

By: Representatives Davis, Formby

To: Ways and Means

## HOUSE BILL NO. 1353

1 AN ACT TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE FOR THE PAYMENT OF A PERCENTAGE OF SALES TAX REVENUES  
3 GENERATED ON BUSINESS ACTIVITIES WITHIN A COUNTY, INCLUDING  
4 WITHIN THE CORPORATE LIMITS OF ANY MUNICIPALITY WITHIN THE COUNTY,  
5 SHALL BE PAID TO SUCH COUNTY; TO AMEND SECTION 27-65-53,  
6 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED  
7 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. On or before August 15, 1993, and each  
22 succeeding month thereafter, eighteen and one-half percent  
23 (18-1/2%) of the total sales tax revenue collected during the  
24 preceding month under the provisions of this chapter, except that  
25 collected under the provisions of Sections 27-65-15, 27-65-19(3)  
26 and 27-65-21, on business activities within a municipal  
27 corporation shall be allocated for distribution to the  
28 municipality and paid to the municipal corporation.

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

32           Monies allocated for distribution and credited to a municipal  
33 corporation under this subsection may be pledged as security for a  
34 loan if the distribution received by the municipal corporation is  
35 otherwise authorized or required by law to be pledged as security  
36 for such a loan.

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

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

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

62 retailers in each such municipality during the preceding fiscal  
63 year bears to the total gallons of gasoline and diesel fuel sold  
64 by distributors to consumers and retailers in municipalities  
65 statewide during the preceding fiscal year. The State Tax  
66 Commission shall require all distributors of gasoline and diesel  
67 fuel to report to the commission monthly the total number of  
68 gallons of gasoline and diesel fuel sold by them to consumers and  
69 retailers in each municipality during the preceding month. The  
70 State Tax Commission shall have the authority to promulgate such  
71 rules and regulations as is necessary to determine the number of  
72 gallons of gasoline and diesel fuel sold by distributors to  
73 consumers and retailers in each municipality. In determining the  
74 percentage allocation of funds under this subsection for the  
75 fiscal year beginning July 1, 1987, and ending June 30, 1988, the  
76 State Tax Commission may consider gallons of gasoline and diesel  
77 fuel sold for a period of less than one (1) fiscal year. For the  
78 purposes of this subsection, the term "fiscal year" means the  
79 fiscal year beginning July 1 of a year.

80 (3) On or before September 15, 1987, and on or before the  
81 fifteenth day of each succeeding month, until the date specified  
82 in Section 65-39-35, the proceeds derived from contractors' taxes  
83 levied under Section 27-65-21 on contracts for the construction or  
84 reconstruction of highways designated under the highway program  
85 created under Section 65-3-97 shall, except as otherwise provided  
86 in Section 31-17-127, be deposited into the State Treasury to the  
87 credit of the State Highway Fund to be used to fund that highway  
88 program. The Mississippi Department of Transportation shall  
89 provide to the State Tax Commission such information as is  
90 necessary to determine the amount of proceeds to be distributed  
91 under this subsection.

92 (4) On or before August 15, 1994, and on or before the  
93 fifteenth day of each succeeding month through July 15, 1999, from  
94 the proceeds of gasoline, diesel fuel or kerosene taxes as

95 provided in Section 27-5-101(a)(ii)1, Four Million Dollars  
96 (\$4,000,000.00) shall be deposited in the State Treasury to the  
97 credit of a special fund designated as the "State Aid Road Fund,"  
98 created by Section 65-9-17. On or before August 15, 1999, and on  
99 or before the fifteenth day of each succeeding month, from the  
100 total amount of the proceeds of gasoline, diesel fuel or kerosene  
101 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million  
102 Dollars (\$4,000,000.00) or an amount equal to twenty-three and  
103 one-fourth percent (23-1/4%) of those funds, whichever is the  
104 greater amount, shall be deposited in the State Treasury to the  
105 credit of the "State Aid Road Fund," created by Section 65-9-17.  
106 Those funds shall be pledged to pay the principal of and interest  
107 on state aid road bonds heretofore issued under Sections 19-9-51  
108 through 19-9-77, in lieu of and in substitution for the funds  
109 previously allocated to counties under this section. Those funds  
110 may not be pledged for the payment of any state aid road bonds  
111 issued after April 1, 1981; however, this prohibition against the  
112 pledging of any such funds for the payment of bonds shall not  
113 apply to any bonds for which intent to issue those bonds has been  
114 published, for the first time, as provided by law before March 29,  
115 1981. From the amount of taxes paid into the special fund under  
116 this subsection and subsection (9) of this section, there shall be  
117 first deducted and paid the amount necessary to pay the expenses  
118 of the Office of State Aid Road Construction, as authorized by the  
119 Legislature for all other general and special fund agencies. The  
120 remainder of the fund shall be allocated monthly to the several  
121 counties in accordance with the following formula:

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

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

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

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

135           The amount of funds allocated to any county under this  
136 subsection for any fiscal year after fiscal year 1994 shall not be  
137 less than the amount allocated to the county for fiscal year 1994.

138           Any reference in the general laws of this state or the  
139 Mississippi Code of 1972 to Section 27-5-105 shall mean and be  
140 construed to refer and apply to subsection (4) of Section  
141 27-65-75.

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

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

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

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

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

182 (9) On or before August 15, 1994, and each succeeding month  
183 thereafter, from the revenue collected under this chapter during  
184 the preceding month, Two Hundred Fifty Thousand Dollars  
185 (\$250,000.00) shall be paid into the State Aid Road Fund.

186 (10) On or before August 15, 1994, and each succeeding month  
187 thereafter through August 15, 1995, from the revenue collected  
188 under this chapter during the preceding month, Two Million Dollars  
189 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad  
190 Valorem Tax Reduction Fund established in Section 27-51-105.

