

By: Representative Hughes

To: Ways and Means

HOUSE BILL NO. 394

1 AN ACT TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972,  
 2 TO PROVIDE THAT EIGHTEEN AND ONE-HALF PERCENT OF THE SALES TAX  
 3 REVENUE COLLECTED FROM BUSINESS ACTIVITIES OUTSIDE THE  
 4 MUNICIPALITIES IN A COUNTY SHALL BE PAID TO THE COUNTY; TO PROVIDE  
 5 THAT SUCH MONIES SHALL BE USED FOR STREET AND ROAD CONSTRUCTION,  
 6 REPAIR AND MAINTENANCE; TO AMEND SECTION 27-65-53, MISSISSIPPI  
 7 CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES

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

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

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

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



21 municipal corporation. Except as otherwise provided in this  
22 paragraph (a), on or before August 15, 1993, and each succeeding  
23 month thereafter, eighteen and one-half percent (18-1/2%) of the  
24 total sales tax revenue collected during the preceding month under  
25 the provisions of this chapter, except that collected under the  
26 provisions of Sections 27-65-15, 27-65-19(3), 27-65-21 and  
27 27-65-24, on business activities within a municipal corporation  
28 shall be allocated for distribution to the municipality and paid  
29 to the municipal corporation. However, in the event the State  
30 Auditor issues a certificate of noncompliance pursuant to Section  
31 21-35-31, the Department of Revenue shall withhold ten percent  
32 (10%) of the allocations and payments to the municipality that  
33 would otherwise be payable to the municipality under this  
34 paragraph (a) until such time that the department receives written  
35 notice of the cancellation of a certificate of noncompliance from  
36 the State Auditor.

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

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



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

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

63           (c) On or before August 15, 2018, and each succeeding  
64 month thereafter until August 14, 2019, two percent (2%) of the  
65 total sales tax revenue collected during the preceding month under  
66 the provisions of this chapter, except that collected under the  
67 provisions of Sections 27-65-15, 27-65-19(3), 27-65-21 and  
68 27-65-24, on business activities within the corporate limits of  
69 the City of Jackson, Mississippi, shall be deposited into the



70 Capitol Complex Improvement District Project Fund created in  
71 Section 29-5-215. On or before August 15, 2019, and each  
72 succeeding month thereafter until August 14, 2020, four percent  
73 (4%) of the total sales tax revenue collected during the preceding  
74 month under the provisions of this chapter, except that collected  
75 under the provisions of Sections 27-65-15, 27-65-19(3), 27-65-21  
76 and 27-65-24, on business activities within the corporate limits  
77 of the City of Jackson, Mississippi, shall be deposited into the  
78 Capitol Complex Improvement District Project Fund created in  
79 Section 29-5-215. On or before August 15, 2020, and each  
80 succeeding month thereafter, six percent (6%) of the total sales  
81 tax revenue collected during the preceding month under the  
82 provisions of this chapter, except that collected under the  
83 provisions of Sections 27-65-15, 27-65-19(3), 27-65-21 and  
84 27-65-24, on business activities within the corporate limits of  
85 the City of Jackson, Mississippi, shall be deposited into the  
86 Capitol Complex Improvement District Project Fund created in  
87 Section 29-5-215.

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



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

113 (3) On or before September 15, 1987, and on or before the  
114 fifteenth day of each succeeding month, until the date specified  
115 in Section 65-39-35, the proceeds derived from contractors' taxes  
116 levied under Section 27-65-21 on contracts for the construction or  
117 reconstruction of highways designated under the highway program  
118 created under Section 65-3-97 shall, except as otherwise provided  
119 in Section 31-17-127, be deposited into the State Treasury to the



120 credit of the State Highway Fund to be used to fund that highway  
121 program. The Mississippi Department of Transportation shall  
122 provide to the Department of Revenue such information as is  
123 necessary to determine the amount of proceeds to be distributed  
124 under this subsection.

