

By: Senator(s) Little, Gordon, Robertson, Albritton, Browning, Butler, Dawkins, Frazier, Harden, Jackson (15th), Jackson (11th), Jackson (32nd), Jordan, King, Nunnelee, Posey, Thomas, Walley, Walls, Williamson

To: Finance

SENATE BILL NO. 2310

1 AN ACT TO AMEND SECTION 27-69-13, MISSISSIPPI CODE OF 1972,
2 TO INCREASE THE EXCISE TAX ON CIGARETTES AND TO PROVIDE THAT THERE
3 SHALL BE NO DISCOUNT ON THE ADDITIONAL FACE VALUE OF STAMPS
4 PURCHASED TO COMPLY WITH SUCH INCREASE AND TO REMOVE THE TAXATION
5 OF SNUFF AND OTHER TOBACCO PRODUCTS FROM THE SECTION OF LAW THAT
6 LEVIES THE EXCISE TAX ON DEALERS IN CIGARETTES; TO CREATE NEW
7 SECTION 27-69-13.1, MISSISSIPPI CODE OF 1972, TO LEVY THE EXCISE
8 TAX ON DEALERS IN SNUFF; TO CREATE NEW SECTION 27-69-13.2,
9 MISSISSIPPI CODE OF 1972, TO LEVY THE EXCISE TAX ON DEALERS IN
10 CIGARS, STOGIES, CHEWING TOBACCO, SMOKING TOBACCO AND ALL OTHER
11 TOBACCO PRODUCTS, EXCEPT CIGARETTES AND SNUFF; TO AMEND SECTION
12 27-69-75, MISSISSIPPI CODE OF 1972, TO REQUIRE A PORTION OF THE
13 MONTHLY TOBACCO TAX REVENUE TO BE DEPOSITED IN THE MUNICIPAL
14 TOBACCO TAX DIVERSION FUND, THE EDUCATION ENHANCEMENT FUND AND THE
15 SCHOOL AD VALOREM TAX REDUCTION FUND; TO CREATE THE MUNICIPAL
16 TOBACCO TAX DIVERSION FUND AND REQUIRE THAT MONEY IN THE FUND BE
17 DISTRIBUTED MONTHLY TO MUNICIPALITIES IN THE PROPORTION THAT SALES
18 TAX COLLECTIONS FOR THE PRECEDING MONTH IN EACH MUNICIPALITY BEAR
19 TO THE TOTAL SALES TAX COLLECTIONS FOR THE PRECEDING MONTH IN ALL
20 THE MUNICIPALITIES OF THE STATE; TO AMEND SECTIONS 27-69-27 AND
21 27-69-31, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO
22 CREATE A NEW SECTION 27-65-26, MISSISSIPPI CODE OF 1972, TO IMPOSE
23 A SEPARATE SALES TAX LEVY ON RETAIL SALES OF CERTAIN FOOD FOR
24 HUMAN CONSUMPTION AND TO REDUCE THE SALES TAX RATE ON SUCH FOOD
25 EACH FISCAL YEAR THROUGH JULY 1, 2014; TO AMEND SECTION 27-65-17,
26 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO AMEND SECTION
27 27-65-111, MISSISSIPPI CODE OF 1972, TO EXEMPT FROM SALES
28 TAXATION, EFFECTIVE JULY 1, 2014, RETAIL SALES OF CERTAIN FOOD FOR
29 HUMAN CONSUMPTION; AND FOR RELATED PURPOSES.

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

31 SECTION 1. Section 27-69-13, Mississippi Code of 1972, is
32 amended as follows:

33 [Through June 30, 2007, this section shall read as follows:]

34 27-69-13. (1) There is * * * imposed, levied and assessed,
35 to be collected and paid as hereinafter provided in this chapter,
36 an excise tax on each person or dealer in cigarettes * * * or
37 substitutes therefor, upon the sale, use, consumption, handling or
38 distribution in the State of Mississippi, * * * at the rate
39 of * * * Three and seventy-five one-hundredths Cents (3.75¢) on
40 each cigarette sold with a maximum length of one hundred twenty

41 (120) millimeters; any cigarette in excess of this length shall be
42 taxed as if it were two (2) or more cigarettes. * * * However, if
43 the federal tax rate on cigarettes in effect on June 1, 1985, is
44 reduced, then the rate as provided in this section shall be
45 increased by the amount of the federal tax reduction. The tax
46 increase shall take effect on the first day of the month following
47 the effective date of such reduction in the federal tax rate.

