

By: Senator(s) Smith

To: Finance

SENATE BILL NO. 2165

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 PHASE IN A REDUCTION IN THE AMOUNT OF THE SALES TAX ON ALL ITEMS
 4 CURRENTLY TAXED AT 7% TO 6%; TO AMEND SECTION 27-65-75,
 5 MISSISSIPPI CODE OF 1972, TO INCREASE THE PERCENTAGE AMOUNT OF THE
 6 SALES TAX DIVERSIONS TO MUNICIPALITIES, THE SCHOOL AD VALOREM TAX
 7 REDUCTION FUND AND THE EDUCATION ENHANCEMENT FUND; AND FOR RELATED
 8 PURPOSES.

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

10 SECTION 1. Section 27-65-15, Mississippi Code of 1972, is
 11 amended as follows:

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

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

21 (b) Sales defined as wholesale or exempt, used by the
 22 producers as a component material of a contract taxable under
 23 Section 27-65-21, as a raw material of a manufactured product, or
 24 delivered outside this state, shall be taxed at (i) six and
 25 three-fourths percent (6-3/4%) of the gross proceeds of sales
 26 through June 30, 2002, (ii) six and one-half percent (6-1/2%) of
 27 the gross proceeds of sales from and after July 1, 2002, through
 28 June 30, 2003, (iii) six and one-fourth percent (6-1/4%) of the
 29 gross proceeds of sales from and after July 1, 2003, through June
 30 30, 2004, and (iv) six percent (6%) of the gross proceeds of sales



31 from and after July 1, 2004, exclusive of delivery charges, or
32 value when converted to use, whichever is greater, but not to
33 exceed Five Cents (5¢) per ton with respect to sand, gravel, dirt,
34 clay or limestone.

35 The commission shall prescribe equitable and uniform rules
36 for ascertaining value.

37 All privilege taxes levied upon persons engaged in the
38 production of natural resource products by this chapter shall be a
39 lien upon all such products so produced and such lien shall be
40 entitled to preference over all judgments, executions,
41 encumbrances or liens, whensoever created. All persons to or
42 through whom the title to such products pass shall be jointly and
43 severally liable for such tax until the same is paid in full.

44 The tax imposed in this section shall be collected by the
45 commissioner from the person in charge of the production
46 operations, and the commissioner is hereby authorized to make such
47 investigations and inspections of the production operations, from
48 time to time, as he may deem necessary for the purpose of
49 ascertaining the correct amount of tax due.

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

52 27-65-17. (1) Upon every person engaging or continuing
53 within this state in the business of selling any tangible personal
54 property whatsoever there is hereby levied, assessed and shall be
55 collected a tax equal to (i) six and three-fourths percent
56 (6-3/4%) of the gross proceeds of the retail sales of the
57 business, through June 30, 2002, (ii) six and one-half percent
58 (6-1/2%) of the gross proceeds of the retail sales of the business
59 from and after July 1, 2002, through June 30, 2003, (iii) six and
60 one-fourth percent (6-1/4%) of the gross proceeds of the retail
61 sales of the business from and after July 1, 2003, through June
62 30, 2004, and (iv) six percent (6%) of the gross proceeds of the



63 retail sales of the business from and after July 1, 2004, except
64 as otherwise provided herein.

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

67 Retail sales of farm implements sold to farmers and used
68 directly in the production of poultry, ratite, domesticated fish
69 as defined in Section 69-7-501, livestock, livestock products,
70 agricultural crops or ornamental plant crops or used for other
71 agricultural purposes shall be taxed at the rate of three percent
72 (3%) when used on the farm. The three percent (3%) rate shall
73 also apply to all equipment used in logging, pulpwood operations
74 or tree farming which is either (a) self-propelled or which is (b)
75 mounted so that it is (i) permanently attached to other equipment
76 which is self-propelled or (ii) permanently attached to other
77 equipment drawn by a vehicle which is self-propelled.

78 Except as otherwise provided in subsection (3) of this
79 section, retail sales of aircraft, automobiles, trucks,
80 truck-tractors, semitrailers and mobile homes shall be taxed at
81 the rate of three percent (3%).

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

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

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



96 Wholesale sales of beer shall be taxed at the rate of (i) six
97 and three-fourths percent (6-3/4%) through June 30, 2002, (ii) six
98 and one-half percent (6-1/2%) from and after July 1, 2002, through
99 June 30, 2003, (iii) six and one-fourth percent (6-1/4%) from and
100 after July 1, 2003, through June 30, 2004, and (iv) six percent
101 (6%) from and after July 1, 2004, and the retailer shall file a
102 return and compute the retail tax on retail sales but may take
103 credit for the amount of the tax paid to the wholesaler on said
104 return covering the subsequent sales of same property, provided
105 adequate invoices and records are maintained to substantiate the
106 credit.

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

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

114 Any person exercising any privilege taxable under Section
115 27-65-15 and selling his natural resource products at wholesale or
116 to exempt persons shall pay the tax levied by said section in lieu
117 of the tax levied by this section.

118 (2) From and after January 1, 1995, retail sales of private
119 carriers of passengers and light carriers of property, as defined
120 in Section 27-51-101, shall be taxed an additional two percent
121 (2%).