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

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

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

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

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

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

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

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

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

245 (18) On or before August 15, 2007, and each succeeding month  
246 thereafter through July 15, 2008, from the sales tax revenue  
247 collected during the preceding month under the provisions of this  
248 chapter, Two Million Five Hundred Thousand Dollars (\$2,500,000.00)  
249 shall be deposited into the Special Funds Transfer Fund created in  
250 Section 4 of Chapter 556, Laws of 2003.

251 (19) (a) On or before August 15, 2005, and each succeeding  
252 month thereafter, the sales tax revenue collected during the  
253 preceding month under the provisions of this chapter on the gross  
254 proceeds of sales of a business enterprise located within a  
255 redevelopment project area under the provisions of Sections  
256 57-91-1 through 57-91-11, and the revenue collected on the gross  
257 proceeds of sales from sales made to a business enterprise located  
258 in a redevelopment project area under the provisions of Sections  
259 57-91-1 through 57-91-11 (provided that such sales made to a



260 business enterprise are made on the premises of the business  
261 enterprise), shall, except as otherwise provided in this  
262 subsection (19), be deposited, after all diversions, into the  
263 Redevelopment Project Incentive Fund as created in Section  
264 57-91-9.

265 (b) For a municipality participating in the Economic  
266 Redevelopment Act created in Sections 57-91-1 through 57-91-11,  
267 the diversion provided for in subsection (1) of this section  
268 attributable to the gross proceeds of sales of a business  
269 enterprise located within a redevelopment project area under the  
270 provisions of Sections 57-91-1 through 57-91-11, and attributable  
271 to the gross proceeds of sales from sales made to a business  
272 enterprise located in a redevelopment project area under the  
273 provisions of Sections 57-91-1 through 57-91-11 (provided that  
274 such sales made to a business enterprise are made on the premises  
275 of the business enterprise), shall be deposited into the  
276 Redevelopment Project Incentive Fund as created in Section  
277 57-91-9, as follows:

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

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

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

290 (iv) For the ninth year in which such payments are  
291 made to a developer from the Redevelopment Project Incentive Fund,

292 sixty percent (60%) of the diversion shall be deposited into the  
293 fund; and

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

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

305 (21) On or before August 15, 2007, and each succeeding month  
306 thereafter, one percent (1%) of the total sales tax revenue  
307 collected during the preceding month under the provisions of this  
308 chapter, except that collected under the provisions of Sections  
309 27-65-15, 27-65-19(3) and 27-65-21, on business activities within  
310 a county (including within the corporate limits of any municipal  
311 corporation, as defined in subsection (1) of this section, within  
312 the county) shall be allocated for distribution to the county and  
313 paid to the county. The amount paid to a county under this  
314 subsection (21) shall be in addition to any other funds allocated  
315 for distribution to the various counties under this section.

316 (22) The remainder of the amounts collected under the  
317 provisions of this chapter shall be paid into the State Treasury  
318 to the credit of the General Fund.

319 (23) It shall be the duty of the municipal officials of any  
320 municipality that expands its limits, or of any community that  
321 incorporates as a municipality, to notify the commissioner of that  
322 action thirty (30) days before the effective date. Failure to so  
323 notify the commissioner shall cause the municipality to forfeit  
324 the revenue that it would have been entitled to receive during

325 this period of time when the commissioner had no knowledge of the  
326 action. If any funds have been erroneously disbursed to any  
327 municipality or county or any overpayment of tax is recovered by  
328 the taxpayer, the commissioner may make correction and adjust the  
329 error or overpayment with the municipality or county by  
330 withholding the necessary funds from any later payment to be made  
331 to the municipality or county.

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

334 27-65-53. If the commissioner finds that the taxpayer has  
335 overpaid his tax for any reason and the taxpayer has discontinued  
336 business and there is no subsequent liability upon which the  
337 excess may be credited, or if the amount of the excess so paid  
338 shall exceed the estimated liability for the next twelve (12)  
339 months, the excess shall be refunded to the taxpayer. Such amount  
340 shall be certified to the State Auditor of Public Accounts by the  
341 commission. The said auditor is hereby authorized to make such  
342 investigation and audit of the claim as he finds necessary. If he  
343 finds that the commissioner is correct in his determination, the  
344 auditor may issue his warrant to the State Treasurer in favor of  
345 the taxpayer for the amount of tax erroneously paid into the State  
346 Treasury, such refunds to be made from current sales tax  
347 collections. If part of the overpayment has been disbursed to any  
348 municipality, county or state institution of higher learning,  
349 under authority of Section 27-65-75, the municipality, county or  
350 state institution of higher learning, having erroneously received  
351 the money, shall adjust the amount with the commissioner, or the  
352 overpayment may be withheld by the state from any funds due by the  
353 state to the municipality, county or state institution of higher  
354 learning.

355 Provided, that where the taxpayer has overpaid his tax, the  
356 commissioner may give credit for same and allow the taxpayer to  
357 take credit on a subsequent return or, if necessary, in his

358 discretion, have the taxpayer file for a refund as provided  
359 herein.

360         If any overpayment of tax as reflected in an application or  
361 amended return, or both, filed by the taxpayer, and verified by  
362 the commissioner or otherwise determined to be due by the  
363 commissioner or commission, is not refunded or credited to a  
364 taxpayer's account within ninety (90) days after the application  
365 or amended return is filed or the date the commission or  
366 commissioner determines a refund is due, whichever is later,  
367 interest at the rate of one percent (1%) per month shall be  
368 allowed on such overpayment computed for the period after  
369 expiration of the ninety-day period provided herein to the date of  
370 payment.

371         **SECTION 3.** This act shall take effect and be in force from  
372 and after July 1, 2007.