48 * * *

49 (2) No stamp evidencing the tax * * * levied on cigarettes
50 by this section shall be of a denomination of less than One Cent
51 (1¢), and whenever the tax computed at the rates * * * prescribed
52 on cigarettes in this section is a specified amount, plus a
53 fractional part of One Cent (1¢), the package shall be stamped for
54 the next full cent. However, the additional face value of stamps
55 purchased to comply with taxes imposed by this section after June
56 1, 1985, and prior to July 1, 2006, shall be subject to a four
57 percent (4%) discount or compensation to dealers for their
58 services rather than the eight percent (8%) discount or
59 compensation allowed by Section 27-69-31, and there shall be no
60 discount on the additional face value of stamps purchased to
61 comply with taxes imposed by this section on or after July 1,
62 2006.

63 (3) Every wholesaler shall purchase stamps as provided in
64 this chapter, and affix the stamps to all packages of cigarettes
65 handled by him as * * * provided in this chapter.

66 (4) The * * * tax levied by this section is levied upon the
67 sale, use, gift, possession or consumption of cigarettes or
68 substitutes therefor within the State of Mississippi, and the
69 impact of the tax levied by this section is * * * declared to be
70 on the vendee, user, consumer or possessor of tobacco in this
71 state. * * * When the tax is paid by any other person, the
72 payment shall be considered as an advance payment and shall

73 thereafter be added to the price of the tobacco and recovered from
74 the ultimate consumer or user.

75 [From and after July 1, 2007, this section shall read as
76 follows:]

77 27-69-13. (1) There is * * * imposed, levied and assessed,
78 to be collected and paid as hereinafter provided in this chapter,
79 an excise tax on each person or dealer in cigarettes * * * or
80 substitutes therefor, upon the sale, use, consumption, handling or
81 distribution in the State of Mississippi, * * * at the rate
82 of * * * Five Cents (5¢) on each cigarette sold with a maximum
83 length of one hundred twenty (120) millimeters; any cigarette in
84 excess of this length shall be taxed as if it were two (2) or more
85 cigarettes. * * * However, if the federal tax rate on cigarettes
86 in effect on June 1, 1985, is reduced, then the rate as provided
87 in this section shall be increased by the amount of the federal
88 tax reduction. The tax increase shall take effect on the first
89 day of the month following the effective date of such reduction in
90 the federal tax rate.

91 * * *

92 (2) No stamp evidencing the tax * * * levied on cigarettes
93 by this section shall be of a denomination of less than One Cent
94 (1¢), and whenever the tax computed at the rates * * * prescribed
95 on cigarettes in this section is a specified amount, plus a
96 fractional part of One Cent (1¢), the package shall be stamped for
97 the next full cent. However, the additional face value of stamps
98 purchased to comply with taxes imposed by this section after June
99 1, 1985, and prior to July 1, 2006, shall be subject to a four
100 percent (4%) discount or compensation to dealers for their
101 services rather than the eight percent (8%) discount or
102 compensation allowed by Section 27-69-31, and there shall be no
103 discount on the additional face value of stamps purchased to
104 comply with taxes imposed by this section on or after July 1,
105 2006.

106 (3) Every wholesaler shall purchase stamps as provided in
107 this chapter, and affix the stamps to all packages of cigarettes
108 handled by him as * * * provided in this chapter.

109 (4) The * * * tax levied by this section is levied upon the
110 sale, use, gift, possession or consumption of cigarettes or
111 substitutes therefor within the State of Mississippi, and the
112 impact of the tax levied by this section is * * * declared to be
113 on the vendee, user, consumer or possessor of tobacco in this
114 state. * * * When the tax is paid by any other person, the
115 payment shall be considered as an advance payment and shall
116 thereafter be added to the price of the tobacco and recovered from
117 the ultimate consumer or user.

118 **SECTION 2.** The following provision shall be codified as
119 Section 27-69-13.1, Mississippi Code of 1972:

120 27-69-13.1. (1) There is imposed, levied and assessed, to
121 be collected and paid as hereinafter provided in this chapter, an
122 excise tax on each person or dealer in snuff or substitutes
123 therefor, upon the sale, use, consumption, handling or
124 distribution in the State of Mississippi, at the rate of fifteen
125 percent (15%) of the manufacturer's list price.

