SENATE BILL NO. 2046

TO AMEND SECTION 27-65-17, MISSISSIPPI CODE OF 1972, TO PHASE OUT THE SALES TAX ON RETAIL SALES OF CERTAIN FOOD FOR HUMAN CONSUMPTION; TO REQUIRE THE LEGISLATURE TO APPROPRIATE A CERTAIN SUM TO EACH INCORPORATED MUNICIPALITY TO COMPENSATE MUNICIPALITIES FOR THE REVENUE LOSS THEY SUFFER AS A RESULT OF THE REDUCTION IN SALES TAX REVENUE PURSUANT TO THIS ACT; TO AMEND SECTION 27-65-111, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 27-65-17, Mississippi Code of 1972, is amended as follows:

27-65-17. (1) Upon every person engaging or continuing within this state in the business of selling any tangible personal property whatsoever there is hereby levied, assessed and shall be collected a tax equal to seven percent (7%) of the gross proceeds of the retail sales of the business, except as otherwise provided herein.

Retail sales of farm tractors shall be taxed at the rate of one percent (1%) when made to farmers for agricultural purposes. Retail sales of farm implements sold to farmers and used directly in the production of poultry, ratite, domesticated fish as defined in Section 69-7-501, livestock, livestock products, agricultural crops or ornamental plant crops or used for other agricultural purposes shall be taxed at the rate of three percent (3%) when used on the farm. The three percent (3%) rate shall also apply to all equipment used in logging, pulpwod operations or tree farming which is either (a) self-propelled or which is (b) mounted so that it is (i) permanently attached to other equipment which is self-propelled or (ii) permanently attached to other equipment drawn by a vehicle which is self-propelled.
Except as otherwise provided in subsection (3) of this section, retail sales of aircraft, automobiles, trucks, truck-tractors, semitrailers and mobile homes shall be taxed at the rate of three percent (3%).

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

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

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

Wholesale sales of beer shall be taxed at the rate of seven percent (7%), and the retailer shall file a return and compute the retail tax on retail sales but may take credit for the amount of the tax paid to the wholesaler on said return covering the subsequent sales of same property, provided adequate invoices and records are maintained to substantiate the credit.

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

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

Any person exercising any privilege taxable under Section 27-65-15 and selling his natural resource products at wholesale or retail shall collect the tax imposed in this section.

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to exempt persons shall pay the tax levied by said section in lieu
of the tax levied by this section.

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

(3) In lieu of the tax levied in subsection (1) of this
section, there is levied on retail sales of truck-tractors and
semitrailers used in interstate commerce and registered under the
International Registration Plan (IRP) or any similar reciprocity
agreement or compact relating to the proportional registration of
commercial vehicles entered into as provided for in Section
27-19-143, a tax at the rate of three percent (3%) of the portion
of the sale that is attributable to the usage of such
truck-tractor or semitrailer in Mississippi. The portion of the
retail sale that is attributable to the usage of such
truck-tractor or semitrailer in Mississippi is the retail sales
price of the truck-tractor or semitrailer multiplied by the
percentage of the total miles traveled by the vehicle that are
traveled in Mississippi. The tax levied pursuant to this
subsection (3) shall be collected by the State Tax Commission from
the purchaser of such truck-tractor or semitrailer at the time of
registration of such truck-tractor or semitrailer.

(4) Retail sales of food for human consumption not purchased
with food stamps issued by the United States Department of
Agriculture, or other federal agency, but which would be exempt
under Section 27-65-111(o) from the taxes imposed by this chapter
if the food items were purchased with food stamps, shall be taxed
at the following rates:

(a) From and after July 1, 2002, through June 30, 2003,
such retail sales shall be taxed at the rate of five percent (5%);
(b) From and after July 1, 2003, through June 30, 2004, such retail sales shall be taxed at the rate of three percent (3%);

c) From and after July 1, 2004, through June 30, 2005, such retail sales shall be taxed at the rate of one percent (1%);

and

(d) From and after July 1, 2005, such retail sales shall be exempt from sales tax as provided in Section 27-65-111.

