MISSISSIPPI LEGISLATURE REGULAR SESSION 2017

By: Representatives Arnold, Turner, Rushing, Hughes, Miles

To: Ways and Means

HOUSE BILL NO. 310

AN ACT TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT AN ADDITIONAL ONE AND ONE-HALF PERCENT OF THE SALES TAX REVENUE COLLECTED ON BUSINESS ACTIVITIES WITHIN MUNICIPALITIES WITH A POPULATION OF LESS THAN 10,000 ACCORDING TO THE 2010 FEDERAL DECENNIAL CENSUS SHALL BE PAID TO SUCH MUNICIPALITIES; TO PROVIDE THAT SUCH MONIES SHALL BE USED FOR STREET, ROAD AND BRIDGE CONSTRUCTION, REPAIR AND MAINTENANCE; TO PROVIDE THAT SUCH ADDITIONAL PERCENTAGE OF SALES TAX REVENUE SHALL NOT BE PAID TO SUCH A MUNICIPALITY THAT, UNDER THE AUTHORITY OF A LOCAL AND PRIVATE LAW OF THE STATE OF MISSISSIPPI, LEVIES A SALES TAX OR SIMILAR TAX ON GROSS PROCEEDS OF SALE OR GROSS INCOME THAT IS COLLECTED AND PAID TO THE DEPARTMENT OF REVENUE IN THE SAME OR SIMILAR MANNER THAT STATE SALES TAXES ARE COLLECTED AND PAID; AND FOR RELATED PURPOSES.

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

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

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

(1) (a) (i) On or before August 15, 1992, and each succeeding month thereafter through July 15, 1993, eighteen percent (18%) 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) and 27-65-21, on business activities within a municipal corporation shall be allocated for distribution to the municipality and paid to the municipal corporation. Except as otherwise provided in this paragraph (a), on or before August 15, 1993, 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 municipal corporation shall be allocated for distribution to the municipality and paid to the municipal corporation.

(ii) 1. Except as otherwise provided in this paragraph (a), on or before August 15, 2017, and each succeeding month thereafter, one and one-half percent (1-1/2%) 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 municipal corporation with a population of less than ten thousand (10,000) according to the 2010 federal decennial census shall be allocated for distribution to the municipality and paid to the municipal corporation. However, no monies shall be allocated for and distributed under this subparagraph (ii) to a municipality that, under the authority of a local and private law of the State of

Mississippi, levies a sales tax or similar tax on gross proceeds of sale or gross income, as the case may be, that is collected and paid to the Department of Revenue in the same or similar manner that state sales taxes are collected and paid.

2. Monies allocated to a municipality pursuant to this subparagraph (ii) shall not be considered by the municipality as general fund revenue but shall be dedicated to and expended solely for street, road and/or bridge construction, repair and/or maintenance. The amount paid to a municipality under this subparagraph (ii) shall be in addition to any other funds allocated for distribution and paid to the municipality under subparagraph (i) of this paragraph (a) or any other provision of this section.

(iii) *** * *** In the event the State Auditor issues a certificate of noncompliance pursuant to Section 21-35-31, the Department of Revenue shall withhold ten percent (10%) of the allocations and payments to the municipality that would otherwise be payable to the municipality under this paragraph (a) until such time that the department receives written notice of the cancellation of a certificate of noncompliance from the State Auditor.

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

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

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

(b) On or before August 15, 2006, 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) and 27-65-21, on business activities on the campus of a state institution of higher learning or community or junior college whose campus is not located within the corporate limits of a municipality, shall be allocated for distribution to the state institution of higher learning or community or junior college and paid to the state institution of higher learning or community or junior college.

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

(3) On or before September 15, 1987, and on or before the fifteenth day of each succeeding month, until the date specified

in Section 65-39-35, the proceeds derived from contractors' taxes levied under Section 27-65-21 on contracts for the construction or reconstruction of highways designated under the highway program created under Section 65-3-97 shall, except as otherwise provided 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.

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

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

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

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

(7) On or before August 15, 1992, and each succeeding month thereafter through July 15, 2000, two and two hundred sixty-six one-thousandths percent (2.266%) of the total sales tax revenue collected during the preceding month under the provisions of this

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

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

(9) On or before August 15, 1994, and each succeeding month 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) 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.

(24) (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 any overpayment of tax is recovered by the taxpayer, the commissioner may make correction and adjust the error or overpayment with the municipality by withholding the necessary funds from any later payment to be made to the municipality.

(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. This act shall take effect and be in force from and after July 1, 2017.

ST: Sales tax; provide additional diversion to certain municipalities, use revenue for street/road improvements.