126 (2) The tax levied by this section is levied upon the sale,
127 use, gift, possession or consumption of snuff within the State of
128 Mississippi, and the impact of the tax levied by this section is
129 declared to be on the vendee, user, consumer or possessor of
130 tobacco in this state. When the tax is paid by any other person,
131 the payment shall be considered as an advance payment and shall
132 thereafter be added to the price of the tobacco and recovered from
133 the ultimate consumer or user.

134 **SECTION 3.** The following provision shall be codified as
135 Section 27-69-13.2, Mississippi Code of 1972:

136 27-69-13.2. (1) There is imposed, levied and assessed, to
137 be collected and paid as hereinafter provided in this chapter, an
138 excise tax on each person or dealer in cigars, stogies, chewing

139 tobacco, smoking tobacco and all other tobacco products, except
140 cigarettes and snuff, upon the sale, use, consumption, handling or
141 distribution in the State of Mississippi, at the rate of fifteen
142 percent (15%) of the manufacturer's list price.

143 (2) The tax levied by this section is levied upon the sale,
144 use, gift, possession or consumption of cigars, stogies, chewing
145 tobacco, smoking tobacco and all other tobacco products, except
146 cigarettes or snuff, and the impact of the tax levied by this
147 section is declared to be on the vendee, user, consumer or
148 possessor of tobacco in this state. When the tax is paid by any
149 other person, such payment shall be considered as an advance
150 payment and shall thereafter be added to the price of the tobacco
151 and recovered from the ultimate consumer or user.

152 **SECTION 4.** Section 27-69-75, Mississippi Code of 1972, is
153 amended as follows:

154 27-69-75. (1) All taxes levied by this chapter shall be
155 payable to the commissioner in cash, or by personal check,
156 cashier's check, bank exchange, post office money order or express
157 money order, and shall be deposited by the commissioner in the
158 State Treasury on the same day collected. No remittance other
159 than cash shall be a final discharge of liability for the
160 tax * * * assessed and levied under this chapter, unless and until
161 it has been paid in cash to the commissioner.

162 (2) Of the revenue collected monthly as a result of the tax
163 assessed and levied under this chapter:

164 (a) (i) Through June 30, 2007, One Million Five
165 Hundred Thousand Dollars (\$1,500,000.00) shall be deposited by the
166 commissioner into the Municipal Tobacco Tax Diversion Fund created
167 under Section 5 of Senate Bill No. 2310, 2006 Regular Session.

168 (ii) From and after July 1, 2007, through June 30,
169 2008, Two Million One Hundred Thousand Dollars (\$2,100,000.00)
170 shall be deposited by the commissioner into the Municipal Tobacco

171 Tax Diversion Fund created under Section 5 of Senate Bill No.
172 2310, 2006 Regular Session.

173 (iii) From and after July 1, 2008, through June
174 30, 2009, Two Million Four Hundred Thousand Dollars
175 (\$2,400,000.00) shall be deposited by the commissioner into the
176 Municipal Tobacco Tax Diversion Fund created under Section 5 of
177 Senate Bill No. 2310, 2006 Regular Session.

178 (iv) From and after July 1, 2009, through June 30,
179 2010, Two Million Seven Hundred Thousand Dollars (\$2,700,000.00)
180 shall be deposited by the commissioner into the Municipal Tobacco
181 Tax Diversion Fund created under Section 5 of Senate Bill No.
182 2310, 2006 Regular Session.

183 (v) From and after July 1, 2010, through June 30,
184 2011, Three Million Dollars (\$3,000,000.00) shall be deposited by
185 the commissioner into the Municipal Tobacco Tax Diversion Fund
186 created under Section 5 of Senate Bill No. 2310, 2006 Regular
187 Session.

188 (vi) From and after July 1, 2011, through June 30,
189 2012, Three Million Three Hundred Thousand Dollars (\$3,300,000.00)
190 shall be deposited by the commissioner into the Municipal Tobacco
191 Tax Diversion Fund created under Section 5 of Senate Bill No.
192 2310, 2006 Regular Session.

193 (vii) From and after July 1, 2012, through June
194 30, 2013, Three Million Six Hundred Thousand Dollars
195 (\$3,600,000.00) shall be deposited by the commissioner into the
196 Municipal Tobacco Tax Diversion Fund created under Section 5 of
197 Senate Bill No. 2310, 2006 Regular Session.

