

By: Representatives Rushing, Miles, Hughes

To: Ways and Means

HOUSE BILL NO. 191

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



20 month thereafter through July 15, 2018, eighteen and one-half
21 percent (18-1/2%) of the total sales tax revenue collected during
22 the preceding month under the provisions of this chapter, except
23 that collected under the provisions of Sections 27-65-15,
24 27-65-19(3), 27-65-21 and 27-65-24, on business activities within
25 a municipal corporation shall be allocated for distribution to the
26 municipality and paid to the municipal corporation. Except as
27 otherwise provided in this paragraph (a), on or before August 15,
28 2018, and each succeeding month thereafter through July 15, 2019,
29 nineteen percent (19%) of the total sales tax revenue collected
30 during the preceding month under the provisions of this chapter,
31 except that collected under the provisions of Sections 27-65-15,
32 27-65-19(3), 27-65-21 and 27-65-24, on business activities within
33 a municipal corporation shall be allocated for distribution to the
34 municipality and paid to the municipal corporation. Except as
35 otherwise provided in this paragraph (a), on or before August 15,
36 2019, and each succeeding month thereafter through July 15, 2020,
37 nineteen and one-half percent (19-1/2%) of the total sales tax
38 revenue collected during the preceding month under the provisions
39 of this chapter, except that collected under the provisions of
40 Sections 27-65-15, 27-65-19(3), 27-65-21 and 27-65-24, on business
41 activities within a municipal corporation shall be allocated for
42 distribution to the municipality and paid to the municipal
43 corporation. Except as otherwise provided in this paragraph (a),
44 on or before August 15, 2020, 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 (c) On or before August 15, 2018, and each succeeding
86 month thereafter until August 14, 2019, two percent (2%) of the
87 total sales tax revenue collected during the preceding month under
88 the provisions of this chapter, except that collected under the
89 provisions of Sections 27-65-15, 27-65-19(3), 27-65-21 and
90 27-65-24, on business activities within the corporate limits of
91 the City of Jackson, Mississippi, shall be deposited into the
92 Capitol Complex Improvement District Project Fund created in
93 Section 29-5-215. On or before August 15, 2019, and each
94 succeeding month thereafter until August 14, 2020, four percent



95 (4%) of the total sales tax revenue collected during the preceding
96 month under the provisions of this chapter, except that collected
97 under the provisions of Sections 27-65-15, 27-65-19(3), 27-65-21
98 and 27-65-24, on business activities within the corporate limits
99 of the City of Jackson, Mississippi, shall be deposited into the
100 Capitol Complex Improvement District Project Fund created in
101 Section 29-5-215. On or before August 15, 2020, and each
102 succeeding month thereafter, six percent (6%) of the total sales
103 tax revenue collected during the preceding month under the
104 provisions of this chapter, except that collected under the
105 provisions of Sections 27-65-15, 27-65-19(3), 27-65-21 and
106 27-65-24, on business activities within the corporate limits of
107 the City of Jackson, Mississippi, shall be deposited into the
108 Capitol Complex Improvement District Project Fund created in
109 Section 29-5-215.

110 (2) On or before September 15, 1987, and each succeeding
111 month thereafter, from the revenue collected under this chapter
112 during the preceding month, One Million One Hundred Twenty-five
113 Thousand Dollars (\$1,125,000.00) shall be allocated for
114 distribution to municipal corporations as defined under subsection
115 (1) of this section in the proportion that the number of gallons
116 of gasoline and diesel fuel sold by distributors to consumers and
117 retailers in each such municipality during the preceding fiscal
118 year bears to the total gallons of gasoline and diesel fuel sold
119 by distributors to consumers and retailers in municipalities



120 statewide during the preceding fiscal year. The Department of
121 Revenue shall require all distributors of gasoline and diesel fuel
122 to report to the department monthly the total number of gallons of
123 gasoline and diesel fuel sold by them to consumers and retailers
124 in each municipality during the preceding month. The Department
125 of Revenue shall have the authority to promulgate such rules and
126 regulations as is necessary to determine the number of gallons of
127 gasoline and diesel fuel sold by distributors to consumers and
128 retailers in each municipality. In determining the percentage
129 allocation of funds under this subsection for the fiscal year
130 beginning July 1, 1987, and ending June 30, 1988, the Department
131 of Revenue may consider gallons of gasoline and diesel fuel sold
132 for a period of less than one (1) fiscal year. For the purposes
133 of this subsection, the term "fiscal year" means the fiscal year
134 beginning July 1 of a year.