122 (3) In lieu of the tax levied in subsection (1) of this
123 section, there is levied on retail sales of truck-tractors and
124 semitrailers used in interstate commerce and registered under the
125 International Registration Plan (IRP) or any similar reciprocity
126 agreement or compact relating to the proportional registration of
127 commercial vehicles entered into as provided for in Section
128 27-19-143, a tax at the rate of three percent (3%) of the portion



129 of the sale that is attributable to the usage of such
130 truck-tractor or semitrailer in Mississippi. The portion of the
131 retail sale that is attributable to the usage of such
132 truck-tractor or semitrailer in Mississippi is the retail sales
133 price of the truck-tractor or semitrailer multiplied by the
134 percentage of the total miles traveled by the vehicle that are
135 traveled in Mississippi. The tax levied pursuant to this
136 subsection (3) shall be collected by the State Tax Commission from
137 the purchaser of such truck-tractor or semitrailer at the time of
138 registration of such truck-tractor or semitrailer.

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

141 27-65-19. (1) (a) Except as otherwise provided in this
142 subsection, upon every person selling to consumers, electricity,
143 current, power, potable water, steam, coal, natural gas, liquefied
144 petroleum gas or other fuel, there is hereby levied, assessed and
145 shall be collected a tax equal to (i) six and three-fourths
146 percent (6-3/4%) of the gross income of the business through June
147 30, 2002, (ii) six and one-half percent (6-1/2%) of the gross
148 income of the business from and after July 1, 2002, through June
149 30, 2003, (iii) six and one-fourth percent (6-1/4%) of the gross
150 income of the business from and after July 1, 2003, through June
151 30, 2004, and (iv) six percent (6%) of the gross income of the
152 business from and after July 1, 2004. Provided, gross income from
153 sales to consumers of electricity, current, power, natural gas,
154 liquefied petroleum gas or other fuel for residential heating,
155 lighting or other residential noncommercial or nonagricultural
156 use, and sales of potable water for residential, noncommercial or
157 nonagricultural use shall be excluded from taxable gross income of
158 the business. Provided further, upon every such seller using
159 electricity, current, power, potable water, steam, coal, natural
160 gas, liquefied petroleum gas or other fuel for nonindustrial
161 purposes, there is hereby levied, assessed and shall be collected



162 a tax equal to (i) six and three-fourths percent (6-3/4%) of the
163 cost or value of the product or service used through June 30,
164 2002, (ii) six and one-half percent (6-1/2%) of the cost or value
165 of the product or service used from and after July 1, 2002,
166 through June 30, 2003, (iii) six and one-fourth percent (6-1/4%)
167 of the cost or value of the product or service used from and after
168 July 1, 2003, through June 30, 2004, and (iv) six percent (6%) of
169 the cost or value of the product or service used from and after
170 July 1, 2004.

171 (b) There is hereby levied, assessed and shall be
172 collected a tax equal to one and one-half percent (1-1/2%) of the
173 gross income of the business when the electricity, current, power,
174 steam, coal, natural gas, liquefied petroleum gas or other fuel is
175 sold to or used by a manufacturer, custom processor or public
176 service company for industrial purposes, which shall include that
177 used to generate electricity, to operate an electrical
178 distribution or transmission system, to operate pipeline
179 compressor or pumping stations or to operate railroad locomotives;
180 provided, however, that:

181 (i) From and after July 1, 2000, through June 30,
182 2001, sales of fuel used to produce electric power by a company
183 primarily engaged in the business of producing, generating or
184 distributing electric power for sale shall be taxed at the rate of
185 one and one-eighth percent (1.125%);

186 (ii) From and after July 1, 2001, through June 30,
187 2002, sales of fuel used to produce electric power by a company
188 primarily engaged in the business of producing, generating or
189 distributing electric power for sale shall be taxed at the rate of
190 three-fourths of one percent (0.75%);

191 (iii) From and after July 1, 2002, through June
192 30, 2003, sales of fuel used to produce electric power by a
193 company primarily engaged in the business of producing, generating



194 or distributing electric power for sale shall be taxed at the rate
195 of three-eighths of one percent (0.375%);

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

201 (c) The one and one-half percent (1-1/2%) industrial
202 rate provided for in this subsection shall also apply when the
203 electricity, current, power, steam, coal, natural gas, liquefied
204 petroleum gas or other fuel is sold to a producer or processor for
205 use directly in the production of poultry or poultry products, the
206 production of livestock and livestock products, the production of
207 plants or food by commercial horticulturists, the processing of
208 milk and milk products, the processing of poultry and livestock
209 feed, and the irrigation of farm crops.