198 (viii) From and after July 1, 2013, through June
199 30, 2014, Three Million Nine Hundred Thousand Dollars
200 (\$3,900,000.00) shall be deposited by the commissioner into the
201 Municipal Tobacco Tax Diversion Fund created under Section 5 of
202 Senate Bill No. 2310, 2006 Regular Session.

203 (ix) From and after July 1, 2014, Four Million Two
204 Hundred Thousand Dollars (\$4,200,000.00) shall be deposited by the
205 commissioner into the Municipal Tobacco Tax Diversion Fund created
206 under Section 5 of Senate Bill No. 2310, 2006 Regular Session.

207 (b) (i) Through June 30, 2007, One Million Eighty
208 Thousand Dollars (\$1,080,000.00) shall be deposited by the
209 commissioner into the Education Enhancement Fund created under
210 Section 37-61-33.

211 (ii) From and after July 1, 2007, through June 30,
212 2008, One Million Five Hundred Twelve Thousand Dollars
213 (\$1,512,000.00) shall be deposited by the commissioner into the
214 Education Enhancement Fund created under Section 37-61-33.

215 (iii) From and after July 1, 2008, through June
216 30, 2009, One Million Seven Hundred Twenty-eight Thousand Dollars
217 (\$1,728,000.00) shall be deposited by the commissioner into the
218 Education Enhancement Fund created under Section 37-61-33.

219 (iv) From and after July 1, 2009, through June 30,
220 2010, One Million Nine Hundred Forty-four Thousand Dollars
221 (\$1,944,000.00) shall be deposited by the commissioner into the
222 Education Enhancement Fund created under Section 37-61-33.

223 (v) From and after July 1, 2010, through June 30,
224 2011, Two Million One Hundred Sixty Thousand Dollars
225 (\$2,160,000.00) shall be deposited by the commissioner into the
226 Education Enhancement Fund created under Section 37-61-33.

227 (vi) From and after July 1, 2011, through June 30,
228 2012, Two Million Three Hundred Seventy-six Thousand Dollars
229 (\$2,376,000.00) shall be deposited by the commissioner into the
230 Education Enhancement Fund created under Section 37-61-33.

231 (vii) From and after July 1, 2012, through June
232 30, 2013, Two Million Five Hundred Ninety-two Thousand Dollars
233 (\$2,592,000.00) shall be deposited by the commissioner into the
234 Education Enhancement Fund created under Section 37-61-33.

235 (viii) From and after July 1, 2013, through June
236 30, 2014, Two Million Eight Hundred Eight Thousand Dollars
237 (\$2,808,000.00) shall be deposited by the commissioner into the
238 Education Enhancement Fund created under Section 37-61-33.

239 (ix) From and after July 1, 2014, Three Million
240 Twenty-four Thousand Dollars (\$3,024,000.00) shall be deposited by
241 the commissioner into the Education Enhancement Fund created under
242 Section 37-61-33.

243 (c) (i) Through June 30, 2007, Two Hundred Seventy
244 Thousand Dollars (\$270,000.00) shall be deposited by the
245 commissioner into the School Ad Valorem Tax Reduction Fund created
246 under Section 37-61-35.

247 (ii) From and after July 1, 2007, through June 30,
248 2008, Three Hundred Seventy-eight Thousand Dollars (\$378,000.00)
249 shall be deposited by the commissioner into the School Ad Valorem
250 Tax Reduction Fund created under Section 37-61-35.

251 (iii) From and after July 1, 2008, through June
252 30, 2009, Four Hundred Thirty-two Thousand Dollars (\$432,000.00)
253 shall be deposited by the commissioner into the School Ad Valorem
254 Tax Reduction Fund created under Section 37-61-35.

255 (iv) From and after July 1, 2009, through June 30,
256 2010, Four Hundred Eighty-six Thousand Dollars (\$486,000.00) shall
257 be deposited by the commissioner into the School Ad Valorem Tax
258 Reduction Fund created under Section 37-61-35.

259 (v) From and after July 1, 2010, through June 30,
260 2011, Five Hundred Forty Thousand Dollars (\$540,000.00) shall be
261 deposited by the commissioner into the School Ad Valorem Tax
262 Reduction Fund created under Section 37-61-35.