125 (4) On or before August 15, 1994, and on or before the  
126 fifteenth day of each succeeding month through July 15, 1999, from  
127 the proceeds of gasoline, diesel fuel or kerosene taxes as  
128 provided in Section 27-5-101(a)(ii)1, Four Million Dollars  
129 (\$4,000,000.00) shall be deposited in the State Treasury to the  
130 credit of a special fund designated as the "State Aid Road Fund,"  
131 created by Section 65-9-17. On or before August 15, 1999, and on  
132 or before the fifteenth day of each succeeding month, from the  
133 total amount of the proceeds of gasoline, diesel fuel or kerosene  
134 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million  
135 Dollars (\$4,000,000.00) or an amount equal to twenty-three and  
136 one-fourth percent (23-1/4%) of those funds, whichever is the  
137 greater amount, shall be deposited in the State Treasury to the  
138 credit of the "State Aid Road Fund," created by Section 65-9-17.  
139 Those funds shall be pledged to pay the principal of and interest  
140 on state aid road bonds heretofore issued under Sections 19-9-51  
141 through 19-9-77, in lieu of and in substitution for the funds  
142 previously allocated to counties under this section. Those funds  
143 may not be pledged for the payment of any state aid road bonds  
144 issued after April 1, 1981; however, this prohibition against the



145 pledging of any such funds for the payment of bonds shall not  
146 apply to any bonds for which intent to issue those bonds has been  
147 published for the first time, as provided by law before March 29,  
148 1981. From the amount of taxes paid into the special fund under  
149 this subsection and subsection (9) of this section, there shall be  
150 first deducted and paid the amount necessary to pay the expenses  
151 of the Office of State Aid Road Construction, as authorized by the  
152 Legislature for all other general and special fund agencies. The  
153 remainder of the fund shall be allocated monthly to the several  
154 counties in accordance with the following formula:

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

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

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

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



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

171           Any reference in the general laws of this state or the  
172 Mississippi Code of 1972 to Section 27-5-105 shall mean and be  
173 construed to refer and apply to subsection (4) of Section  
174 27-65-75.

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

181           (6) An amount each month beginning August 15, 1983, through  
182 November 15, 1986, as specified in Section 6, Chapter 542, Laws of  
183 1983, shall be paid into the special fund known as the  
184 Correctional Facilities Construction Fund created in Section 6,  
185 Chapter 542, Laws of 1983.

186           (7) On or before August 15, 1992, and each succeeding month  
187 thereafter through July 15, 2000, two and two hundred sixty-six  
188 one-thousandths percent (2.266%) of the total sales tax revenue  
189 collected during the preceding month under the provisions of this  
190 chapter, except that collected under the provisions of Section  
191 27-65-17(2), shall be deposited by the department into the School  
192 Ad Valorem Tax Reduction Fund created under Section 37-61-35. On





193 or before August 15, 2000, and each succeeding month thereafter,  
194 two and two hundred sixty-six one-thousandths percent (2.266%) of  
195 the total sales tax revenue collected during the preceding month  
196 under the provisions of this chapter, except that collected under  
197 the provisions of Section 27-65-17(2), shall be deposited into the  
198 School Ad Valorem Tax Reduction Fund created under Section  
199 37-61-35 until such time that the total amount deposited into the  
200 fund during a fiscal year equals Forty-two Million Dollars  
201 (\$42,000,000.00). Thereafter, the amounts diverted under this  
202 subsection (7) during the fiscal year in excess of Forty-two  
203 Million Dollars (\$42,000,000.00) shall be deposited into the  
204 Education Enhancement Fund created under Section 37-61-33 for  
205 appropriation by the Legislature as other education needs and  
206 shall not be subject to the percentage appropriation requirements  
207 set forth in Section 37-61-33.

208 (8) On or before August 15, 1992, and each succeeding month  
209 thereafter, nine and seventy-three one-thousandths percent  
210 (9.073%) of the total sales tax revenue collected during the  
211 preceding month under the provisions of this chapter, except that  
212 collected under the provisions of Section 27-65-17(2), shall be  
213 deposited into the Education Enhancement Fund created under  
214 Section 37-61-33.

215 (9) On or before August 15, 1994, and each succeeding month  
216 thereafter, from the revenue collected under this chapter during



217 the preceding month, Two Hundred Fifty Thousand Dollars  
218 (\$250,000.00) shall be paid into the State Aid Road Fund.

219 (10) On or before August 15, 1994, and each succeeding month  
220 thereafter through August 15, 1995, from the revenue collected  
221 under this chapter during the preceding month, Two Million Dollars  
222 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad  
223 Valorem Tax Reduction Fund established in Section 27-51-105.

