming due
849 after January 1, 2001, every person providing telecommunications
850 services subject to sales tax under * * * Section 27-65-19(1)(d),
851 Mississippi Code of 1972, and which operates in more than six (6)
852 counties, shall be entitled to a refund from the State of
853 Mississippi in an amount equal to fifty percent (50%) of the
854 aggregate amount of the ad valorem tax paid by such person on
855 Class IV property, as defined in Section 112, Mississippi
856 Constitution of 1890, to local taxing districts.

857 (2) On or before March 15, 2001, and on or before March 15
858 of each year thereafter, the * * * Department of Revenue shall pay
859 all refunds to which telecommunications service providers are
860 entitled under the provisions of subsection (1) of this section
861 for ad valorem taxes that became due on or before the first day of
862 February immediately preceding March 15.

863 (3) The payments made pursuant to subsection (2) of this
864 section shall be paid by the * * * Department of Revenue
865 exclusively out of the Telecommunications Ad Valorem Tax Reduction



866 Fund created pursuant to Section 27-38-7. To the extent that the
867 amount contained in such fund does not equal or exceed the
868 payments prescribed by this section, such payments shall be
869 proportionately reduced by the amount of the shortfall; provided,
870 however, that any reduction shall be carried forward and paid to
871 the respective telecommunications service provider in any
872 succeeding taxable year or years in which monies remain in the
873 fund after payment of all refunds pursuant to subsection (2) of
874 this section for such year. The * * * Department of Revenue shall
875 determine the amount of any reductions pursuant to this
876 subsection.

877 (4) On or before April 15, 2001, and on or before April 15
878 of each year thereafter, amounts in the Telecommunications Ad
879 Valorem Tax Reduction Fund, which are in excess of the amounts
880 necessary to pay all refunds pursuant to subsection (2) of this
881 section and all amounts carried forward pursuant to subsection (3)
882 of this section shall be transferred into the Motor Vehicle Ad
883 Valorem Tax Reduction Fund established in Section 27-51-105.

884 **SECTION 5.** Section 19-5-343, Mississippi Code of 1972, is
885 amended as follows:

886 19-5-343. (1) **Definitions.** For purposes of this section,
887 the following terms shall have the following meanings:

888 (a) "Consumer" means a person who purchases prepaid
889 wireless telecommunications service in a retail transaction.



890 (b) "Department" means the Mississippi Department of
891 Revenue.

892 (c) "Prepaid wireless E911 charge" means the charge
893 that is required to be collected by a seller from a consumer in
894 the amount established under subsection (2).

895 (d) "Prepaid wireless telecommunications service" means
896 a wireless telecommunications service that allows a caller to dial
897 911 to access the 911 system, which service must be paid for in
898 advance and is sold in predetermined units or dollars of which the
899 number declines with use in a known amount.

900 (e) "Provider" means a person who provides prepaid
901 wireless telecommunications service pursuant to a license issued
902 by the Federal Communications Commission.

903 (f) "Retail transaction" means the purchase of prepaid
904 wireless telecommunications service from a seller for any purpose
905 other than resale.

906 (g) "Seller" means a person who sells prepaid wireless
907 telecommunications service to another person.

908 (h) "Wireless telecommunications service" means
909 commercial mobile radio service as defined by Section 20.3 of
910 Title 47 of the Code of Federal Regulations, as amended.

911 (2) **Collection and remittance of E911 charge.** (a) Amount
912 of Charge. The prepaid wireless E911 charge shall be One Dollar
913 (\$1.00) per retail transaction.



914 (b) Collection of charge. The prepaid wireless E911
915 charge shall be collected by the seller from the consumer with
916 respect to each retail transaction occurring in this state. The
917 amount of the prepaid wireless E911 charge shall be either
918 separately stated on an invoice, receipt or other similar document
919 that is provided to the consumer by the seller, or otherwise
920 disclosed to the consumer.

921 (c) Application of charge. For purposes of paragraph
922 (b) of this subsection, a retail transaction that is effected in
923 person by a consumer at a business location of the seller shall be
924 treated as occurring in this state if that business location is in
925 this state, and any other retail transaction shall be treated as
926 occurring in this state if the retail transaction is treated as
927 occurring in this state for purposes of Section
928 27-65-19(1) (* * *d) (v) 3.c.

929 (d) Liability for charge. The prepaid wireless E911
930 charge is the liability of the consumer and not of the seller or
931 of any provider, except that the seller shall be liable to remit
932 all prepaid wireless E911 charges that the seller collects from
933 consumers as provided in subsection (3), including all such
934 charges that the seller is deemed to have collected where the
935 amount of the charge has not been separately stated on an invoice,
936 receipt, or other similar document provided to the consumer by the
937 seller.



938 (e) Exclusion of E911 charge from base of other taxes
939 and fees. The amount of the prepaid wireless E911 charge that is
940 collected by a seller from a consumer, whether or not such amount
941 is separately stated on an invoice, receipt or other similar
942 document provided to the consumer by the seller, shall not be
943 included in the base for measuring any tax, fee, surcharge or
944 other charge that is imposed by this state, any political
945 subdivision of this state or any intergovernmental agency.