263 (vi) From and after July 1, 2011, through June 30,
264 2012, Five Hundred Ninety-four Thousand Dollars (\$594,000.00)
265 shall be deposited by the commissioner into the School Ad Valorem
266 Tax Reduction Fund created under Section 37-61-35.

267 (vii) From and after July 1, 2012, through June
268 30, 2013, Six Hundred Forty-eight Thousand Dollars (\$648,000.00)
269 shall be deposited by the commissioner into the School Ad Valorem
270 Tax Reduction Fund created under Section 37-61-35.

271 (viii) From and after July 1, 2013, through June
272 30, 2014, Seven Hundred Two Thousand Dollars (\$702,000.00) shall
273 be deposited by the commissioner into the School Ad Valorem Tax
274 Reduction Fund created under Section 37-61-35.

275 (ix) From and after July 1, 2014, Seven Hundred
276 Fifty-six Thousand Dollars (\$756,000.00) shall be deposited by the
277 commissioner into the School Ad Valorem Tax Reduction Fund created
278 under Section 37-61-35.

279 (3) Except as otherwise provided in subsection (2) of this
280 section, all tobacco taxes collected, including tobacco license
281 taxes, shall be deposited into the State Treasury to the credit of
282 the General Fund.

283 (4) Wholesalers who are entitled to purchase stamps at a
284 discount, as provided by Section 27-69-31, may have consigned to
285 them, without advance payment, those stamps, if and when the
286 wholesaler gives to the commissioner a good and sufficient bond
287 executed by some surety company authorized to do business in this
288 state, conditioned to secure the payment for the stamps so
289 consigned. The commissioner shall require payment for those
290 stamps not later than thirty (30) days from the date the stamps
291 were consigned.

292 **SECTION 5.** (1) There is created in the State Treasury a
293 special fund known as the Municipal Tobacco Tax Diversion Fund
294 which shall be comprised of the money required to be deposited
295 into the fund under Section 27-69-75. Money in the fund shall be
296 expended by the State Tax Commission to make payments to
297 municipalities as required by this section. Unexpended amounts
298 remaining in the special fund at the end of a fiscal year shall
299 not lapse into the State General Fund, and any interest earned or

300 investment earnings on amounts in the special fund shall be
301 deposited to the credit of the special fund.

302 (2) On or before August 15, 2006, and each succeeding month
303 thereafter, the State Tax Commission shall distribute from the
304 special fund the amount required to be deposited in the special
305 fund during the preceding month under Section 27-69-75 to each
306 municipality in the state, in an amount equal to the proportion
307 that the sales tax collections for the preceding month in each
308 municipality bear to the total sales tax collections for the
309 preceding month in all the municipalities of the state.

310 **SECTION 6.** Section 27-69-27, Mississippi Code of 1972, is
311 amended as follows:

312 27-69-27. The payment of the tax imposed by this chapter
313 shall be evidenced by affixing stamps to each individual package
314 of cigarettes usually sold to consumers, as distinguished from
315 cartons or larger units which are composed of a number of
316 individual packages.

317 The stamp shall be affixed within seventy-two (72) hours
318 after the receipt of the cigarettes by the wholesaler, and within
319 forty-eight (48) hours after receipt of the cigarettes by the
320 retailer; provided, that in the case a dealer conducts a wholesale
321 and retail business at one (1) place of business, stamps shall be
322 affixed within forty-eight (48) hours after receipt of the
323 cigarettes. The stamp must be so securely affixed as to require
324 the continued application of water or of steam to remove it, or so
325 that it cannot be otherwise removed without destruction or
326 mutilation.

327 The excise tax imposed on cigars, smoking tobacco, chewing
328 tobacco, snuff and all other tobacco products except cigarettes
329 shall be computed by the application of the excise tax rate to the
330 manufacturer's list price on all purchases of such tobacco. The
331 excise tax shall be due and payable on or before the fifteenth day
332 of the month next succeeding the month in which the tax accrues.

333 The tax shall be filed with the commissioner on forms prescribed
334 by the commissioner.

335 Provided, however, manufacturers or other wholesale
336 distributors of tobacco, which are subject to the excise taxes
337 imposed by Sections 27-69-13, 27-69-13.1 and 27-69-13.2 * * * for
338 the privilege of selling or using such tobaccos within this state,
339 who maintain "terminals" or warehouses in which such tobaccos are
340 stored, and who sell only to licensed wholesale dealers within the
341 state who are qualified to purchase and affix the stamps required,
342 may maintain such "spot stocks," intended only for such sales,
343 without affixing the stamps or filing returns and paying the tax.

