

By: Senator(s) Gordon

To: Appropriations

SENATE BILL NO. 2524

1 AN ACT TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972,
2 TO DELAY UNTIL 2006 THE SALES TAX DIVERSION THAT IS TO BE
3 DEPOSITED INTO THE SPECIAL FUNDS TRANSFER FUND; TO AMEND SECTION
4 10, CHAPTER 595, LAWS OF 2004, TO CONFORM TO THE PRECEDING
5 SECTION; AND FOR RELATED PURPOSES.

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

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

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

12 (1) On or before August 15, 1992, and each succeeding month
13 thereafter through July 15, 1993, eighteen percent (18%) of the
14 total sales tax revenue collected during the preceding month under
15 the provisions of this chapter, except that collected under the
16 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
17 business activities within a municipal corporation shall be
18 allocated for distribution to the municipality and paid to the
19 municipal corporation. On or before August 15, 1993, and each
20 succeeding month thereafter, eighteen and one-half percent
21 (18-1/2%) of the total sales tax revenue collected during the
22 preceding month under the provisions of this chapter, except that
23 collected under the provisions of Sections 27-65-15, 27-65-19(3)
24 and 27-65-21, on business activities within a municipal
25 corporation shall be allocated for distribution to the
26 municipality and paid to the municipal corporation.

27 A municipal corporation, for the purpose of distributing the
28 tax under this subsection, shall mean and include all incorporated
29 cities, towns and villages.

30 Monies allocated for distribution and credited to a municipal
31 corporation under this subsection may be pledged as security for
32 any loan received by the municipal corporation for the purpose of
33 capital improvements as authorized under Section 57-1-303, or
34 loans as authorized under Section 57-44-7, or water systems
35 improvements as authorized under Section 41-3-16.

36 In any county having a county seat that is not an
37 incorporated municipality, the distribution provided under this
38 subsection shall be made as though the county seat was an
39 incorporated municipality; however, the distribution to the
40 municipality shall be paid to the county treasury in which the
41 municipality is located, and those funds shall be used for road,
42 bridge and street construction or maintenance in the county.

43 (2) On or before September 15, 1987, and each succeeding
44 month thereafter, from the revenue collected under this chapter
45 during the preceding month One Million One Hundred Twenty-five
46 Thousand Dollars (\$1,125,000.00) shall be allocated for
47 distribution to municipal corporations as defined under subsection
48 (1) of this section in the proportion that the number of gallons
49 of gasoline and diesel fuel sold by distributors to consumers and
50 retailers in each such municipality during the preceding fiscal
51 year bears to the total gallons of gasoline and diesel fuel sold
52 by distributors to consumers and retailers in municipalities
53 statewide during the preceding fiscal year. The State Tax
54 Commission shall require all distributors of gasoline and diesel
55 fuel to report to the commission monthly the total number of
56 gallons of gasoline and diesel fuel sold by them to consumers and
57 retailers in each municipality during the preceding month. The
58 State Tax Commission shall have the authority to promulgate such
59 rules and regulations as is necessary to determine the number of

60 gallons of gasoline and diesel fuel sold by distributors to
61 consumers and retailers in each municipality. In determining the
62 percentage allocation of funds under this subsection for the
63 fiscal year beginning July 1, 1987, and ending June 30, 1988, the
64 State Tax Commission may consider gallons of gasoline and diesel
65 fuel sold for a period of less than one (1) fiscal year. For the
66 purposes of this subsection, the term "fiscal year" means the
67 fiscal year beginning July 1 of a year.

68 (3) On or before September 15, 1987, and on or before the
69 fifteenth day of each succeeding month, until the date specified
70 in Section 65-39-35, the proceeds derived from contractors' taxes
71 levied under Section 27-65-21 on contracts for the construction or
72 reconstruction of highways designated under the highway program
73 created under Section 65-3-97 shall, except as otherwise provided
74 in Section 31-17-127, be deposited into the State Treasury to the
75 credit of the State Highway Fund to be used to fund that highway
76 program. The Mississippi Department of Transportation shall
77 provide to the State Tax Commission such information as is
78 necessary to determine the amount of proceeds to be distributed
79 under this subsection.