946 (f) Resetting of charge. The prepaid wireless E911
947 charge shall be increased or reduced, as applicable, upon any
948 change to the state E911 charge on postpaid wireless
949 telecommunications service under Section 19-5-333. Such increase
950 or reduction shall be effective on the effective date of the
951 change to the postpaid charge or, if later, the first day of the
952 first calendar month to occur at least sixty (60) days after the
953 enactment of the change to the postpaid charge. The department
954 shall provide not less than thirty (30) days of advance notice of
955 such increase or reduction on the commission's website.

956 (3) **Administration of E911 charge.** (a) Time and manner of
957 payment. Prepaid wireless E911 charges collected by sellers shall
958 be remitted to the department at the times and in the manner
959 provided by Chapter 65 of Title 27 with respect to sales and use
960 taxes. The department shall establish registration and payment
961 procedures that substantially coincide with the registration and
962 payment procedures that apply to Chapter 65 of Title 27.



963 (b) Seller administrative deduction. A seller shall be
964 permitted to deduct and retain two percent (2%) of prepaid
965 wireless E911 charges that are collected by the seller from
966 consumers.

967 (c) Audit and appeal procedures. The audit and appeal
968 procedures applicable to Chapter 65 of Title 27 shall apply to
969 prepaid wireless E911 charges.

970 (d) Exemption documentation. The department shall
971 establish procedures by which a seller of prepaid wireless
972 telecommunications service may document that a sale is not a
973 retail transaction, which procedures shall substantially coincide
974 with the procedures for documenting sale for resale transactions
975 for sales and use tax purposes under Chapter 65 of Title 27.

976 (e) Disposition of remitted charges. The department
977 shall pay all remitted prepaid wireless E911 charges over to the
978 Commercial Mobile Radio Service Emergency Telephone Services Board
979 within thirty (30) days of receipt, for use by the board in
980 accordance with the purposes permitted by Section 19-5-333, after
981 deducting an amount, not to exceed two percent (2%) of collected
982 charges, that shall be retained by the department to reimburse its
983 direct costs of administering the collection and remittance of
984 prepaid wireless E911 charges. The amount of the distribution
985 shall be determined by dividing the population of the
986 communications district by the state population, and then
987 multiplying that quotient times the total revenues remitted to the



988 department after deducting the amount authorized in this
989 subsection.

990 (4) **No Liability.** (a) No liability regarding 911 service.
991 No provider or seller of prepaid wireless telecommunications
992 service shall be liable for damages to any person resulting from
993 or incurred in connection with the provision of, or failure to
994 provide, 911 or E911 service, or for identifying, or failing to
995 identify, the telephone number, address, location or name
996 associated with any person or device that is accessing or
997 attempting to access 911 or E911 service.

998 (b) No provider of prepaid wireless service shall be
999 liable for damages to any person or entity resulting from or
1000 incurred in connection with the provider's provision of assistance
1001 to any investigative or law enforcement officer of the United
1002 States, this or any other state, or any political subdivision of
1003 this or any other state, in connection with any investigation or
1004 other law enforcement activity by such law enforcement officer
1005 that the provider believes in good faith to be lawful.

1006 (c) Incorporation of postpaid 911 liability protection.
1007 In addition to the protection from liability provided by
1008 paragraphs (a) and (b) of this subsection, each provider and
1009 seller shall be entitled to the further protection from liability,
1010 if any, that is provided to providers and sellers of wireless
1011 telecommunications service that is not prepaid wireless
1012 telecommunications service pursuant to Section 19-5-361.



1013 (5) **Exclusivity of prepaid wireless E911 charge.** The
1014 prepaid wireless E911 charge imposed by this section shall be the
1015 only E911 governmental funding obligation imposed with respect to
1016 prepaid wireless telecommunications service in this state, and no
1017 tax, fee, surcharge or other charge shall be imposed by this
1018 state, any political subdivision of this state, or any
1019 intergovernmental agency, for E911 funding purposes, upon any
1020 provider, seller or consumer with respect to the sale, purchase,
1021 use or provision of prepaid wireless telecommunications service.

1022 (6) Notwithstanding any other method or formula of
1023 collection and/or distribution of the emergency telephone service
1024 charges as specified in this section and as such collection and/or
1025 distribution method or formula is specified in this section, a
1026 provider may collect and distribute the said charges in any other
1027 manner applicable to satisfy the intent and requirements of this
1028 section.

1029 **SECTION 6.** Nothing in this act shall affect or defeat any
1030 claim, assessment, appeal, suit, right or cause of action for
1031 taxes due or accrued under the sales tax laws before the date on
1032 which this act becomes effective, whether such claims,
1033 assessments, appeals, suits or actions have been begun before the
1034 date on which this act becomes effective or are begun thereafter;
1035 and the provisions of the sales tax laws are expressly continued
1036 in full force, effect and operation for the purpose of the
1037 assessment, collection and enrollment of liens for any taxes due



1038 or accrued and the execution of any warrant under such laws before
1039 the date on which this act becomes effective, and for the
1040 imposition of any penalties, forfeitures or claims for failure to
1041 comply with such laws.

1042 **SECTION 7.** This act shall take effect and be in force from
1043 and after July 1, 2014.