135 (3) On or before September 15, 1987, and on or before the
136 fifteenth day of each succeeding month, until the date specified
137 in Section 65-39-35, the proceeds derived from contractors' taxes
138 levied under Section 27-65-21 on contracts for the construction or
139 reconstruction of highways designated under the highway program
140 created under Section 65-3-97 shall, except as otherwise provided
141 in Section 31-17-127, be deposited into the State Treasury to the
142 credit of the State Highway Fund to be used to fund that highway
143 program. The Mississippi Department of Transportation shall
144 provide to the Department of Revenue such information as is



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

147 (4) On or before August 15, 1994, and on or before the
148 fifteenth day of each succeeding month through July 15, 1999, from
149 the proceeds of gasoline, diesel fuel or kerosene taxes as
150 provided in Section 27-5-101(a)(ii)1, Four Million Dollars
151 (\$4,000,000.00) shall be deposited in the State Treasury to the
152 credit of a special fund designated as the "State Aid Road Fund,"
153 created by Section 65-9-17. On or before August 15, 1999, and on
154 or before the fifteenth day of each succeeding month, from the
155 total amount of the proceeds of gasoline, diesel fuel or kerosene
156 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million
157 Dollars (\$4,000,000.00) or an amount equal to twenty-three and
158 one-fourth percent (23-1/4%) of those funds, whichever is the
159 greater amount, shall be deposited in the State Treasury to the
160 credit of the "State Aid Road Fund," created by Section 65-9-17.
161 Those funds shall be pledged to pay the principal of and interest
162 on state aid road bonds heretofore issued under Sections 19-9-51
163 through 19-9-77, in lieu of and in substitution for the funds
164 previously allocated to counties under this section. Those funds
165 may not be pledged for the payment of any state aid road bonds
166 issued after April 1, 1981; however, this prohibition against the
167 pledging of any such funds for the payment of bonds shall not
168 apply to any bonds for which intent to issue those bonds has been
169 published for the first time, as provided by law before March 29,



170 1981. From the amount of taxes paid into the special fund under
171 this subsection and subsection (9) of this section, there shall be
172 first deducted and paid the amount necessary to pay the expenses
173 of the Office of State Aid Road Construction, as authorized by the
174 Legislature for all other general and special fund agencies. The
175 remainder of the fund shall be allocated monthly to the several
176 counties in accordance with the following formula:

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

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

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

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

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

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



195 construed to refer and apply to subsection (4) of Section
196 27-65-75.

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

203 (6) An amount each month beginning August 15, 1983, through
204 November 15, 1986, as specified in Section 6, Chapter 542, Laws of
205 1983, shall be paid into the special fund known as the
206 Correctional Facilities Construction Fund created in Section 6,
207 Chapter 542, Laws of 1983.

208 (7) On or before August 15, 1992, and each succeeding month
209 thereafter through July 15, 2000, two and two hundred sixty-six
210 one-thousandths percent (2.266%) of the total sales tax revenue
211 collected during the preceding month under the provisions of this
212 chapter, except that collected under the provisions of Section
213 27-65-17(2), shall be deposited by the department into the School
214 Ad Valorem Tax Reduction Fund created under Section 37-61-35. On
215 or before August 15, 2000, and each succeeding month thereafter,
216 two and two hundred sixty-six one-thousandths percent (2.266%) of
217 the total sales tax revenue collected during the preceding month
218 under the provisions of this chapter, except that collected under
219 the provisions of Section 27-65-17(2), shall be deposited into the



220 School Ad Valorem Tax Reduction Fund created under Section
221 37-61-35 until such time that the total amount deposited into the
222 fund during a fiscal year equals Forty-two Million Dollars
223 (\$42,000,000.00). Thereafter, the amounts diverted under this
224 subsection (7) during the fiscal year in excess of Forty-two
225 Million Dollars (\$42,000,000.00) shall be deposited into the
226 Education Enhancement Fund created under Section 37-61-33 for
227 appropriation by the Legislature as other education needs and
228 shall not be subject to the percentage appropriation requirements
229 set forth in Section 37-61-33.

230 (8) On or before August 15, 1992, and each succeeding month
231 thereafter, nine and seventy-three one-thousandths percent
232 (9.073%) of the total sales tax revenue collected during the
233 preceding month under the provisions of this chapter, except that
234 collected under the provisions of Section 27-65-17(2), shall be
235 deposited into the Education Enhancement Fund created under
236 Section 37-61-33.

237 (9) On or before August 15, 1994, and each succeeding month
238 thereafter, from the revenue collected under this chapter during
239 the preceding month, Two Hundred Fifty Thousand Dollars
240 (\$250,000.00) shall be paid into the State Aid Road Fund.

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



244 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
245 Valorem Tax Reduction Fund established in Section 27-51-105.