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

214 (e) Upon every person operating a telegraph or
215 telephone business for the transmission of messages or
216 conversations between points within this state, there is hereby
217 levied, assessed and shall be collected a tax equal to (i) six and
218 three-fourths percent (6-3/4%) of the gross income of such
219 business through June 30, 2002, (ii) six and one-half percent
220 (6-1/2%) of the gross income of such business from and after July
221 1, 2002, through June 30, 2003, (iii) six and one-fourth percent
222 (6-1/4%) of the gross income of such business from and after July
223 1, 2003, through June 30, 2004, and (iv) six percent (6%) of the
224 gross income of such business from and after July 1, 2004, with no
225 deduction or allowance for any part of an intrastate rate charge
226 because of routing across a state line. Charges by one



227 telecommunications provider to another telecommunications provider
228 for services that are resold by such other telecommunications
229 provider, including, but not limited to, access charges, shall not
230 be subject to the tax levied pursuant to this paragraph (e).
231 However, any sale of a prepaid telephone calling card or prepaid
232 authorization number, or both, shall be deemed to be the sale of
233 tangible personal property subject only to such taxes imposed by
234 law on the sale of tangible personal property. If the sale of a
235 prepaid telephone calling card or prepaid authorization number
236 does not take place at the vendor's place of business, it shall be
237 conclusively determined to take place at the customer's shipping
238 address. The reauthorization of a prepaid telephone calling card
239 or a prepaid authorization number shall be conclusively determined
240 to take place at the customer's billing address.

241 (f) Upon every person operating a telegraph or
242 telecommunications business for the transmission of messages or
243 conversations originating in this state or terminating in this
244 state via interstate telecommunications, which are charged to the
245 customer's service address in this state, regardless of where such
246 amount is billed or paid, there is hereby levied, assessed and
247 shall be collected a tax equal to five and one-half percent (5.5%)
248 of the gross income received by such business from such interstate
249 telecommunications. However, a person, upon proof that he has
250 paid a tax in another state on such event, shall be allowed a
251 credit against the tax imposed in this paragraph (f) on interstate
252 telecommunications charges to the extent that the amount of such
253 tax is properly due and actually paid in such other state and to
254 the extent that the rate of sales tax imposed by and paid to such
255 other state does not exceed the rate of sales tax imposed by this
256 paragraph (f). Charges by one telecommunications provider to
257 another telecommunications provider for services that are resold
258 by such other telecommunications provider, including, but not



259 limited to, access charges, shall not be subject to the tax levied
260 pursuant to this paragraph (f).

261 (2) Persons making sales to consumers of electricity,
262 current, power, natural gas, liquefied petroleum gas or other fuel
263 for residential heating, lighting or other residential
264 noncommercial or nonagricultural use or sales of potable water for
265 residential, noncommercial or nonagricultural use shall indicate
266 on each statement rendered to customers that such charges are
267 exempt from sales taxes.

268 (3) There is hereby levied, assessed and shall be paid on
269 transportation charges on shipments moving between points within
270 this state when paid directly by the consumer, a tax equal to the
271 rate applicable to the sale of the property being transported.
272 Such tax shall be reported and paid directly to the State Tax
273 Commission by the consumer.

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

276 27-65-22. (1) Upon every person engaging or continuing in
277 any amusement business or activity, which shall include all manner
278 and forms of entertainment and amusement, all forms of diversion,
279 sport, recreation or pastime, shows, exhibitions, contests,
280 displays, games or any other and all methods of obtaining
281 admission charges, donations, contributions or monetary charges of
282 any character, from the general public or a limited or selected
283 number thereof, directly or indirectly in return for other than
284 tangible property or specific personal or professional services,
285 whether such amusement is held or conducted in a public or private
286 building, hotel, tent, pavilion, lot or resort, enclosed or in the
287 open, there is hereby levied, assessed and shall be collected a
288 tax equal to (i) six and three-fourths percent (6-3/4%) of the
289 gross income received as admission through June 30, 2002, (ii) six
290 and one-half percent (6-1/2%) of the gross income received as
291 admission from and after July 1, 2002, through June 30, 2003,



292 (iii) six and one-fourth percent (6-1/4%) of the gross income
293 received as admission from and after July 1, 2003, through June
294 30, 2004, and (iv) six percent (6%) of the gross income received
295 as admission from and after July 1, 2004, except as otherwise
296 provided herein. In lieu of the rate set forth above, there is
297 hereby imposed, levied and assessed, to be collected as
298 hereinafter provided, a tax of three percent (3%) of gross revenue
299 derived from sales of admission to publicly owned enclosed
300 coliseums and auditoriums (except admissions to athletic contests
301 between colleges and universities). There is hereby imposed,
302 levied and assessed a tax of (i) six and three-fourths percent
303 (6-3/4%) of gross revenue derived from sales of admission to
304 events conducted on property managed by the Mississippi Veterans
305 Memorial Stadium through June 30, 2002, (ii) six and one-half
306 percent (6-1/2%) of the gross revenue derived from sales of
307 admission to events conducted on property managed by the
308 Mississippi Veterans Memorial Stadium from and after July 1, 2002,
309 through June 30, 2003, (iii) six and one-fourth percent (6-1/4%)
310 of the gross revenue derived from sales of admission to events
311 conducted on property managed by the Mississippi Veterans Memorial
312 Stadium from and after July 1, 2003, through June 30, 2004, and
313 (iv) six percent (6%) of the gross revenue derived from sales of
314 admission to events conducted on property managed by the
315 Mississippi Veterans Memorial Stadium from and after July 1, 2004,
316 which tax shall be administered in the manner prescribed in this
317 chapter, subject, however, to the provisions of Sections 55-23-3
318 through 55-23-11.