80 (4) On or before August 15, 1994, and on or before the
81 fifteenth day of each succeeding month through July 15, 1999, from
82 the proceeds of gasoline, diesel fuel or kerosene taxes as
83 provided in Section 27-5-101(a)(ii)1, Four Million Dollars
84 (\$4,000,000.00) shall be deposited in the State Treasury to the
85 credit of a special fund designated as the "State Aid Road Fund,"
86 created by Section 65-9-17. On or before August 15, 1999, and on
87 or before the fifteenth day of each succeeding month, from the
88 total amount of the proceeds of gasoline, diesel fuel or kerosene
89 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million
90 Dollars (\$4,000,000.00) or an amount equal to twenty-three and
91 one-fourth percent (23.25%) of those funds, whichever is the
92 greater amount, shall be deposited in the State Treasury to the

93 credit of the "State Aid Road Fund," created by Section 65-9-17.
94 Those funds shall be pledged to pay the principal of and interest
95 on state aid road bonds heretofore issued under Sections 19-9-51
96 through 19-9-77, in lieu of and in substitution for the funds
97 previously allocated to counties under this section. Those funds
98 may not be pledged for the payment of any state aid road bonds
99 issued after April 1, 1981; however, this prohibition against the
100 pledging of any such funds for the payment of bonds shall not
101 apply to any bonds for which intent to issue those bonds has been
102 published, for the first time, as provided by law before March 29,
103 1981. From the amount of taxes paid into the special fund under
104 this subsection and subsection (9) of this section, there shall be
105 first deducted and paid the amount necessary to pay the expenses
106 of the Office of State Aid Road Construction, as authorized by the
107 Legislature for all other general and special fund agencies. The
108 remainder of the fund shall be allocated monthly to the several
109 counties in accordance with the following formula:

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

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

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

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

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

126 Monies allocated to a county from the State Aid Road Fund for
127 fiscal year 1995 or any fiscal year thereafter that exceed the
128 amount of funds allocated to that county from the State Aid Road
129 Fund for fiscal year 1994, first must be expended by the county
130 for replacement or rehabilitation of bridges on the state aid road
131 system that have a sufficiency rating of less than twenty-five
132 (25), according to National Bridge Inspection standards before
133 the monies may be approved for expenditure by the State Aid Road
134 Engineer on other projects that qualify for the use of state aid
135 road funds.

136 Any reference in the general laws of this state or the
137 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
138 construed to refer and apply to subsection (4) of Section
139 27-65-75.

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

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

151 (7) On or before August 15, 1992, and each succeeding month
152 thereafter through July 15, 2000, two and two hundred sixty-six
153 one-thousandths percent (2.266%) of the total sales tax revenue
154 collected during the preceding month under the provisions of this
155 chapter, except that collected under the provisions of Section
156 27-65-17(2) shall be deposited by the commission into the School
157 Ad Valorem Tax Reduction Fund created under Section 37-61-35. On
158 or before August 15, 2000, and each succeeding month thereafter,

159 two and two hundred sixty-six one-thousandths percent (2.266%) of
160 the total sales tax revenue collected during the preceding month
161 under the provisions of this chapter, except that collected under
162 the provisions of Section 27-65-17(2), shall be deposited into the
163 School Ad Valorem Tax Reduction Fund created under Section
164 37-61-35 until such time that the total amount deposited into the
165 fund during a fiscal year equals Forty-two Million Dollars
166 (\$42,000,000.00). Thereafter, the amounts diverted under this
167 subsection (7) during the fiscal year in excess of Forty-two
168 Million Dollars (\$42,000,000.00) shall be deposited into the
169 Education Enhancement Fund created under Section 37-61-33 for
170 appropriation by the Legislature as other education needs and
171 shall not be subject to the percentage appropriation requirements
172 set forth in Section 37-61-33.

173 (8) On or before August 15, 1992, and each succeeding month
174 thereafter, nine and seventy-three one-thousandths percent
175 (9.073%) of the total sales tax revenue collected during the
176 preceding month under the provisions of this chapter, except that
177 collected under the provisions of Section 27-65-17(2), shall be
178 deposited into the Education Enhancement Fund created under
179 Section 37-61-33.