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

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



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

250 (14) On or before August 15, 1998, and each succeeding month  
251 thereafter through July 15, 2005, that portion of the avails of  
252 the tax imposed in Section 27-65-23 that is derived from sales by  
253 cotton compresses or cotton warehouses and that would otherwise be  
254 paid into the General Fund shall be deposited in an amount not to  
255 exceed Two Million Dollars (\$2,000,000.00) into the special fund  
256 created under Section 69-37-39. On or before August 15, 2007, and  
257 each succeeding month thereafter through July 15, 2010, that  
258 portion of the avails of the tax imposed in Section 27-65-23 that  
259 is derived from sales by cotton compresses or cotton warehouses  
260 and that would otherwise be paid into the General Fund shall be  
261 deposited in an amount not to exceed Two Million Dollars  
262 (\$2,000,000.00) into the special fund created under Section  
263 69-37-39 until all debts or other obligations incurred by the  
264 Certified Cotton Growers Organization under the Mississippi Boll  
265 Weevil Management Act before January 1, 2007, are satisfied in  
266 full. On or before August 15, 2010, and each succeeding month



267 thereafter through July 15, 2011, fifty percent (50%) of that  
268 portion of the avails of the tax imposed in Section 27-65-23 that  
269 is derived from sales by cotton compresses or cotton warehouses  
270 and that would otherwise be paid into the General Fund shall be  
271 deposited into the special fund created under Section 69-37-39  
272 until such time that the total amount deposited into the fund  
273 during a fiscal year equals One Million Dollars (\$1,000,000.00).  
274 On or before August 15, 2011, and each succeeding month  
275 thereafter, that portion of the avails of the tax imposed in  
276 Section 27-65-23 that is derived from sales by cotton compresses  
277 or cotton warehouses and that would otherwise be paid into the  
278 General Fund shall be deposited into the special fund created  
279 under Section 69-37-39 until such time that the total amount  
280 deposited into the fund during a fiscal year equals One Million  
281 Dollars (\$1,000,000.00).

282 (15) Notwithstanding any other provision of this section to  
283 the contrary, on or before September 15, 2000, and each succeeding  
284 month thereafter, the sales tax revenue collected during the  
285 preceding month under the provisions of Section  
286 27-65-19(1)(d)(i)2, and 27-65-19(1)(d)(i)3 shall be deposited,  
287 without diversion, into the Telecommunications Ad Valorem Tax  
288 Reduction Fund established in Section 27-38-7.

289 (16) (a) On or before August 15, 2000, and each succeeding  
290 month thereafter, the sales tax revenue collected during the  
291 preceding month under the provisions of this chapter on the gross



292 proceeds of sales of a project as defined in Section 57-30-1 shall  
293 be deposited, after all diversions except the diversion provided  
294 for in subsection (1) of this section, into the Sales Tax  
295 Incentive Fund created in Section 57-30-3.

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

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

311 (18) [Repealed]

312 (19) (a) On or before August 15, 2005, and each succeeding  
313 month thereafter, the sales tax revenue collected during the  
314 preceding month under the provisions of this chapter on the gross  
315 proceeds of sales of a business enterprise located within a  
316 redevelopment project area under the provisions of Sections



317 57-91-1 through 57-91-11, and the revenue collected on the gross  
318 proceeds of sales from sales made to a business enterprise located  
319 in a redevelopment project area under the provisions of Sections  
320 57-91-1 through 57-91-11 (provided that such sales made to a  
321 business enterprise are made on the premises of the business  
322 enterprise), shall, except as otherwise provided in this  
323 subsection (19), be deposited, after all diversions, into the  
324 Redevelopment Project Incentive Fund as created in Section  
325 57-91-9.

326 (b) For a municipality participating in the Economic  
327 Redevelopment Act created in Sections 57-91-1 through 57-91-11,  
328 the diversion provided for in subsection (1) of this section  
329 attributable to the gross proceeds of sales of a business  
330 enterprise located within a redevelopment project area under the  
331 provisions of Sections 57-91-1 through 57-91-11, and attributable  
332 to the gross proceeds of sales from sales made to a business  
333 enterprise located in a redevelopment project area under the  
334 provisions of Sections 57-91-1 through 57-91-11 (provided that  
335 such sales made to a business enterprise are made on the premises  
336 of the business enterprise), shall be deposited into the  
337 Redevelopment Project Incentive Fund as created in Section  
338 57-91-9, as follows:

339 (i) For the first six (6) years in which payments  
340 are made to a developer from the Redevelopment Project Incentive



341 Fund, one hundred percent (100%) of the diversion shall be  
342 deposited into the fund;

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

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

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

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

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



366 (21) (a) On or before April 15, 2007, and each succeeding  
367 month thereafter through June 15, 2013, One Hundred Fifty Thousand  
368 Dollars (\$150,000.00) of the sales tax revenue collected during  
369 the preceding month under the provisions of this chapter shall be  
370 deposited into the MMEIA Tax Incentive Fund created in Section  
371 57-101-3.

