

By: Senator(s) Smith

To: Finance

SENATE BILL NO. 2030

1 AN ACT TO AMEND SECTIONS 27-65-15, 27-65-17, 27-65-19,  
2 27-65-22, 27-65-23 AND 27-65-25, MISSISSIPPI CODE OF 1972, TO  
3 REDUCE THE SALES TAX ON ALL ITEMS CURRENTLY TAXED AT 7% TO 5%; AND  
4 FOR RELATED PURPOSES. BE IT ENACTED BY THE LEGISLATURE OF THE  
5 STATE OF MISSISSIPPI:

6  
7 SECTION 1. Section 27-65-15, Mississippi Code of 1972, is  
8 amended as follows:

9 27-65-15. Upon every person engaging or continuing within  
10 this state in the business of mining, quarrying, drilling or  
11 otherwise producing, or causing to be produced for sale, profit,  
12 or commercial use, limestone, sand, gravel, dirt, coal, lignite or  
13 other mineral or natural resource products, except timber, oil,  
14 natural gas and salt, there is hereby levied and assessed and  
15 shall be collected taxes as follows:

16 (a) Sales to consumers within this state shall be taxed  
17 under Section 27-65-17 or Section 27-65-19, as the case may be.

18 (b) Sales defined as wholesale or exempt, used by the  
19 producers as a component material of a contract taxable under  
20 Section 27-65-21, as a raw material of a manufactured product, or  
21 delivered outside this state, shall be taxed at five percent (5%)  
22 of the gross proceeds of sales, exclusive of delivery charges, or  
23 value when converted to use, whichever is greater, but not to  
24 exceed Five Cents (5¢) per ton with respect to sand, gravel, dirt,  
25 clay or limestone.

26 The commission shall prescribe equitable and uniform rules  
27 for ascertaining value.

28 All privilege taxes levied upon persons engaged in the

29 production of natural resource products by this chapter shall be a  
30 lien upon all such products so produced and such lien shall be  
31 entitled to preference over all judgments, executions,  
32 encumbrances or liens, whensoever created. All persons to or  
33 through whom the title to such products pass shall be jointly and  
34 severally liable for such tax until the same is paid in full.

35 The tax imposed in this section shall be collected by the  
36 commissioner from the person in charge of the production  
37 operations, and the commissioner is hereby authorized to make such  
38 investigations and inspections of the production operations, from  
39 time to time, as he may deem necessary for the purpose of  
40 ascertaining the correct amount of tax due.

41 SECTION 2. Section 27-65-17, Mississippi Code of 1972, is  
42 amended as follows:

43 27-65-17. (1) Upon every person engaging or continuing  
44 within this state in the business of selling any tangible personal  
45 property whatsoever there is hereby levied, assessed and shall be  
46 collected a tax equal to five percent (5%) of the gross proceeds  
47 of the retail sales of the business, except as otherwise provided  
48 herein.

49 Retail sales of farm tractors shall be taxed at the rate of  
50 one percent (1%) when made to farmers for agricultural purposes.

51 Retail sales of farm implements sold to farmers and used  
52 directly in the production of poultry, ratite, domesticated fish  
53 as defined in Section 69-7-501, livestock, livestock products,  
54 agricultural crops or ornamental plant crops or used for other  
55 agricultural purposes shall be taxed at the rate of three percent  
56 (3%) when used on the farm. The three percent (3%) rate shall  
57 also apply to all equipment used in logging, pulpwood operations  
58 or tree farming which is either (a) self-propelled or which is (b)  
59 mounted so that it is (i) permanently attached to other equipment  
60 which is self-propelled or (ii) permanently attached to other  
61 equipment drawn by a vehicle which is self-propelled.

62           Retail sales of aircraft, automobiles, trucks,  
63 truck-tractors, semitrailers and mobile homes shall be taxed at  
64 the rate of three percent (3%).

65           Sales of manufacturing machinery or manufacturing machine  
66 parts when made to a manufacturer or custom processor for plant  
67 use only when said machinery and machine parts will be used  
68 exclusively and directly within this state in manufacturing a  
69 commodity for sale, rental or in processing for a fee shall be  
70 taxed at the rate of one and one-half percent (1-1/2%).