319 (2) The operator of any place of amusement in this state
320 shall collect the tax imposed by this section, in addition to the
321 price charged for admission to any place of amusement, and under
322 all circumstances the person conducting the amusement shall be
323 liable for, and pay the tax imposed based upon the actual charge
324 for such admission. Where permits are obtained for conducting



325 temporary amusements by persons who are not the owners, lessees or
326 custodians of the buildings, lots or places where the amusements
327 are to be conducted, or where such temporary amusement is
328 permitted by the owner, lessee or custodian of any place to be
329 conducted without the procurement of a permit as required by this
330 chapter, the tax imposed by this chapter shall be paid by the
331 owner, lessee or custodian of such place where such temporary
332 amusement is held or conducted, unless paid by the person
333 conducting the amusement, and the applicant for such temporary
334 permit shall furnish with the application therefor, the name and
335 address of the owner, lessee or custodian of the premises upon
336 which such amusement is to be conducted, and such owner, lessee or
337 custodian shall be notified by the commission of the issuance of
338 such permit, and of the joint liability for such tax.

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

341 (a) Any admissions charged at any place of amusement
342 operated by a religious, charitable or educational organization,
343 or by a nonprofit civic club or fraternal organization (i) when
344 the net proceeds of such admissions do not inure to any one or
345 more individuals within such organization and are to be used
346 solely for religious, charitable, educational or civic purposes;
347 or (ii) when the entire net proceeds are used to defray the normal
348 operating expenses of such organization, such as loan payments,
349 maintenance costs, repairs and other operating expenses;

350 (b) Any admissions charged to hear gospel singing when
351 promoted by a duly constituted local, bona fide nonprofit
352 charitable or religious organization, irrespective of the fact
353 that the performers and promoters are paid out of the proceeds of
354 admissions collected, provided the program is composed entirely of
355 gospel singing and not generally mixed with hillbilly or popular
356 singing;



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

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

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

365 (f) Any admissions or tickets to organized garden
366 pilgrimages and to antebellum and historic houses when sponsored
367 by an organized civic or garden club;

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

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

376 (i) Any admissions or fees charged by any county or
377 municipally owned and operated swimming pools, golf courses and
378 tennis courts other than sales or rental of tangible personal
379 property;

380 (j) Any admissions charged for the performance of
381 symphony orchestras, operas, vocal or instrumental artists in
382 which professional or amateur performers are compensated out of
383 the proceeds of such admissions, when sponsored by local music or
384 charity associations, or amateur dramatic performances or
385 professional dramatic productions when sponsored by a children's
386 dramatic association, where no dividends are declared, profits
387 received, nor any salary or compensation paid to any of the
388 members of such associations, or to any person for procuring or
389 producing such performance; and



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

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

394 27-65-23. Upon every person engaging or continuing in any of
395 the following businesses or activities there is hereby levied,
396 assessed and shall be collected a tax equal to (i) six and
397 three-fourths percent (6-3/4%) of the gross income of the business
398 through June 30, 2002, (ii) six and one-half percent (6-1/2%) of
399 the gross income of the business from and after July 1, 2002,
400 through June 30, 2003, (iii) six and one-fourth percent (6-1/4%)
401 of the gross income of the business from and after July 1, 2003,
402 through June 30, 2004, and (iv) six percent (6%) of the gross
403 income of the business from and after July 1, 2004, except as
404 otherwise provided:

405 Air conditioning installation or repairs;

406 Automobile, aircraft, motorcycle, boat or any other
407 vehicle repairing or servicing;

408 Billiards, pool or domino parlors;

409 Bowling or tenpin alleys;

410 Burglar and fire alarm systems or services;

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

412 Computer software sales and services;

413 Cotton compresses or cotton warehouses;

414 Custom creosoting or treating, custom planing, custom
415 sawing;

416 Custom meat processing;

417 Electricians, electrical work, wiring, all repairs or
418 installation of electrical equipment;

419 Elevator or escalator installing, repairing or
420 servicing;

421 Film developing or photo finishing;

422 Foundries, machine or general repairing;



423 Furniture repairing or upholstering;
424 Grading, excavating, ditching, dredging or landscaping;
425 Hotels, motels, tourist courts or camps, trailer parks;
426 Insulating services or repairs;
427 Jewelry or watch repairing;
428 Laundering, cleaning, pressing or dyeing;
429 Marina services;
430 Mattress renovating;
431 Office and business machine repairing;
432 Parking garages and lots;
433 Plumbing or pipe fitting;
434 Public storage warehouses;
435 Refrigerating equipment repairs;
436 Radio or television installing, repairing, or servicing;
437 Renting or leasing personal property used within this
438 state;
439 Services performed in connection with geophysical
440 surveying, exploring, developing, drilling, producing,
441 distributing, or testing of oil, gas, water and other mineral
442 resources;
443 Shoe repairing;
444 Storage lockers;
445 Telephone answering or paging services;
446 Termite or pest control services;
447 Tin and sheet metal shops;
448 TV cable systems, subscription TV services, and other
449 similar activities;
450 Vulcanizing, repairing or recapping of tires or tubes;
451 Welding; and
452 Woodworking or wood turning shops.
453 Income from services taxed herein performed for electric
454 power associations in the ordinary and necessary operation of



455 their generating or distribution systems shall be taxed at the
456 rate of one percent (1%).

