

By: Representatives Rushing, Miles

To: Revenue and Expenditure
General Bills

HOUSE BILL NO. 133

1 AN ACT TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972,
2 TO INCREASE THE PERCENTAGE OF TOTAL SALES TAX REVENUE COLLECTED ON
3 BUSINESS ACTIVITIES IN MUNICIPALITIES THAT IS DIVERTED TO
4 MUNICIPALITIES WITHIN THE STATE; AND FOR RELATED PURPOSES.

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

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

8 27-65-75. On or before the fifteenth day of each month, the
9 revenue collected under the provisions of this chapter during the
10 preceding month shall be paid and distributed as follows:

11 (1) (a) On or before August 15, 1992, and each succeeding
12 month thereafter through July 15, 1993, eighteen percent (18%) of
13 the total sales tax revenue collected during the preceding month
14 under the provisions of this chapter, except that collected under
15 the provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
16 business activities within a municipal corporation shall be
17 allocated for distribution to the municipality and paid to the
18 municipal corporation. Except as otherwise provided in this
19 paragraph (a), on or before August 15, 1993, and each succeeding



month thereafter through July 15, 2017, eighteen and one-half percent (18-1/2%) of the total sales tax revenue collected during the preceding month under the provisions of this chapter, except that collected under the provisions of Sections 27-65-15, 27-65-19(3), 27-65-21 and 27-65-24, on business activities within a municipal corporation shall be allocated for distribution to the municipality and paid to the municipal corporation. Except as otherwise provided in this paragraph (a), on or before August 15, 2017, and each succeeding month thereafter through July 15, 2018, nineteen percent (19%) of the total sales tax revenue collected during the preceding month under the provisions of this chapter, except that collected under the provisions of Sections 27-65-15, 27-65-19(3), 27-65-21 and 27-65-24, on business activities within a municipal corporation shall be allocated for distribution to the municipality and paid to the municipal corporation. Except as otherwise provided in this paragraph (a), on or before August 15, 2018, and each succeeding month thereafter through July 15, 2019, nineteen and one-half percent (19-1/2%) of the total sales tax revenue collected during the preceding month under the provisions of this chapter, except that collected under the provisions of Sections 27-65-15, 27-65-19(3), 27-65-21 and 27-65-24, on business activities within a municipal corporation shall be allocated for distribution to the municipality and paid to the municipal corporation. Except as otherwise provided in this paragraph (a), on or before August 15, 2019, and each succeeding month



45 thereafter, twenty percent (20%) of the total sales tax revenue
46 collected during the preceding month under the provisions of this
47 chapter, except that collected under the provisions of Sections
48 27-65-15, 27-65-19(3), 27-65-21 and 27-65-24, on business
49 activities within a municipal corporation shall be allocated for
50 distribution to the municipality and paid to the municipal
51 corporation. However, in the event the State Auditor issues a
52 certificate of noncompliance pursuant to Section 21-35-31, the
53 Department of Revenue shall withhold ten percent (10%) of the
54 allocations and payments to the municipality that would otherwise
55 be payable to the municipality under this paragraph (a) until such
56 time that the department receives written notice of the
57 cancellation of a certificate of noncompliance from the State
58 Auditor.

59 A municipal corporation, for the purpose of distributing the
60 tax under this subsection, shall mean and include all incorporated
61 cities, towns and villages.

62 Monies allocated for distribution and credited to a municipal
63 corporation under this paragraph may be pledged as security for a
64 loan if the distribution received by the municipal corporation is
65 otherwise authorized or required by law to be pledged as security
66 for such a loan.

67 In any county having a county seat that is not an
68 incorporated municipality, the distribution provided under this
69 subsection shall be made as though the county seat was an



70 incorporated municipality; however, the distribution to the
71 municipality shall be paid to the county treasury in which the
72 municipality is located, and those funds shall be used for road,
73 bridge and street construction or maintenance in the county.

74 (b) On or before August 15, 2006, and each succeeding
75 month thereafter, eighteen and one-half percent (18-1/2%) of the
76 total sales tax revenue collected during the preceding month under
77 the provisions of this chapter, except that collected under the
78 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
79 business activities on the campus of a state institution of higher
80 learning or community or junior college whose campus is not
81 located within the corporate limits of a municipality, shall be
82 allocated for distribution to the state institution of higher
83 learning or community or junior college and paid to the state
84 institution of higher learning or community or junior college.