71           Sales of materials for use in track and track structures to a  
72 railroad whose rates are fixed by the Interstate Commerce  
73 Commission or the Mississippi Public Service Commission shall be  
74 taxed at the rate of three percent (3%).

75           Sales of tangible personal property to electric power  
76 associations for use in the ordinary and necessary operation of  
77 their generating or distribution systems shall be taxed at the  
78 rate of one percent (1%).

79           Wholesale sales of beer shall be taxed at the rate of five  
80 percent (5%), and the retailer shall file a return and compute the  
81 retail tax on retail sales but may take credit for the amount of  
82 the tax paid to the wholesaler on said return covering the  
83 subsequent sales of same property, provided adequate invoices and  
84 records are maintained to substantiate the credit.

85           Wholesale sales of food and drink for human consumption to  
86 full service vending machine operators to be sold through vending  
87 machines located apart from and not connected with other taxable  
88 businesses shall be taxed at the rate of eight percent (8%).

89           A manufacturer selling at retail in this state shall be  
90 required to make returns of the gross proceeds of such sales and  
91 pay the tax imposed in this section.

92           Any person exercising any privilege taxable under Section  
93 27-65-15 and selling his natural resource products at wholesale or  
94 to exempt persons shall pay the tax levied by said section in lieu

95 of the tax levied by this section.

96 (2) From and after January 1, 1995, retail sales of private  
97 carriers of passengers and light carriers of property, as defined  
98 in Section 27-51-101, shall be taxed an additional two percent  
99 (2%).

100 SECTION 3. Section 27-65-19, Mississippi Code of 1972, is  
101 amended as follows:

102 27-65-19. (1) (a) Except as otherwise provided in this  
103 subsection, upon every person selling to consumers, electricity,  
104 current, power, potable water, steam, coal, natural gas, liquefied  
105 petroleum gas or other fuel, there is hereby levied, assessed and  
106 shall be collected a tax equal to five percent (5%) of the gross  
107 income of the business. Provided, gross income from sales to  
108 consumers of electricity, current, power, natural gas, liquefied  
109 petroleum gas or other fuel for residential heating, lighting or  
110 other residential noncommercial or nonagricultural use, and sales  
111 of potable water for residential, noncommercial or nonagricultural  
112 use shall be excluded from taxable gross income of the business.  
113 Provided further, upon every such seller using electricity,  
114 current, power, potable water, steam, coal, natural gas, liquefied  
115 petroleum gas or other fuel for nonindustrial purposes, there is  
116 hereby levied, assessed and shall be collected a tax equal to five  
117 percent (5%) of the cost or value of the product or service used.

118 (b) There is hereby levied, assessed and shall be  
119 collected a tax equal to one and one-half percent (1-1/2%) of the  
120 gross income of the business when the electricity, current, power,  
121 steam, coal, natural gas, liquefied petroleum gas or other fuel is  
122 sold to or used by a manufacturer, custom processor or public  
123 service company for industrial purposes, which shall include that  
124 used to generate electricity, to operate an electrical  
125 distribution or transmission system, to operate pipeline  
126 compressor or pumping stations or to operate railroad locomotives;  
127 provided, however, that:

128                   (i) From and after July 1, 2000, through June 30,  
129 2001, sales of fuel used to produce electric power by a company  
130 primarily engaged in the business of producing, generating or  
131 distributing electric power for sale shall be taxed at the rate of  
132 one and one-eighth percent (1.125%);

133                   (ii) From and after July 1, 2001, through June 30,  
134 2002, sales of fuel used to produce electric power by a company  
135 primarily engaged in the business of producing, generating or  
136 distributing electric power for sale shall be taxed at the rate of  
137 three-fourths of one percent (0.75%);

138                   (iii) From and after July 1, 2002, through June  
139 30, 2003, sales of fuel used to produce electric power by a  
140 company primarily engaged in the business of producing, generating  
141 or distributing electric power for sale shall be taxed at the rate  
142 of three-eighths of one percent (0.375%);

143                   (iv) From and after July 1, 2003, sales of fuel  
144 used to produce electric power by a company primarily engaged in  
145 the business of producing, generating or distributing electric  
146 power for sale shall be exempt from sales tax as provided in  
147 Section 27-65-107.