344 Any person desiring to maintain such "terminal" or warehouse,
345 shall make application to the commissioner and obtain a permit to
346 maintain such stocks without affixing stamps thereto, for sale
347 exclusively to out-of-state purchasers, or licensed wholesale
348 dealers within this state, and the commissioner is hereby
349 authorized to grant such permit upon the execution and filing with
350 the commissioner, by the applicant, a bond with surety companies,
351 authorized to do business in Mississippi, as surety thereon, and
352 conditioned for the strict compliance by the applicant, with the
353 following conditions under which said privilege may be granted.

354 The person maintaining such stock of untaxed tobacco shall
355 supply to the commissioner monthly, or at such times as the
356 commissioner may require, complete invoices of all tobaccos
357 received, and shall also supply correct invoices of all tobaccos
358 removed from such "terminal" or warehouse, said invoices to
359 contain the correct name and address of all persons to whom such
360 tobacco shall be delivered or consigned, whether within or without
361 the State of Mississippi.

362 The penalty of such bond shall be determined by the
363 commissioner, in an amount sufficient to protect the State of
364 Mississippi from any loss of revenue which might occur by reason
365 of the failure of principal to strictly adhere to the requirement

366 that no tobacco would be sold from such stock within the State of
367 Mississippi, except to licensed wholesale dealers.

368 **SECTION 7.** Section 27-69-31, Mississippi Code of 1972, is
369 amended as follows:

370 27-69-31. Dealers subject to the provisions of this chapter
371 shall be allowed, as compensation for their services in affixing
372 the stamps * * * required by this chapter, a sum equal to eight
373 percent (8%) of the face value of the stamps purchased by them,
374 except as otherwise provided in Section 27-69-13(2); however, the
375 commission shall allow no discount on the purchase of stamps by
376 wholesalers of an aggregate amount of less than One Hundred
377 Dollars (\$100.00), and by retailers of an aggregate amount of less
378 than Fifty Dollars (\$50.00) in any one (1) order.

379 * * * The commissioner may, in his discretion, either
380 reduce the compensation allowed, or disallow any compensation for
381 the affixing of stamps, for failure of the dealer to comply with
382 any provisions of the law or rules and regulations promulgated by
383 the commissioner.

384 **SECTION 8.** The following provision shall be codified as
385 Section 27-65-26, Mississippi Code of 1972:

386 27-65-26. (1) From and after July 1, 2006, through June 30,
387 2007, retail sales of food for human consumption not purchased
388 with food stamps issued by the United States Department of
389 Agriculture, or other federal agency, but which would be exempt
390 under paragraph (o) of Section 27-65-111 from the taxes imposed by
391 this chapter if the food items were purchased with food stamps,
392 shall be taxed at the rate of four and one-half percent (4-1/2%).

393 (2) From and after July 1, 2007, through June 30, 2008,
394 retail sales of food for human consumption not purchased with food
395 stamps issued by the United States Department of Agriculture, or
396 other federal agency, but which would be exempt under paragraph
397 (o) of Section 27-65-111 from the taxes imposed by this chapter if

398 the food items were purchased with food stamps, shall be taxed at
399 the rate of three and one-half percent (3-1/2%).

400 (3) From and after July 1, 2008, through June 30, 2009,
401 retail sales of food for human consumption not purchased with food
402 stamps issued by the United States Department of Agriculture, or
403 other federal agency, but which would be exempt under paragraph
404 (o) of Section 27-65-111 from the taxes imposed by this chapter if
405 the food items were purchased with food stamps, shall be taxed at
406 the rate of Three percent (3%).

407 (4) From and after July 1, 2009, through June 30, 2010,
408 retail sales of food for human consumption not purchased with food
409 stamps issued by the United States Department of Agriculture, or
410 other federal agency, but which would be exempt under paragraph
411 (o) of Section 27-65-111 from the taxes imposed by this chapter if
412 the food items were purchased with food stamps, shall be taxed at
413 the rate of two and one-half percent (2-1/2%).