180 (9) On or before August 15, 1994, and each succeeding month
181 thereafter, from the revenue collected under this chapter during
182 the preceding month, Two Hundred Fifty Thousand Dollars
183 (\$250,000.00) shall be paid into the State Aid Road Fund.

184 (10) On or before August 15, 1994, and each succeeding month
185 thereafter through August 15, 1995, from the revenue collected
186 under this chapter during the preceding month, Two Million Dollars
187 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
188 Valorem Tax Reduction Fund established in Section 27-51-105.

189 (11) Notwithstanding any other provision of this section to
190 the contrary, on or before February 15, 1995, and each succeeding
191 month thereafter, the sales tax revenue collected during the

192 preceding month under the provisions of Section 27-65-17(2) and
193 the corresponding levy in Section 27-65-23 on the rental or lease
194 of private carriers of passengers and light carriers of property
195 as defined in Section 27-51-101 shall be deposited, without
196 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund
197 established in Section 27-51-105.

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

207 (13) On or before July 15, 1994, and on or before the
208 fifteenth day of each succeeding month thereafter, that portion of
209 the avails of the tax imposed in Section 27-65-22 that is derived
210 from activities held on the Mississippi state fairgrounds complex,
211 shall be paid into a special fund that is created in the State
212 Treasury and shall be expended upon legislative appropriation
213 solely to defray the costs of repairs and renovation at the Trade
214 Mart and Coliseum.

215 (14) On or before August 15, 1998, and each succeeding month
216 thereafter through July 15, 2005, that portion of the avails of
217 the tax imposed in Section 27-65-23 that is derived from sales by
218 cotton compresses or cotton warehouses and that would otherwise be
219 paid into the General Fund, shall be deposited in an amount not to
220 exceed Two Million Dollars (\$2,000,000.00) into the special fund
221 created under Section 69-37-39.

222 (15) Notwithstanding any other provision of this section to
223 the contrary, on or before September 15, 2000, and each succeeding
224 month thereafter, the sales tax revenue collected during the

225 preceding month under the provisions of Section 27-65-19(1)(f) and
226 (g)(i)2, shall be deposited, without diversion, into the
227 Telecommunications Ad Valorem Tax Reduction Fund established in
228 Section 27-38-7.

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

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

243 (18) On or before August 15, 2006, and each succeeding month
244 thereafter through July 15, 2007, from the sales tax revenue
245 collected during the preceding month under the provisions of this
246 chapter, Two Million Five Hundred Thousand Dollars (\$2,500,000.00)
247 shall be deposited into the Special Funds Transfer Fund created in
248 Section 4 of Chapter 556, Laws of 2003.

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

252 (20) It shall be the duty of the municipal officials of any
253 municipality that expands its limits, or of any community that
254 incorporates as a municipality, to notify the commissioner of
255 that action thirty (30) days before the effective date. Failure
256 to so notify the commissioner shall cause the municipality to
257 forfeit the revenue that it would have been entitled to receive

258 during this period of time when the commissioner had no knowledge
259 of the action. If any funds have been erroneously disbursed to
260 any municipality or any overpayment of tax is recovered by the
261 taxpayer, the commissioner may make correction and adjust the
262 error or overpayment with the municipality by withholding the
263 necessary funds from any later payment to be made to the
264 municipality.

265 **SECTION 2.** Section 10, Chapter 595, Laws of 2004, is amended
266 as follows:

267 Section 4. (1) There is created in the State Treasury a
268 special fund to be known as the Special Funds Transfer Fund, which
269 shall be comprised of the monies required to be deposited into the
270 fund under Section 27-65-75(18) for the repayment of certain funds
271 transferred to the Budget Contingency Fund. Upon receipt of
272 monies deposited into the fund under Section 27-65-75(18), the
273 State Treasurer shall transfer those monies to the special funds
274 from which transfers were made under Sections 2 and 3 of Chapter
275 556, Laws of 2003.

276 (2) Unexpended amounts remaining in the fund on September
277 30, 2007, shall lapse into the State General Fund, and any
278 interest earned or investment earnings on amounts in the fund
279 shall be deposited to the credit of the fund.

280 **SECTION 3.** This act shall take effect and be in force from
281 and after July 1, 2005.