148                   (c) The one and one-half percent (1-1/2%) industrial  
149 rate provided for in this subsection shall also apply when the  
150 electricity, current, power, steam, coal, natural gas, liquefied  
151 petroleum gas or other fuel is sold to a producer or processor for  
152 use directly in the production of poultry or poultry products, the  
153 production of livestock and livestock products, the production of  
154 plants or food by commercial horticulturists, the processing of  
155 milk and milk products, the processing of poultry and livestock  
156 feed, and the irrigation of farm crops.

157                   (d) The one and one-half percent (1-1/2%) rate provided  
158 for in this subsection shall not apply to sales of fuel for  
159 automobiles, trucks, truck-tractors, buses, farm tractors or  
160 airplanes.

161 (e) Upon every person operating a telegraph or  
162 telephone business for the transmission of messages or  
163 conversations between points within this state, there is hereby  
164 levied, assessed and shall be collected, a tax equal to five  
165 percent (5%) of the gross income of such business, with no  
166 deduction or allowance for any part of an intrastate rate charge  
167 because of routing across a state line. However, any sale of a  
168 prepaid telephone calling card or prepaid authorization number, or  
169 both, shall be deemed to be the sale of tangible personal property  
170 subject only to such taxes imposed by law on the sale of tangible  
171 personal property. If the sale of a prepaid telephone calling  
172 card or prepaid authorization number does not take place at the  
173 vendor's place of business, it shall be conclusively determined to  
174 take place at the customer's shipping address. The  
175 reauthorization of a prepaid telephone calling card or a prepaid  
176 authorization number shall be conclusively determined to take  
177 place at the customer's billing address.

178 (2) Persons making sales to consumers of electricity,  
179 current, power, natural gas, liquefied petroleum gas or other fuel  
180 for residential heating, lighting or other residential  
181 noncommercial or nonagricultural use or sales of potable water for  
182 residential, noncommercial or nonagricultural use shall indicate  
183 on each statement rendered to customers that such charges are  
184 exempt from sales taxes.

185 (3) There is hereby levied, assessed and shall be paid on  
186 transportation charges on shipments moving between points within  
187 this state when paid directly by the consumer, a tax equal to the  
188 rate applicable to the sale of the property being transported.  
189 Such tax shall be reported and paid directly to the State Tax  
190 Commission by the consumer.

191 SECTION 4. Section 27-65-22, Mississippi Code of 1972, is  
192 amended as follows:

193 27-65-22. (1) Upon every person engaging or continuing in

194 any amusement business or activity, which shall include all manner  
195 and forms of entertainment and amusement, all forms of diversion,  
196 sport, recreation or pastime, shows, exhibitions, contests,  
197 displays, games or any other and all methods of obtaining  
198 admission charges, donations, contributions or monetary charges of  
199 any character, from the general public or a limited or selected  
200 number thereof, directly or indirectly in return for other than  
201 tangible property or specific personal or professional services,  
202 whether such amusement is held or conducted in a public or private  
203 building, hotel, tent, pavilion, lot or resort, enclosed or in the  
204 open, there is hereby levied, assessed and shall be collected a  
205 tax equal to five percent (5%) of the gross income received as  
206 admission, except as otherwise provided herein. In lieu of the  
207 rate set forth above, there is hereby imposed, levied and  
208 assessed, to be collected as hereinafter provided, a tax of three  
209 percent (3%) of gross revenue derived from sales of admission to  
210 publicly owned enclosed coliseums and auditoriums (except  
211 admissions to athletic contests between colleges and  
212 universities). There is hereby imposed, levied and assessed a tax  
213 of five percent (5%) of gross revenue derived from sales of  
214 admission to events conducted on property managed by the  
215 Mississippi Veterans Memorial Stadium, which tax shall be  
216 administered in the manner prescribed in this chapter, subject,  
217 however, to the provisions of Sections 55-23-3 through 55-23-11.