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

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

384 (23) On or before August 15, 2018, and each succeeding month  
385 thereafter, eighteen and one-half percent (18-1/2%) of the total  
386 sales tax revenue collected during the preceding month under the  
387 provisions of this chapter, except that collected under the  
388 provisions of Sections 27-65-15, 27-65-19(3), 27-65-21 and  
389 27-65-24, on business activities within a county that occur  
390 outside of the municipalities in the county shall be allocated for





391 distribution to the county and paid to the county. Monies  
392 allocated to a county pursuant to this subsection (23) shall not  
393 be considered by the county as general fund revenue but shall be  
394 dedicated to and expended solely for street and road construction,  
395 repair and/or maintenance. The amount paid to a county under this  
396 subsection (23) shall be in addition to any other funds allocated  
397 for distribution to the various counties under this section.

398 ( \* \* \*24) The remainder of the amounts collected under the  
399 provisions of this chapter shall be paid into the State Treasury  
400 to the credit of the General Fund.

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

409 (b) (i) Except as otherwise provided in subparagraph  
410 (ii) of this paragraph, if any funds have been erroneously  
411 disbursed to any municipality or county or any overpayment of tax  
412 is recovered by the taxpayer, the commissioner may make correction  
413 and adjust the error or overpayment with the municipality or  
414 county by withholding the necessary funds from any later payment  
415 to be made to the municipality or county.



416 (ii) Subject to the provisions of Sections  
417 27-65-51 and 27-65-53, if any funds have been erroneously  
418 disbursed to a municipality under subsection (1) of this section  
419 for a period of three (3) years or more, the maximum amount that  
420 may be recovered or withheld from the municipality is the total  
421 amount of funds erroneously disbursed for a period of three (3)  
422 years beginning with the date of the first erroneous disbursement.  
423 However, if during such period, a municipality provides written  
424 notice to the Department of Revenue indicating the erroneous  
425 disbursement of funds, then the maximum amount that may be  
426 recovered or withheld from the municipality is the total amount of  
427 funds erroneously disbursed for a period of one (1) year beginning  
428 with the date of the first erroneous disbursement.

429 **SECTION 2.** Section 27-65-53, Mississippi Code of 1972, is  
430 amended as follows:

431 27-65-53. If the commissioner finds that the taxpayer has  
432 overpaid his tax for any reason and the taxpayer has discontinued  
433 business and there is no subsequent liability upon which the  
434 excess may be credited, or if the amount of the excess so paid  
435 shall exceed the estimated liability for the next twelve (12)  
436 months, the excess shall be refunded to the taxpayer. Such amount  
437 shall be certified to the State Auditor of Public Accounts by the  
438 commission. The said auditor is hereby authorized to make such  
439 investigation and audit of the claim as he finds necessary. If he  
440 finds that the commissioner is correct in his determination, the



441 auditor may issue his warrant to the State Treasurer in favor of  
442 the taxpayer for the amount of tax erroneously paid into the State  
443 Treasury, such refunds to be made from current sales tax  
444 collections. If part of the overpayment has been disbursed to any  
445 municipality \* \* \*, state institution of higher learning or  
446 county, under authority of Section 27-65-75, the  
447 municipality \* \* \*, state institution of higher learning or  
448 county, having erroneously received the money, shall adjust the  
449 amount with the commissioner, or the overpayment may be withheld  
450 by the state from any funds due by the state to the  
451 municipality \* \* \*, state institution of higher learning or  
452 county.

453         Provided, that where the taxpayer has overpaid his tax, the  
454 commissioner may give credit for same and allow the taxpayer to  
455 take credit on a subsequent return or, if necessary, in his  
456 discretion, have the taxpayer file for a refund as provided  
457 herein.

458         If any overpayment of tax as reflected in an application or  
459 amended return, or both, filed by the taxpayer, and verified by  
460 the commissioner or otherwise determined to be due by the  
461 commissioner or commission, is not refunded or credited to a  
462 taxpayer's account within ninety (90) days after the application  
463 or amended return is filed or the date the commission or  
464 commissioner determines a refund is due, whichever is later,  
465 interest at the rate of one percent (1%) per month shall be



466 allowed on such overpayment computed for the period after  
467 expiration of the ninety-day period provided herein to the date of  
468 payment.

469           **SECTION 3.** This act shall take effect and be in force from  
470 and after July 1, 2018.