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

462 Income from renting or leasing tangible personal property
463 used within this state shall be taxed at the same rates as sales
464 of the same property.

465 Persons doing business in this state who rent transportation
466 equipment with a situs within or without the state to common,
467 contract or private commercial carriers are taxed on that part of
468 the income derived from use within this state. If specific
469 accounting is impracticable, a formula may be used with approval
470 of the commissioner.

471 A lessor may deduct from the tax computed on the rental
472 income from tangible personal property a credit for sales or use
473 tax paid to this state at the time of purchase of the specific
474 personal property being leased or rented until such credit has
475 been exhausted.

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

480 When a taxpayer performs unitary services covered by this
481 section, which are performed both in intrastate and interstate
482 commerce, the commissioner is hereby invested with authority to
483 formulate in each particular case and to fix for such taxpayer in
484 each instance formulae of apportionment which will apportion to
485 this state, for taxation, that portion of the services which are
486 performed within the State of Mississippi.



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

489 27-65-25. Upon every person engaging or continuing within
490 this state in the business of selling alcoholic beverages, the
491 sales of which are legal under the provisions of Chapter 1 of
492 Title 67, Mississippi Code of 1972, there is hereby levied,
493 assessed and shall be collected a tax equal to (i) six and
494 one-half percent (6-1/2%) of the gross proceeds of the retail
495 sales of the business through June 30, 2002, (ii) six and one-half
496 percent (6-1/2%) of the gross proceeds of the retail sales of the
497 business from and after July 1, 2002, through June 30, 2003, (iii)
498 six and one-fourth percent (6-1/4%) of the gross proceeds of the
499 retail sales of the business from and after July 1, 2003, through
500 June 30, 2004, and (iv) six percent (6%) of the gross proceeds of
501 the retail sales of the business from and after July 1, 2004. All
502 sales at wholesale to retailers shall be taxed at the same rate as
503 provided in this section for retail sales. A retailer in
504 computing the tax on sales may take credit for the amount of the
505 tax paid to the wholesaler at the rates provided herein and remit
506 the difference to the commissioner, provided adequate records and
507 all invoices are maintained to substantiate the credit claimed.

508 SECTION 7. Section 27-65-75, Mississippi Code of 1972, is
509 amended as follows:

510 27-65-75. On or before the fifteenth day of each month, the
511 revenue collected under the provisions of this chapter during the
512 preceding month shall be paid and distributed as follows:

513 (1) On or before August 15, 1992, and each succeeding month
514 thereafter through July 15, 1993, eighteen percent (18%) of the
515 total sales tax revenue collected during the preceding month under
516 the provisions of this chapter, except that collected under the
517 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
518 business activities within a municipal corporation shall be
519 allocated for distribution to such municipality and paid to such



520 municipal corporation. On or before August 15, 1993, and each
521 succeeding month thereafter through July 15, 2001, eighteen and
522 one-half percent (18-1/2%) of the total sales tax revenue
523 collected during the preceding month under the provisions of this
524 chapter, except that collected under the provisions of Sections
525 27-65-15, 27-65-19(3) and 27-65-21, on business activities within
526 a municipal corporation shall be allocated for distribution to
527 such municipality and paid to such municipal corporation. On or
528 before August 15, 2001, and each month thereafter through July 15,
529 2002, nineteen and eighty-one one-thousandths percent (19.081%) of
530 the total sales tax revenue collected during the preceding month
531 under the provisions of this chapter, except that collected under
532 the provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
533 business activities within a municipal corporation shall be
534 allocated for distribution to such municipality and paid to such
535 municipal corporation. On or before August 15, 2002, and each
536 month thereafter through July 15, 2003, nineteen and seven-tenths
537 percent (19.7%) of the total sales tax revenue collected during
538 the preceding month under the provisions of this chapter, except
539 that collected under the provisions of Sections 27-65-15,
540 27-65-19(3) and 27-65-21, on business activities within a
541 municipal corporation shall be allocated for distribution to such
542 municipality and paid to such municipal corporation. On or before
543 August 15, 2003, and each month thereafter through July 15, 2004,
544 twenty and three hundred sixty-one one-thousandths percent
545 (20.361%) of the total sales tax revenue collected during the
546 preceding month under the provisions of this chapter, except that
547 collected under the provisions of Sections 27-65-15, 27-65-19(3)
548 and 27-65-21, on business activities within a municipal
549 corporation shall be allocated for distribution to such
550 municipality and paid to such municipal corporation. On or before
551 August 15, 2004, and each month thereafter, twenty and six hundred
552 eighty one-thousandths percent (20.680%) of the total sales tax



553 revenue collected during the preceding month under the provisions
554 of this chapter, except that collected under the provisions of
555 Sections 27-65-15, 27-65-19(3) and 27-65-21, on business
556 activities within a municipal corporation shall be allocated for
557 distribution to such municipality and paid to such municipal
558 corporation.

