

By: Representative Hughes

To: Ways and Means

HOUSE BILL NO. 458

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



Capitol Complex Improvement District Project Fund created in
Section 29-5-215. On or before August 15, 2019, and each
succeeding month thereafter until August 14, 2020, four percent
(4%) 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 the corporate limits
of the City of Jackson, Mississippi, shall be deposited into the
Capitol Complex Improvement District Project Fund created in
Section 29-5-215. On or before August 15, 2020, and each
succeeding month thereafter, six percent (6%) 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 the corporate limits of
the City of Jackson, Mississippi, shall be deposited into the
Capitol Complex Improvement District Project Fund created in
Section 29-5-215.

(2) On or before September 15, 1987, and each succeeding
month thereafter, from the revenue collected under this chapter
during the preceding month, One Million One Hundred Twenty-five
Thousand Dollars (\$1,125,000.00) shall be allocated for
distribution to municipal corporations as defined under subsection
(1) of this section in the proportion that the number of gallons
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



credit of the State Highway Fund to be used to fund that highway program. The Mississippi Department of Transportation shall 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.



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



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 until such time that the total amount deposited into the fund during a fiscal year equals One Million Dollars (\$1,000,000.00). On or before August 15, 2011, and each succeeding month thereafter, 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 until such time that the total amount deposited into the fund during a fiscal year equals One Million Dollars (\$1,000,000.00).

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

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



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

(b) On or before August 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 57-26-1 through 57-26-5, shall be deposited, after the diversions required in subsections (7) and (8) of this section, into the Tourism Project Sales Tax Incentive Fund created in Section 57-26-3.

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

(18) [Repealed]

(19) (a) On or before August 15, 2005, and each succeeding month thereafter, the sales tax revenue collected during the preceding month under the provisions of this chapter on 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 the revenue collected on 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, 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) On or before August 15, 2019, and each succeeding month thereafter, 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 county that occur outside of the municipalities in the county shall be allocated for



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

(* * *24) 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.

(* * *25) (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.

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



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

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

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



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

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

If any overpayment of tax as reflected in an application or amended return, or both, filed by the taxpayer, and verified by the commissioner or otherwise determined to be due by the commissioner or * * * department, is not refunded or credited to a taxpayer's account within ninety (90) days after the application or amended return is filed or the date the * * * department or commissioner determines a refund is due, whichever is later, 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, 2019.