SECTION 2. During the 2004 Regular Session, the Legislature shall appropriate to each incorporated municipality an amount equal to the difference between the amount of the distributions that such municipality received pursuant to Section 27-65-75(1) during fiscal year 2002, and the amount that was actually distributed to such municipality during the previous fiscal year plus an additional amount determined by the State Tax Commission that is equal to the percentage of growth in sales tax collections in such municipality during fiscal year 2002. During each regular session thereafter, the Legislature shall appropriate to each incorporated municipality an amount equal to the amount appropriated during the previous fiscal year under this section plus an amount determined by the State Tax Commission that is equal to the percentage of growth in sales tax revenue collections in such municipality during the fiscal year two (2) years prior to the one during which the appropriation is being made.

SECTION 3. Section 27-65-111, Mississippi Code of 1972, is amended as follows:

27-65-111. The exemptions from the provisions of this chapter which are not industrial, agricultural or governmental, or which do not relate to utilities or taxes, or which are not properly classified as one of the exemption classifications of this chapter, shall be confined to persons or property exempted by this section or by the Constitution of the United States or the State of Mississippi. No exemptions as now provided by any other
section, except the classified exemption sections of this chapter
set forth herein, shall be valid as against the tax herein levied.
Any subsequent exemption from the tax levied hereunder, except as
indicated above, shall be provided by amendments to this section.

No exemption provided in this section shall apply to taxes
The tax levied by this chapter shall not apply to the following:

(a) Sales of tangible personal property and services to
hospitals or infirmaries owned and operated by a corporation or
association in which no part of the net earnings inures to the
benefit of any private shareholder, group or individual, and which
are subject to and governed by Sections 41-7-123 through 41-7-127.

Only sales of tangible personal property or services which
are ordinary and necessary to the operation of such hospitals and
infirmaries are exempted from tax.

(b) Sales of daily or weekly newspapers, and
periodicals or publications of scientific, literary or educational
organizations exempt from federal income taxation under Section
501(c)(3) of the Internal Revenue Code of 1954, as it exists as of
March 31, 1975, and subscription sales of all magazines.

(c) Sales of coffins, caskets and other materials used
in the preparation of human bodies for burial.

(d) Sales of tangible personal property for immediate
export to a foreign country.

(e) Sales of tangible personal property to an
orphanage, old men's or ladies' home, supported wholly or in part
by a religious denomination, fraternal nonprofit organization or
other nonprofit organization.

(f) Sales of tangible personal property, labor or
services taxable under Sections 27-65-17, 27-65-19, and 27-65-23,
to a YMCA, YWCA, a Boys' or Girls' Club owned and operated by a
 corporation or association in which no part of the net earnings
inures to the benefit of any private shareholder, group or individual.

(g) Sales to elementary and secondary grade schools, junior and senior colleges owned and operated by a corporation or association in which no part of the net earnings inures to the benefit of any private shareholder, group or individual, and which are exempt from state income taxation, provided that this exemption does not apply to sales of property or services which are not to be used in the ordinary operation of the school, or which are to be resold to the students or the public.

(h) The gross proceeds of retail sales and the use or consumption in this state of drugs and medicines:

(i) Prescribed for the treatment of a human being by a person authorized to prescribe the medicines, and dispensed or prescription filled by a registered pharmacist in accordance with law; or

(ii) Furnished by a licensed physician, surgeon, dentist or podiatrist to his own patient for treatment of the patient; or

(iii) Furnished by a hospital for treatment of any person pursuant to the order of a licensed physician, surgeon, dentist or podiatrist; or

(iv) Sold to a licensed physician, surgeon, podiatrist, dentist or hospital for the treatment of a human being; or

(v) Sold to this state or any political subdivision or municipal corporation thereof, for use in the treatment of a human being or furnished for the treatment of a human being by a medical facility or clinic maintained by this state or any political subdivision or municipal corporation thereof.