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

562 Monies allocated for distribution and credited to a municipal
563 corporation under this subsection may be pledged as security for
564 any loan received by the municipal corporation for the purpose of
565 capital improvements as authorized under Section 57-1-303, or
566 loans as authorized under Section 57-44-7, or water systems
567 improvements as authorized under Section 41-3-16.

568 In any county having a county seat which is not an
569 incorporated municipality, the distribution provided hereunder
570 shall be made as though the county seat was an incorporated
571 municipality; however, the distribution to such municipality shall
572 be paid to the county treasury wherein the municipality is located
573 and such funds shall be used for road, bridge and street
574 construction or maintenance therein.

575 (2) On or before September 15, 1987, and each succeeding
576 month thereafter, from the revenue collected under this chapter
577 during the preceding month One Million One Hundred Twenty-five
578 Thousand Dollars (\$1,125,000.00) shall be allocated for
579 distribution to municipal corporations as defined under subsection
580 (1) of this section in the proportion that the number of gallons
581 of gasoline and diesel fuel sold by distributors to consumers and
582 retailers in each such municipality during the preceding fiscal
583 year bears to the total gallons of gasoline and diesel fuel sold
584 by distributors to consumers and retailers in municipalities
585 statewide during the preceding fiscal year. The State Tax



586 Commission shall require all distributors of gasoline and diesel
587 fuel to report to the commission monthly the total number of
588 gallons of gasoline and diesel fuel sold by them to consumers and
589 retailers in each municipality during the preceding month. The
590 State Tax Commission shall have the authority to promulgate such
591 rules and regulations as is necessary to determine the number of
592 gallons of gasoline and diesel fuel sold by distributors to
593 consumers and retailers in each municipality. In determining the
594 percentage allocation of funds under this subsection for the
595 fiscal year beginning July 1, 1987, and ending June 30, 1988, the
596 State Tax Commission may consider gallons of gasoline and diesel
597 fuel sold for a period of less than one (1) fiscal year. For the
598 purposes of this subsection, the term "fiscal year" means the
599 fiscal year beginning July 1 of a year.

600 (3) On or before September 15, 1987, and on or before the
601 fifteenth day of each succeeding month, until the date specified
602 in Section 65-39-35, the proceeds derived from contractors' taxes
603 levied under Section 27-65-21 on contracts for the construction or
604 reconstruction of highways designated under the Four-Lane Highway
605 Program created under Section 65-3-97 shall, except as otherwise
606 provided in Section 31-17-127, be deposited into the State
607 Treasury to the credit of the State Highway Fund to be used to
608 fund such Four-Lane Highway Program. The Mississippi Department
609 of Transportation shall provide to the State Tax Commission such
610 information as is necessary to determine the amount of proceeds to
611 be distributed under this subsection.

612 (4) On or before August 15, 1994, and on or before the
613 fifteenth day of each succeeding month through July 15, 1999, from
614 the proceeds of gasoline, diesel fuel or kerosene taxes as
615 provided in Section 27-5-101(a)(ii)1, Four Million Dollars
616 (\$4,000,000.00) shall be deposited in the State Treasury to the
617 credit of a special fund designated as the "State Aid Road Fund,"
618 created by Section 65-9-17. On or before August 15, 1999, and on



619 or before the fifteenth day of each succeeding month, from the
620 total amount of the proceeds of gasoline, diesel fuel or kerosene
621 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million
622 Dollars (\$4,000,000.00) or an amount equal to twenty-three and
623 one-fourth percent (23.25%) of such funds, whichever is the
624 greater amount, shall be deposited in the State Treasury to the
625 credit of the "State Aid Road Fund," created by Section 65-9-17.
626 Such funds shall be pledged to pay the principal of and interest
627 on state aid road bonds heretofore issued under Sections 19-9-51
628 through 19-9-77, in lieu of and in substitution for the funds
629 heretofore allocated to counties under this section. Such funds
630 may not be pledged for the payment of any state aid road bonds
631 issued after April 1, 1981; however, this prohibition against the
632 pledging of any such funds for the payment of bonds shall not
633 apply to any bonds for which intent to issue such bonds has been
634 published, for the first time, as provided by law prior to March
635 29, 1981. From the amount of taxes paid into the special fund
636 pursuant to this subsection and subsection (9) of this section,
637 there shall be first deducted and paid the amount necessary to pay
638 the expenses of the Office of State Aid Road Construction, as
639 authorized by the Legislature for all other general and special
640 fund agencies. The remainder of the fund shall be allocated
641 monthly to the several counties in accordance with the following
642 formula:

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

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

649 (c) One-third (1/3) shall be allocated to counties
650 based on the proportion that the rural population of the county



651 bears to the total rural population in all counties of the state,
652 according to the latest federal decennial census.

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

656 The amount of funds allocated to any county under this
657 subsection for any fiscal year after fiscal year 1994 shall not be
658 less than the amount allocated to such county for fiscal year
659 1994. Monies allocated to a county from the State Aid Road Fund
660 for fiscal year 1995 or any fiscal year thereafter that exceed the
661 amount of funds allocated to that county from the State Aid Road
662 Fund for fiscal year 1994, first must be expended by the county
663 for replacement or rehabilitation of bridges on the state aid road
664 system that have a sufficiency rating of less than twenty-five
665 (25), according to National Bridge Inspection standards before
666 such monies may be approved for expenditure by the State Aid Road
667 Engineer on other projects that qualify for the use of state aid
668 road funds.