414 (5) From and after July 1, 2010, through June 30, 2011,
415 retail sales of food for human consumption not purchased with food
416 stamps issued by the United States Department of Agriculture, or
417 other federal agency, but which would be exempt under paragraph
418 (o) of Section 27-65-111 from the taxes imposed by this chapter if
419 the food items were purchased with food stamps, shall be taxed at
420 the rate of two percent (2%).

421 (6) From and after July 1, 2011, through June 30, 2012,
422 retail sales of food for human consumption not purchased with food
423 stamps issued by the United States Department of Agriculture, or
424 other federal agency, but which would be exempt under paragraph
425 (o) of Section 27-65-111 from the taxes imposed by this chapter if
426 the food items were purchased with food stamps, shall be taxed at
427 the rate of one and one-half percent (1-1/2%).

428 (7) From and after July 1, 2012, through June 30, 2013,
429 retail sales of food for human consumption not purchased with food
430 stamps issued by the United States Department of Agriculture, or

431 other federal agency, but which would be exempt under paragraph
432 (o) of Section 27-65-111 from the taxes imposed by this chapter if
433 the food items were purchased with food stamps, shall be taxed at
434 the rate of one percent (1%).

435 (8) From and after July 1, 2013, through June 30, 2014,
436 retail sales of food for human consumption not purchased with food
437 stamps issued by the United States Department of Agriculture, or
438 other federal agency, but which would be exempt under paragraph
439 (o) of Section 27-65-111 from the taxes imposed by this chapter if
440 the food items were purchased with food stamps, shall be taxed at
441 the rate of one-half percent (1/2%).

442 (9) This section shall stand repealed from and after July 1,
443 2014.

444 **SECTION 9.** Section 27-65-17, Mississippi Code of 1972, is
445 amended as follows:

446 27-65-17. (1) (a) Except as otherwise provided in this
447 section, upon every person engaging or continuing within this
448 state in the business of selling any tangible personal property
449 whatsoever there is hereby levied, assessed and shall be collected
450 a tax equal to seven percent (7%) of the gross proceeds of the
451 retail sales of the business.

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

455 (c) Retail sales of farm implements sold to farmers and
456 used directly in the production of poultry, ratite, domesticated
457 fish as defined in Section 69-7-501, livestock, livestock
458 products, agricultural crops or ornamental plant crops or used for
459 other agricultural purposes shall be taxed at the rate of three
460 percent (3%) when used on the farm. The three percent (3%) rate
461 shall also apply to all equipment used in logging, pulpwood
462 operations or tree farming which is either:

463 (i) Self-propelled, or

464 (ii) Mounted so that it is permanently attached to
465 other equipment which is self-propelled or permanently attached to
466 other equipment drawn by a vehicle which is self-propelled.

467 (d) Except as otherwise provided in subsection (3) of
468 this section, retail sales of aircraft, automobiles, trucks,
469 truck-tractors, semitrailers and mobile homes shall be taxed at
470 the rate of three percent (3%).

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

477 (f) Sales of machinery and machine parts when made to a
478 technology intensive enterprise for plant use only when the
479 machinery and machine parts will be used exclusively and directly
480 within this state for industrial purposes, including, but not
481 limited to, manufacturing or research and development activities,
482 shall be taxed at the rate of one and one-half percent (1-1/2%).
483 In order to be considered a technology intensive enterprise for
484 purposes of this paragraph:

485 (i) The enterprise shall meet minimum criteria
486 established by the Mississippi Development Authority;

487 (ii) The enterprise shall employ at least ten (10)
488 persons in full-time jobs;

489 (iii) At least ten percent (10%) of the workforce
490 in the facility operated by the enterprise shall be scientists,
491 engineers or computer specialists;

492 (iv) The enterprise shall manufacture plastics,
493 chemicals, automobiles, aircraft, computers or electronics; or
494 shall be a research and development facility, a computer design or
495 related facility, or a software publishing facility or other

496 technology intensive facility or enterprise as determined by the
497 Mississippi Development Authority;

498 (v) The average wage of all workers employed by
499 the enterprise at the facility shall be at least one hundred fifty
500 percent (150%) of the state average annual wage; and

501 (vi) The enterprise must provide a basic health
502 care plan to all employees at the facility.