218 (2) The operator of any place of amusement in this state  
219 shall collect the tax imposed by this section, in addition to the  
220 price charged for admission to any place of amusement, and under  
221 all circumstances the person conducting the amusement shall be  
222 liable for, and pay the tax imposed based upon the actual charge  
223 for such admission. Where permits are obtained for conducting  
224 temporary amusements by persons who are not the owners, lessees or  
225 custodians of the buildings, lots or places where the amusements  
226 are to be conducted, or where such temporary amusement is

227 permitted by the owner, lessee or custodian of any place to be  
228 conducted without the procurement of a permit as required by this  
229 chapter, the tax imposed by this chapter shall be paid by the  
230 owner, lessee or custodian of such place where such temporary  
231 amusement is held or conducted, unless paid by the person  
232 conducting the amusement, and the applicant for such temporary  
233 permit shall furnish with the application therefor, the name and  
234 address of the owner, lessee or custodian of the premises upon  
235 which such amusement is to be conducted, and such owner, lessee or  
236 custodian shall be notified by the commission of the issuance of  
237 such permit, and of the joint liability for such tax.

238 (3) The tax imposed by this section shall not be levied or  
239 collected upon:

240 (a) Any admissions charged at any place of amusement  
241 operated by a religious, charitable or educational organization,  
242 or by a nonprofit civic club or fraternal organization (i) when  
243 the net proceeds of such admissions do not inure to any one or  
244 more individuals within such organization and are to be used  
245 solely for religious, charitable, educational or civic purposes;  
246 or (ii) when the entire net proceeds are used to defray the normal  
247 operating expenses of such organization, such as loan payments,  
248 maintenance costs, repairs and other operating expenses;

249 (b) Any admissions charged to hear gospel singing when  
250 promoted by a duly constituted local, bona fide nonprofit  
251 charitable or religious organization, irrespective of the fact  
252 that the performers and promoters are paid out of the proceeds of  
253 admissions collected, provided the program is composed entirely of  
254 gospel singing and not generally mixed with hillbilly or popular  
255 singing;

256 (c) Any admissions charged at any athletic games or  
257 contests between high schools or between grammar schools;

258 (d) Any admissions or tickets to or for baseball games  
259 between teams operated under a professional league franchise;



260 (e) Any admissions to county, state or community fairs,  
261 or any admissions to entertainments presented in community homes  
262 or houses which are publicly owned and controlled, and the  
263 proceeds of which do not inure to any individual or individuals;

264 (f) Any admissions or tickets to organized garden  
265 pilgrimages and to antebellum and historic houses when sponsored  
266 by an organized civic or garden club;

267 (g) Any admissions to any golf tournament held under  
268 the auspices of the Professional Golf Association or United States  
269 Golf Association wherein touring professionals compete, if such  
270 tournament is sponsored by a nonprofit association incorporated  
271 under the laws of the State of Mississippi where no dividends are  
272 declared and the proceeds do not inure to any individual or group;

273 (h) Any admissions to university or community college  
274 conference, state, regional or national playoffs or championships;

275 (i) Any admissions or fees charged by any county or  
276 municipally owned and operated swimming pools, golf courses and  
277 tennis courts other than sales or rental of tangible personal  
278 property;

279 (j) Any admissions charged for the performance of  
280 symphony orchestras, operas, vocal or instrumental artists in  
281 which professional or amateur performers are compensated out of  
282 the proceeds of such admissions, when sponsored by local music or  
283 charity associations, or amateur dramatic performances or  
284 professional dramatic productions when sponsored by a children's  
285 dramatic association, where no dividends are declared, profits  
286 received, nor any salary or compensation paid to any of the  
287 members of such associations, or to any person for procuring or  
288 producing such performance; and

289 (k) Any admissions or tickets to or for hockey games  
290 between teams operated under a professional league franchise.