669 Any reference in the general laws of this state or the
670 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
671 construed to refer and apply to subsection (4) of Section
672 27-65-75.

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

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



684 (7) (a) On or before August 15, 1992, and each succeeding
685 month thereafter through July 15, 2000, two and two hundred
686 sixty-six one-thousandths percent (2.266%) of the total sales tax
687 revenue collected during the preceding month under the provisions
688 of this chapter, except that collected under the provisions of
689 Section 27-65-17(2), shall be deposited by the commission into the
690 School Ad Valorem Tax Reduction Fund created pursuant to Section
691 37-61-35.

692 (b) On or before August 15, 2000, and each succeeding
693 month thereafter through July 15, 2001, two and two hundred
694 sixty-six one-thousandths percent (2.266%) of the total sales tax
695 revenue collected during the preceding month under the provisions
696 of this chapter, except that collected under the provisions of
697 Section 27-65-17(2), shall be deposited into the School Ad Valorem
698 Tax Reduction Fund created under Section 37-61-35 until such time
699 that the total amount deposited into the fund during a fiscal year
700 equals Forty-two Million Dollars (\$42,000,000.00). Thereafter,
701 the amounts diverted under this subsection (7) during the fiscal
702 year in excess of Forty-two Million Dollars (\$42,000,000.00) shall
703 be deposited into the Education Enhancement Fund created under
704 Section 37-61-33 for appropriation by the Legislature as other
705 education needs and shall not be subject to the percentage
706 appropriation requirements set forth in Section 37-61-33.

707 (c) On or before August 15, 2001, and each succeeding
708 month thereafter through July 15, 2002, two and three hundred
709 thirty-seven one-thousandths percent (2.337%) of the total sales
710 tax revenue collected during the preceding month under the
711 provisions of this chapter, except that collected under the
712 provisions of Section 27-65-17(2), shall be deposited by the
713 commission into the School Ad Valorem Tax Reduction Fund created
714 pursuant to Section 37-61-35 until such time that the total amount
715 deposited into the fund during a fiscal year equals Forty-two
716 Million Dollars (\$42,000,000.00). Thereafter, the amounts



717 diverted under this subsection (7) during the fiscal year in
718 excess of Forty-two Million Dollars (\$42,000,000.00) shall be
719 deposited into the Education Enhancement Fund created under
720 Section 37-61-33 for appropriation by the Legislature as other
721 education needs and shall not be subject to the percentage
722 appropriation requirements set forth in Section 37-61-33.

723 (d) On or before August 15, 2002, and each succeeding
724 month thereafter through July 15, 2003, two and four hundred
725 thirteen one-thousandths percent (2.413%) of the total sales tax
726 revenue collected during the preceding month under the provisions
727 of this chapter, except that collected under the provisions of
728 Section 27-65-17(2), shall be deposited by the commission into the
729 School Ad Valorem Tax Reduction Fund created pursuant to Section
730 37-61-35 until such time that the total amount deposited into the
731 fund during a fiscal year equals Forty-two Million Dollars
732 (\$42,000,000.00). Thereafter, the amounts diverted under this
733 subsection (7) during the fiscal year in excess of Forty-two
734 Million Dollars (\$42,000,000.00) shall be deposited into the
735 Education Enhancement Fund created under Section 37-61-33 for
736 appropriation by the Legislature as other education needs and
737 shall not be subject to the percentage appropriation requirements
738 set forth in Section 37-61-33.

739 (e) On or before August 15, 2003, and each succeeding
740 month thereafter through July 15, 2004, two and four hundred
741 ninety-four one-thousandths percent (2.494%) of the total sales
742 tax revenue collected during the preceding month under the
743 provisions of this chapter, except that collected under the
744 provisions of Section 27-65-17(2), shall be deposited by the
745 commission into the School Ad Valorem Tax Reduction Fund created
746 pursuant to Section 37-61-35 until such time that the total amount
747 deposited into the fund during a fiscal year equals Forty-two
748 Million Dollars (\$42,000,000.00). Thereafter, the amounts
749 diverted under this subsection (7) during the fiscal year in



750 excess of Forty-two Million Dollars (\$42,000,000.00) shall be
751 deposited into the Education Enhancement Fund created under
752 Section 37-61-33 for appropriation by the Legislature as other
753 education needs and shall not be subject to the percentage
754 appropriation requirements set forth in Section 37-61-33.

755 (f) On or before August 15, 2004, and each succeeding
756 month thereafter, two and five hundred eighty-one one-thousandths
757 percent (2.581%) of the total sales tax revenue collected during
758 the preceding month under the provisions of this chapter, except
759 that collected under the provisions of Section 27-65-17(2), shall
760 be deposited by the commission into the School Ad Valorem Tax
761 Reduction Fund created pursuant to Section 37-61-35 until such
762 time that the total amount deposited into the fund during a fiscal
763 year equals Forty-two Million Dollars (\$42,000,000.00).