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

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

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



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

272 (14) On or before August 15, 1998, and each succeeding month
273 thereafter through July 15, 2005, that portion of the avails of
274 the tax imposed in Section 27-65-23 that is derived from sales by
275 cotton compresses or cotton warehouses and that would otherwise be
276 paid into the General Fund shall be deposited in an amount not to
277 exceed Two Million Dollars (\$2,000,000.00) into the special fund
278 created under Section 69-37-39. On or before August 15, 2007, and
279 each succeeding month thereafter through July 15, 2010, that
280 portion of the avails of the tax imposed in Section 27-65-23 that
281 is derived from sales by cotton compresses or cotton warehouses
282 and that would otherwise be paid into the General Fund shall be
283 deposited in an amount not to exceed Two Million Dollars
284 (\$2,000,000.00) into the special fund created under Section
285 69-37-39 until all debts or other obligations incurred by the
286 Certified Cotton Growers Organization under the Mississippi Boll
287 Weevil Management Act before January 1, 2007, are satisfied in
288 full. On or before August 15, 2010, and each succeeding month
289 thereafter through July 15, 2011, fifty percent (50%) of that
290 portion of the avails of the tax imposed in Section 27-65-23 that
291 is derived from sales by cotton compresses or cotton warehouses
292 and that would otherwise be paid into the General Fund shall be
293 deposited into the special fund created under Section 69-37-39



294 until such time that the total amount deposited into the fund
295 during a fiscal year equals One Million Dollars (\$1,000,000.00).
296 On or before August 15, 2011, and each succeeding month
297 thereafter, that portion of the avails of the tax imposed in
298 Section 27-65-23 that is derived from sales by cotton compresses
299 or cotton warehouses and that would otherwise be paid into the
300 General Fund shall be deposited into the special fund created
301 under Section 69-37-39 until such time that the total amount
302 deposited into the fund during a fiscal year equals One Million
303 Dollars (\$1,000,000.00).

304 (15) Notwithstanding any other provision of this section to
305 the contrary, on or before September 15, 2000, and each succeeding
306 month thereafter, the sales tax revenue collected during the
307 preceding month under the provisions of Section
308 27-65-19(1)(d)(i)2, and 27-65-19(1)(d)(i)3 shall be deposited,
309 without diversion, into the Telecommunications Ad Valorem Tax
310 Reduction Fund established in Section 27-38-7.

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



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

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

333 (18) [Repealed]

334 (19) (a) On or before August 15, 2005, and each succeeding
335 month thereafter, the sales tax revenue collected during the
336 preceding month under the provisions of this chapter on the gross
337 proceeds of sales of a business enterprise located within a
338 redevelopment project area under the provisions of Sections
339 57-91-1 through 57-91-11, and the revenue collected on the gross
340 proceeds of sales from sales made to a business enterprise located
341 in a redevelopment project area under the provisions of Sections
342 57-91-1 through 57-91-11 (provided that such sales made to a



343 business enterprise are made on the premises of the business
344 enterprise), shall, except as otherwise provided in this
345 subsection (19), be deposited, after all diversions, into the
346 Redevelopment Project Incentive Fund as created in Section
347 57-91-9.

348 (b) For a municipality participating in the Economic
349 Redevelopment Act created in Sections 57-91-1 through 57-91-11,
350 the diversion provided for in subsection (1) of this section
351 attributable to the gross proceeds of sales of a business
352 enterprise located within a redevelopment project area under the
353 provisions of Sections 57-91-1 through 57-91-11, and attributable
354 to the gross proceeds of sales from sales made to a business
355 enterprise located in a redevelopment project area under the
356 provisions of Sections 57-91-1 through 57-91-11 (provided that
357 such sales made to a business enterprise are made on the premises
358 of the business enterprise), shall be deposited into the
359 Redevelopment Project Incentive Fund as created in Section
360 57-91-9, as follows:

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

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



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

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

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

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

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

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



392 deposited into the MMEIA Tax Incentive Fund created in Section
393 57-101-3.

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

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

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

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



417 (b) (i) Except as otherwise provided in subparagraph
418 (ii) of this paragraph, if any funds have been erroneously
419 disbursed to any municipality or any overpayment of tax is
420 recovered by the taxpayer, the commissioner may make correction
421 and adjust the error or overpayment with the municipality by
422 withholding the necessary funds from any later payment to be made
423 to the municipality.

424 (ii) Subject to the provisions of Sections
425 27-65-51 and 27-65-53, if any funds have been erroneously
426 disbursed to a municipality under subsection (1) of this section
427 for a period of three (3) years or more, the maximum amount that
428 may be recovered or withheld from the municipality is the total
429 amount of funds erroneously disbursed for a period of three (3)
430 years beginning with the date of the first erroneous disbursement.
431 However, if during such period, a municipality provides written
432 notice to the Department of Revenue indicating the erroneous
433 disbursement of funds, then the maximum amount that may be
434 recovered or withheld from the municipality is the total amount of
435 funds erroneously disbursed for a period of one (1) year beginning
436 with the date of the first erroneous disbursement.

437 **SECTION 2.** This act shall take effect and be in force from
438 and after July 1, 2018.