85 (2) On or before September 15, 1987, and each succeeding
86 month thereafter, from the revenue collected under this chapter
87 during the preceding month, One Million One Hundred Twenty-five
88 Thousand Dollars (\$1,125,000.00) shall be allocated for
89 distribution to municipal corporations as defined under subsection
90 (1) of this section in the proportion that the number of gallons
91 of gasoline and diesel fuel sold by distributors to consumers and
92 retailers in each such municipality during the preceding fiscal
93 year bears to the total gallons of gasoline and diesel fuel sold
94 by distributors to consumers and retailers in municipalities



95 statewide during the preceding fiscal year. The Department of
96 Revenue shall require all distributors of gasoline and diesel fuel
97 to report to the department monthly the total number of gallons of
98 gasoline and diesel fuel sold by them to consumers and retailers
99 in each municipality during the preceding month. The Department
100 of Revenue shall have the authority to promulgate such rules and
101 regulations as is necessary to determine the number of gallons of
102 gasoline and diesel fuel sold by distributors to consumers and
103 retailers in each municipality. In determining the percentage
104 allocation of funds under this subsection for the fiscal year
105 beginning July 1, 1987, and ending June 30, 1988, the Department
106 of Revenue may consider gallons of gasoline and diesel fuel sold
107 for a period of less than one (1) fiscal year. For the purposes
108 of this subsection, the term "fiscal year" means the fiscal year
109 beginning July 1 of a year.

110 (3) On or before September 15, 1987, and on or before the
111 fifteenth day of each succeeding month, until the date specified
112 in Section 65-39-35, the proceeds derived from contractors' taxes
113 levied under Section 27-65-21 on contracts for the construction or
114 reconstruction of highways designated under the highway program
115 created under Section 65-3-97 shall, except as otherwise provided
116 in Section 31-17-127, be deposited into the State Treasury to the
117 credit of the State Highway Fund to be used to fund that highway
118 program. The Mississippi Department of Transportation shall
119 provide to the Department of Revenue such information as is



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

(4) On or before August 15, 1994, and on or before the fifteenth day of each succeeding month through July 15, 1999, from the proceeds of gasoline, diesel fuel or kerosene taxes as provided in Section 27-5-101(a)(ii)1, Four Million Dollars (\$4,000,000.00) shall be deposited in the State Treasury to the credit of a special fund designated as the "State Aid Road Fund," created by Section 65-9-17. On or before August 15, 1999, and on or before the fifteenth day of each succeeding month, from the total amount of the proceeds of gasoline, diesel fuel or kerosene taxes apportioned by Section 27-5-101(a)(ii)1, Four Million Dollars (\$4,000,000.00) or an amount equal to twenty-three and one-fourth percent (23-1/4%) of those funds, whichever is the greater amount, shall be deposited in the State Treasury to the credit of the "State Aid Road Fund," created by Section 65-9-17. Those funds shall be pledged to pay the principal of and interest on state aid road bonds heretofore issued under Sections 19-9-51 through 19-9-77, in lieu of and in substitution for the funds previously allocated to counties under this section. Those funds may not be pledged for the payment of any state aid road bonds issued after April 1, 1981; however, this prohibition against the pledging of any such funds for the payment of bonds shall not apply to any bonds for which intent to issue those bonds has been published for the first time, as provided by law before March 29,



1981. From the amount of taxes paid into the special fund under this subsection and subsection (9) of this section, there shall be first deducted and paid the amount necessary to pay the expenses of the Office of State Aid Road Construction, as authorized by the Legislature for all other general and special fund agencies. The remainder of the fund shall be allocated monthly to the several counties in accordance with the following formula:

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

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

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

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

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

Any reference in the general laws of this state or the Mississippi Code of 1972 to Section 27-5-105 shall mean and be



construed to refer and apply to subsection (4) of Section 27-65-75.