764 Thereafter, the amounts diverted under this subsection (7) during
765 the fiscal year in excess of Forty-two Million Dollars
766 (\$42,000,000.00) shall be deposited into the Education Enhancement
767 Fund created under Section 37-61-33 for appropriation by the
768 Legislature as other education needs and shall not be subject to
769 the percentage appropriation requirements set forth in Section
770 37-61-33.

771 (8) (a) On or before August 15, 1992, and each succeeding
772 month thereafter through July 15, 2001, nine and seventy-three
773 one-thousandths percent (9.073%) of the total sales tax revenue
774 collected during the preceding month under the provisions of this
775 chapter, except that collected under the provisions of Section
776 27-65-17(2), shall be deposited into the Education Enhancement
777 Fund created pursuant to Section 37-61-33.

778 (b) On or before August 15, 2001, and each succeeding
779 month thereafter through July 15, 2002, nine and three hundred
780 fifty-eight one-thousandths percent (9.358%) of the total sales
781 tax revenue collected during the preceding month under the
782 provisions of this chapter, except that collected under the



783 provisions of Section 27-65-17(2), shall be deposited into the
784 Education Enhancement Fund created pursuant to Section 37-61-33.

785 (c) On or before August 15, 2002, and each succeeding
786 month thereafter through July 15, 2003, nine and six hundred
787 sixty-two one-thousandths percent (9.662%) of the total sales tax
788 revenue collected during the preceding month under the provisions
789 of this chapter, except that collected under the provisions of
790 Section 27-65-17(2), shall be deposited into the Education
791 Enhancement Fund created pursuant to Section 37-61-33.

792 (d) On or before August 15, 2002, and each succeeding
793 month thereafter through July 15, 2003, nine and nine hundred
794 eighty-six one-thousandths percent (9.986%) of the total sales tax
795 revenue collected during the preceding month under the provisions
796 of this chapter, except that collected under the provisions of
797 Section 27-65-17(2), shall be deposited into the Education
798 Enhancement Fund created pursuant to Section 37-61-33.

799 (e) On or before August 15, 2003, and each succeeding
800 month thereafter, ten and three hundred thirty-three
801 one-thousandths percent (10.333%) of the total sales tax revenue
802 collected during the preceding month under the provisions of this
803 chapter, except that collected under the provisions of Section
804 27-65-17(2), shall be deposited into the Education Enhancement
805 Fund created pursuant to Section 37-61-33.

806 (9) On or before August 15, 1994, and each succeeding month
807 thereafter, from the revenue collected under this chapter during
808 the preceding month, Two Hundred Fifty Thousand Dollars
809 (\$250,000.00) shall be paid into the State Aid Road Fund.

810 (10) On or before August 15, 1994, and each succeeding month
811 thereafter through August 15, 1995, from the revenue collected
812 under this chapter during the preceding month, Two Million Dollars
813 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
814 Valorem Tax Reduction Fund established in Section 27-51-105.



815 (11) Notwithstanding any other provision of this section to
816 the contrary, on or before February 15, 1995, and each succeeding
817 month thereafter, the sales tax revenue collected during the
818 preceding month under the provisions of Section 27-65-17(2) and
819 the corresponding levy in Section 27-65-23 on the rental or lease
820 of private carriers of passengers and light carriers of property
821 as defined in Section 27-51-101 shall be deposited, without
822 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund
823 established in Section 27-51-105.

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

833 (13) On or before July 15, 1994, and on or before the
834 fifteenth day of each succeeding month thereafter, that portion of
835 the avails of the tax imposed in Section 27-65-22, which is
836 derived from activities held on the Mississippi state fairgrounds
837 complex, shall be paid into a special fund hereby created in the
838 State Treasury and shall be expended pursuant to legislative
839 appropriations solely to defray the costs of repairs and
840 renovation at such Trade Mart and Coliseum.

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



848 (15) Notwithstanding any other provision of this section to
849 the contrary, on or before September 15, 2000, and each succeeding
850 month thereafter, the sales tax revenue collected during the
851 preceding month under the provisions of Section 27-65-19(f), shall
852 be deposited, without diversion, into the Telecommunications Ad
853 Valorem Tax Reduction Fund established in Section 27-38-7.

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

861 (17) The remainder of the amounts collected under the
862 provisions of this chapter shall be paid into the State Treasury
863 to the credit of the General Fund.

864 (18) It shall be the duty of the municipal officials of any
865 municipality which expands its limits, or of any community which
866 incorporates as a municipality, to notify the commissioner of such
867 action thirty (30) days before the effective date. Failure to so
868 notify the commissioner shall cause such municipality to forfeit
869 the revenue which it would have been entitled to receive during
870 this period of time when the commissioner had no knowledge of the
871 action. If any funds have been erroneously disbursed to any
872 municipality or any overpayment of tax is recovered by the
873 taxpayer, the commissioner may make correction and adjust the
874 error or overpayment with such municipality by withholding the
875 necessary funds from any subsequent payment to be made to the
876 municipality.

877 SECTION 8. This act shall take effect and be in force from
878 and after July 1, 2001.