291 SECTION 5. Section 27-65-23, Mississippi Code of 1972, is  
292 amended as follows:

293           27-65-23. Upon every person engaging or continuing in any of  
294 the following businesses or activities there is hereby levied,  
295 assessed and shall be collected a tax equal to five percent (5%)  
296 of the gross income of the business, except as otherwise provided:

297           Air conditioning installation or repairs;

298           Automobile, aircraft, motorcycle, boat or any other  
299 vehicle repairing or servicing;

300           Billiards, pool or domino parlors;

301           Bowling or tenpin alleys;

302           Burglar and fire alarm systems or services;

303           Car washing--automatic, self-service, or manual;

304           Computer software sales and services;

305           Cotton compresses or cotton warehouses;

306           Custom creosoting or treating, custom planing, custom  
307 sawing;

308           Custom meat processing;

309           Electricians, electrical work, wiring, all repairs or  
310 installation of electrical equipment;

311           Elevator or escalator installing, repairing or servicing;

312           Film developing or photo finishing;

313           Foundries, machine or general repairing;

314           Furniture repairing or upholstering;

315           Grading, excavating, ditching, dredging or landscaping;

316           Hotels, motels, tourist courts or camps, trailer parks;

317           Insulating services or repairs;

318           Jewelry or watch repairing;

319           Laundering, cleaning, pressing or dyeing;

320           Marina services;

321           Mattress renovating;

322           Office and business machine repairing;

323           Parking garages and lots;

324           Plumbing or pipe fitting;

325           Public storage warehouses;

326 Refrigerating equipment repairs;  
327 Radio or television installing, repairing or servicing;  
328 Renting or leasing personal property used within this  
329 state;

330 Services performed in connection with geophysical  
331 surveying, exploring, developing, drilling, producing,  
332 distributing, or testing of oil, gas, water and other mineral  
333 resources;

334 Shoe repairing;

335 Storage lockers;

336 Telephone answering or paging services;

337 Termite or pest control services;

338 Tin and sheet metal shops;

339 TV cable systems, subscription TV services, and other  
340 similar activities;

341 Vulcanizing, repairing or recapping of tires or tubes;

342 Welding; and

343 Woodworking or wood turning shops.

344 Income from services taxed herein performed for electric  
345 power associations in the ordinary and necessary operation of  
346 their generating or distribution systems shall be taxed at the  
347 rate of one percent (1%).

348 Income from services taxed herein performed on materials for  
349 use in track or track structures to a railroad whose rates are  
350 fixed by the Interstate Commerce Commission or the Mississippi  
351 Public Service Commission shall be taxed at the rate of three  
352 percent (3%).

353 Income from renting or leasing tangible personal property  
354 used within this state shall be taxed at the same rates as sales  
355 of the same property.

356 Persons doing business in this state who rent transportation  
357 equipment with a situs within or without the state to common,  
358 contract or private commercial carriers are taxed on that part of

359 the income derived from use within this state. If specific  
360 accounting is impracticable, a formula may be used with approval  
361 of the commissioner.

362 A lessor may deduct from the tax computed on the rental  
363 income from tangible personal property a credit for sales or use  
364 tax paid to this state at the time of purchase of the specific  
365 personal property being leased or rented until such credit has  
366 been exhausted.

367 Charges for custom processing and repairing services may be  
368 excluded from gross taxable income when the property on which the  
369 service was performed is delivered to the customer in another  
370 state either by common carrier or in the seller's equipment.

371 When a taxpayer performs unitary services covered by this  
372 section, which are performed both in intrastate and interstate  
373 commerce, the commissioner is hereby invested with authority to  
374 formulate in each particular case and to fix for such taxpayer in  
375 each instance formulae of apportionment which will apportion to  
376 this state, for taxation, that portion of the services which are  
377 performed within the State of Mississippi.

378 SECTION 6. Section 27-65-25, Mississippi Code of 1972, is  
379 amended as follows:

380 27-65-25. Upon every person engaging or continuing within  
381 this state in the business of selling alcoholic beverages, the  
382 sales of which are legal under the provisions of Chapter 1 of  
383 Title 67, Mississippi Code of 1972, there is hereby levied,  
384 assessed and shall be collected a tax equal to five percent (5%)  
385 of the gross proceeds of the retail sales of the business. All  
386 sales at wholesale to retailers shall be taxed at the same rate as  
387 provided in this section for retail sales. A retailer in  
388 computing the tax on sales may take credit for the amount of the  
389 tax paid to the wholesaler at the rates provided herein and remit  
390 the difference to the commissioner, provided adequate records and  
391 all invoices are maintained to substantiate the credit claimed.

392           SECTION 7. This act shall take effect and be in force from  
393 and after July 1, 1999.