"Medicines," as used in this paragraph (h), shall mean and include any substance or preparation intended for use by external
or internal application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease and which is commonly recognized as a substance or preparation intended for such use; provided that "medicines" do not include any auditory, prosthetic, ophthalmic or ocular device or appliance, any dentures or parts thereof or any artificial limbs or their replacement parts, articles which are in the nature of splints, bandages, pads, compresses, supports, dressings, instruments, apparatus, contrivances, appliances, devices or other mechanical, electronic, optical or physical equipment or article or the component parts and accessories thereof, or any alcoholic beverage or any other drug or medicine not commonly referred to as a prescription drug.

Notwithstanding the preceding sentence of this paragraph (h), "medicines" as used in this paragraph (h), shall mean and include sutures, whether or not permanently implanted, bone screws, bone pins, pacemakers and other articles permanently implanted in the human body to assist the functioning of any natural organ, artery, vein or limb and which remain or dissolve in the body.

"Hospital," as used in this paragraph (h), shall have the meaning ascribed to it in Section 41-9-3, Mississippi Code of 1972.

Insulin furnished by a registered pharmacist to a person for treatment of diabetes as directed by a physician shall be deemed to be dispensed on prescription within the meaning of this paragraph (h).

(i) Retail sales of automobiles, trucks and truck-tractors if exported from this state within forty-eight (48) hours and registered and first used in another state.

(j) Sales of tangible personal property or services to the Salvation Army and the Muscular Dystrophy Association, Inc.

(k) From July 1, 1985, through December 31, 1992, retail sales of "alcohol blended fuel" as such term is defined in Section 75-55-5. The gasoline-alcohol blend or the straight
alcohol eligible for this exemption shall not contain alcohol
distilled outside the State of Mississippi.

(l) Sales of tangible personal property or services to
the Institute for Technology Development.

(m) The gross proceeds of retail sales of food and
drink for human consumption made through vending machines serviced
by full line vendors from and not connected with other taxable
businesses.

(n) The gross proceeds of sales of motor fuel.

(o) Retail sales of food for human consumption
purchased with food stamps issued by the United States Department
of Agriculture, or other federal agency, from and after October 1,
1987, or from and after the expiration of any waiver granted
pursuant to federal law, the effect of which waiver is to permit
the collection by the state of tax on such retail sales of food
for human consumption purchased with food stamps.

(p) Sales of cookies for human consumption by the Girl
Scouts of America no part of the net earnings from which sales
inures to the benefit of any private group or individual.

(q) Gifts or sales of tangible personal property or
services to public or private nonprofit museums of art.

(r) Sales of tangible personal property or services to
alumni associations of state-supported colleges or universities.

(s) Sales of tangible personal property or services to
chapters of the National Association of Junior Auxiliaries, Inc.

(t) Sales of tangible personal property or services to
domestic violence shelters which qualify for state funding under
Sections 93-21-101 through 93-21-113.

(u) Sales of tangible personal property or services to
the National Multiple Sclerosis Society, Mississippi Chapter.

(v) Retail sales of food for human consumption
purchased with food instruments issued the Mississippi Band of
Choctaw Indians under the Women, Infants and Children Program258 (WIC) funded by the United States Department of Agriculture.

(w) Sales of tangible personal property or services to a private company, as defined in Section 57-61-5, which is making such purchases with proceeds of bonds issued under Section 57-61-1 et seq., the Mississippi Business Investment Act.

(x) The gross collections from the operation of self-service, coin-operated car washing equipment and sales of the service of washing motor vehicles with portable high pressure washing equipment on the premises of the customer.

(y) From and after July 1, 2005, retail sales of food for human consumption not purchased with food stamps issued by the United States Department of Agriculture, or other federal agency, but which would be exempt under paragraph (o) of this section from the taxes imposed by this chapter if the food items were purchased with food stamps.

SECTION 4. This act shall take effect and be in force from and after July 1, 2002.