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

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

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



School Ad Valorem Tax Reduction Fund created under Section 37-61-35 until such time that the total amount deposited into the fund during a fiscal year equals Forty-two Million Dollars (\$42,000,000.00). Thereafter, the amounts diverted under this subsection (7) during the fiscal year in excess of Forty-two Million Dollars (\$42,000,000.00) shall be deposited into the Education Enhancement Fund created under Section 37-61-33 for appropriation by the Legislature as other education needs and shall not be subject to the percentage appropriation requirements set forth in Section 37-61-33.

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

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

(10) On or before August 15, 1994, and each succeeding month thereafter through August 15, 1995, from the revenue collected under this chapter during the preceding month, Two Million Dollars



(\$2,000,000.00) shall be deposited into the Motor Vehicle Ad Valorem Tax Reduction Fund established in Section 27-51-105.

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

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

(13) On or before July 15, 1994, and on or before the fifteenth day of each succeeding month thereafter, that portion of the avails of the tax imposed in Section 27-65-22 that is derived from activities held on the Mississippi State Fairgrounds Complex shall be paid into a special fund that is created in the State



Treasury and shall be expended upon legislative appropriation solely to defray the costs of repairs and renovation at the Trade Mart and Coliseum.

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



269 until such time that the total amount deposited into the fund
270 during a fiscal year equals One Million Dollars (\$1,000,000.00).
271 On or before August 15, 2011, and each succeeding month
272 thereafter, that portion of the avails of the tax imposed in
273 Section 27-65-23 that is derived from sales by cotton compresses
274 or cotton warehouses and that would otherwise be paid into the
275 General Fund shall be deposited into the special fund created
276 under Section 69-37-39 until such time that the total amount
277 deposited into the fund during a fiscal year equals One Million
278 Dollars (\$1,000,000.00).

279 (15) Notwithstanding any other provision of this section to
280 the contrary, on or before September 15, 2000, and each succeeding
281 month thereafter, the sales tax revenue collected during the
282 preceding month under the provisions of Section
283 27-65-19(1)(d)(i)2, and 27-65-19(1)(d)(i)3 shall be deposited,
284 without diversion, into the Telecommunications Ad Valorem Tax
285 Reduction Fund established in Section 27-38-7.

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



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

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

308 (18) [Repealed]

309 (19) (a) On or before August 15, 2005, and each succeeding
310 month thereafter, the sales tax revenue collected during the
311 preceding month under the provisions of this chapter on the gross
312 proceeds of sales of a business enterprise located within a
313 redevelopment project area under the provisions of Sections
314 57-91-1 through 57-91-11, and the revenue collected on the gross
315 proceeds of sales from sales made to a business enterprise located
316 in a redevelopment project area under the provisions of Sections
317 57-91-1 through 57-91-11 (provided that such sales made to a



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

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

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

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



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

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

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

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

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

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



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

(b) On or before July 15, 2013, and each succeeding month thereafter, One Hundred Fifty Thousand Dollars (\$150,000.00) of the sales tax revenue collected during the preceding month under the provisions of this chapter shall be deposited into the Mississippi Development Authority Job Training Grant Fund created in Section 57-1-451.

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

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

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



392 (b) (i) Except as otherwise provided in subparagraph
393 (ii) of this paragraph, if any funds have been erroneously
394 disbursed to any municipality or any overpayment of tax is
395 recovered by the taxpayer, the commissioner may make correction
396 and adjust the error or overpayment with the municipality by
397 withholding the necessary funds from any later payment to be made
398 to the municipality.

399 (ii) Subject to the provisions of Sections
400 27-65-51 and 27-65-53, if any funds have been erroneously
401 disbursed to a municipality under subsection (1) of this section
402 for a period of three (3) years or more, the maximum amount that
403 may be recovered or withheld from the municipality is the total
404 amount of funds erroneously disbursed for a period of three (3)
405 years beginning with the date of the first erroneous disbursement.
406 However, if during such period, a municipality provides written
407 notice to the Department of Revenue indicating the erroneous
408 disbursement of funds, then the maximum amount that may be
409 recovered or withheld from the municipality is the total amount of
410 funds erroneously disbursed for a period of one (1) year beginning
411 with the date of the first erroneous disbursement.

412 **SECTION 2.** This act shall take effect and be in force from
413 and after July 1, 2017.

