

By: Representatives Reynolds, Guice

To: Ways and Means

HOUSE BILL NO. 1056  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 27-55-45, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE A REFUND OF GASOLINE AND MOTOR FUEL TAXES THAT WERE  
3 ERRONEOUSLY OR ILLEGALLY COLLECTED FROM CERTAIN DISTRIBUTORS OF  
4 GASOLINE OR OTHER PERSONS; TO PROVIDE THAT THE STATE TAX  
5 COMMISSION MAY AUTHORIZE SUCH A REFUND REGARDLESS OF WHETHER A  
6 CLAIM FOR THE REFUND IS FILED WITHIN THREE YEARS FROM THE DATE OF  
7 PAYMENT OF THE TAXES ERRONEOUSLY OR ILLEGALLY COLLECTED; TO LIMIT  
8 THE TOTAL AMOUNT THAT MAY BE REFUNDED; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 27-55-45, Mississippi Code of 1972, is  
11 amended as follows:

12 27-55-45. In the event that any taxes or penalties imposed  
13 by this article have been erroneously or illegally collected from  
14 a distributor of gasoline or other person, the commission may,  
15 upon approval by the commission, permit such distributor or other  
16 person to take credit against a subsequent tax report for the  
17 amount of the erroneous overpayment or the amount thereof may be  
18 refunded to the distributor or other person in the same manner as  
19 provided in Section 27-55-19. Provided, however, in cases where  
20 the approved claim exceeds Twenty-five Thousand Dollars  
21 (\$25,000.00), the claimant may not take credit on his monthly  
22 reports for more than Twenty-five Thousand Dollars (\$25,000.00)  
23 per month until such approved amount is depleted.

24 No refunds shall be made under the provisions of this section  
25 unless a written claim is filed setting forth the circumstances by  
26 reason of which such refund should be allowed. Said claim shall  
27 be in such form as the commission shall prescribe, and, except as  
28 otherwise provided in this section, shall be filed with the  
29 commission within three (3) years from the date of payment of the  
30 taxes erroneously or illegally collected. Nothing in this article

31 shall be construed to prohibit a refund or credit for tax paid on  
32 gasoline not subject to tax or which is exempt from tax, provided  
33 there has not been a willful disregard of the provisions of this  
34 article and further provided that the claim therefor is filed  
35 within three (3) years.

36 For a distributor of gasoline or any other person from which  
37 taxes were erroneously or illegally collected between December  
38 2002 and June 2003 in a state other than Mississippi, the  
39 commission may, upon approval by the commission, authorize a  
40 refund to the distributor or other person for the amount of taxes  
41 erroneously or illegally collected regardless of whether a claim  
42 for the refund is filed within three (3) years from the date of  
43 payment of the taxes erroneously or illegally collected. The  
44 total amount that may be refunded under this paragraph shall not  
45 exceed One Hundred Sixty Thousand Dollars (\$160,000.00) in the  
46 aggregate. This paragraph shall stand repealed from and after  
47 October 1, 2007.

48 **SECTION 2.** This act shall take effect and be in force from  
49 and after its passage.