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

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

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

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

522 (k) Sales of equipment used or designed for the purpose
523 of assisting disabled persons, such as wheelchair equipment and
524 lifts, that is mounted or attached to or installed on a private
525 carrier of passengers or light carrier of property, as defined in
526 Section 27-51-101, at the time when the private carrier of
527 passengers or light carrier of property is sold shall be taxed at
528 the same rate as the sale of such vehicles under this section.

529 (1) From and after July 1, 2006, through June 30, 2014,
530 retail sales of food for human consumption not purchased with food
531 stamps issued by the United States Department of Agriculture, or
532 other federal agency, but which would be exempt under paragraph
533 (o) of Section 27-65-111 from the taxes imposed by this chapter if
534 the food items were purchased with food stamps, shall be taxed as
535 provided for in Section 27-65-26.

536 (2) From and after January 1, 1995, retail sales of private
537 carriers of passengers and light carriers of property, as defined
538 in Section 27-51-101, shall be taxed an additional two percent
539 (2%).

540 (3) In lieu of the tax levied in subsection (1) of this
541 section, there is levied on retail sales of truck-tractors and
542 semitrailers used in interstate commerce and registered under the
543 International Registration Plan (IRP) or any similar reciprocity
544 agreement or compact relating to the proportional registration of
545 commercial vehicles entered into as provided for in Section
546 27-19-143, a tax at the rate of three percent (3%) of the portion
547 of the sale that is attributable to the usage of such
548 truck-tractor or semitrailer in Mississippi. The portion of the
549 retail sale that is attributable to the usage of such
550 truck-tractor or semitrailer in Mississippi is the retail sales
551 price of the truck-tractor or semitrailer multiplied by the
552 percentage of the total miles traveled by the vehicle that are
553 traveled in Mississippi. The tax levied pursuant to this
554 subsection (3) shall be collected by the State Tax Commission from
555 the purchaser of such truck-tractor or semitrailer at the time of
556 registration of such truck-tractor or semitrailer.

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

560 (5) Any person exercising any privilege taxable under
561 Section 27-65-15 and selling his natural resource products at

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

564 **SECTION 10.** Section 27-65-111, Mississippi Code of 1972, is
565 amended as follows:

566 27-65-111. The exemptions from the provisions of this
567 chapter which are not industrial, agricultural or governmental, or
568 which do not relate to utilities or taxes, or which are not
569 properly classified as one of the exemption classifications of
570 this chapter, shall be confined to persons or property exempted by
571 this section or by the Constitution of the United States or the
572 State of Mississippi. No exemptions as now provided by any other
573 section, except the classified exemption sections of this chapter
574 set forth herein, shall be valid as against the tax herein levied.
575 Any subsequent exemption from the tax levied hereunder, except as
576 indicated above, shall be provided by amendments to this section.

577 No exemption provided in this section shall apply to taxes
578 levied by Section 27-65-15 or 27-65-21, Mississippi Code of 1972.

579 The tax levied by this chapter shall not apply to the
580 following:

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

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

589 (b) Sales of daily or weekly newspapers, and
590 periodicals or publications of scientific, literary or educational
591 organizations exempt from federal income taxation under Section
592 501(c)(3) of the Internal Revenue Code of 1954, as it exists as of
593 March 31, 1975, and subscription sales of all magazines.

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

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

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

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

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

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

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

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

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

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

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

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

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

657 "Hospital," as used in this paragraph (h), shall have the
658 meaning ascribed to it in Section 41-9-3, Mississippi Code of
659 1972.

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

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

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

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

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

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

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

681 (o) Retail sales of food for human consumption
682 purchased with food stamps issued by the United States Department
683 of Agriculture, or other federal agency, from and after October 1,
684 1987, or from and after the expiration of any waiver granted
685 pursuant to federal law, the effect of which waiver is to permit
686 the collection by the state of tax on such retail sales of food
687 for human consumption purchased with food stamps.

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

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

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

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

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

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

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

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

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

714 (y) Sales of tangible personal property or services to
715 the Mississippi Technology Alliance.

716 (z) From and after July 1, 2014, retail sales of food
717 for human consumption not purchased with food stamps issued by the
718 United States Department of Agriculture, or other federal agency,
719 but which would be exempt under paragraph (o) of this section from

720 the taxes imposed by this chapter if the food items were purchased
721 with food stamps.

722 **SECTION 11.** This act shall take effect and be in force from
723 and after July 1, 2006.