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To: Finance

SENATE BILL NO. 2310
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 27-69-13, MISSISSIPPI CODE OF 1972,
2 TO INCREASE THE EXCISE TAX ON CIGARETTES, TO PROVIDE THAT THERE
3 SHALL BE A DISCOUNT OF 1% 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 GROCERIES DURING THE PRECEDING MONTH IN EACH
19 MUNICIPALITY BEAR TO THE TOTAL SALES TAX COLLECTIONS FOR GROCERIES
20 DURING THE PRECEDING MONTH IN ALL THE MUNICIPALITIES OF THE STATE;
21 TO AMEND SECTIONS 27-69-27 AND 27-69-31, MISSISSIPPI CODE OF 1972,
22 IN CONFORMITY THERETO; TO CREATE A NEW SECTION 27-65-26,
23 MISSISSIPPI CODE OF 1972, TO IMPOSE A SEPARATE SALES TAX LEVY ON
24 RETAIL SALES OF CERTAIN FOOD FOR HUMAN CONSUMPTION AND TO REDUCE
25 THE SALES TAX RATE ON SUCH FOOD EACH FISCAL YEAR THROUGH JULY 1,
26 2014; TO AMEND SECTION 27-65-17, MISSISSIPPI CODE OF 1972, IN
27 CONFORMITY THERETO; TO AMEND SECTION 27-65-111, MISSISSIPPI CODE
28 OF 1972, TO EXEMPT FROM SALES TAXATION, EFFECTIVE JULY 1, 2014,
29 RETAIL SALES OF CERTAIN FOOD FOR HUMAN CONSUMPTION; AND FOR
30 RELATED PURPOSES.

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

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

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

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

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

49 * * *

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

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

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

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

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

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

92 * * *

93 (2) No stamp evidencing the tax * * * levied on cigarettes
94 by this section shall be of a denomination of less than One Cent
95 (1¢), and whenever the tax computed at the rates * * * prescribed
96 on cigarettes in this section is a specified amount, plus a
97 fractional part of One Cent (1¢), the package shall be stamped for
98 the next full cent. However, the additional face value of stamps
99 purchased to comply with taxes imposed by this section after June
100 1, 1985, and prior to July 1, 2006, shall be subject to a four
101 percent (4%) discount or compensation to dealers for their
102 services rather than the eight percent (8%) discount or
103 compensation allowed by Section 27-69-31, and there shall be no
104 discount on the additional face value of stamps purchased to
105 comply with taxes imposed by this section on or after July 1,
106 2006.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

172 Tax Diversion Fund created under Section 5 of Senate Bill No.
173 2310, 2006 Regular Session.

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

179 (iv) From and after July 1, 2009, through June 30,
180 2010, Two Million Seven Hundred Thousand Dollars (\$2,700,000.00)
181 shall be deposited by the commissioner into the Municipal Tobacco
182 Tax Diversion Fund created under Section 5 of Senate Bill No.
183 2310, 2006 Regular Session.

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

189 (vi) From and after July 1, 2011, through June 30,
190 2012, Three Million Three Hundred Thousand Dollars (\$3,300,000.00)
191 shall be deposited by the commissioner into the Municipal Tobacco
192 Tax Diversion Fund created under Section 5 of Senate Bill No.
193 2310, 2006 Regular Session.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

303 (2) On or before August 15, 2006, and each succeeding month
304 thereafter, the State Tax Commission shall distribute from the
305 special fund the amount required to be deposited in the special
306 fund during the preceding month under Section 27-69-75 to each
307 municipality in the state, in an amount equal to the proportion
308 that the sales tax collections from retail sales of food taxed
309 under Section 27-65-26 for the preceding month in each
310 municipality bear to the total sales tax collections from retail
311 sales of food taxed under Section 27-65-26 for the preceding month
312 in all the municipalities of the state; however, from and after
313 July 1, 2014, the State Tax Commission shall distribute from the
314 special fund the amount required to be deposited in the special
315 fund during the preceding month under Section 27-69-75 to each
316 municipality in the state, in an amount equal to the proportion
317 that the sales tax collections for the preceding month in each
318 municipality bear to the total sales tax collections for the
319 preceding month in all the municipalities of the state.

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

322 27-69-27. The payment of the tax imposed by this chapter
323 shall be evidenced by affixing stamps to each individual package
324 of cigarettes usually sold to consumers, as distinguished from
325 cartons or larger units which are composed of a number of
326 individual packages.

327 The stamp shall be affixed within seventy-two (72) hours
328 after the receipt of the cigarettes by the wholesaler, and within
329 forty-eight (48) hours after receipt of the cigarettes by the
330 retailer; provided, that in the case a dealer conducts a wholesale
331 and retail business at one (1) place of business, stamps shall be
332 affixed within forty-eight (48) hours after receipt of the
333 cigarettes. The stamp must be so securely affixed as to require

334 the continued application of water or of steam to remove it, or so
335 that it cannot be otherwise removed without destruction or
336 mutilation.

337 The excise tax imposed on cigars, smoking tobacco, chewing
338 tobacco, snuff and all other tobacco products except cigarettes
339 shall be computed by the application of the excise tax rate to the
340 manufacturer's list price on all purchases of such tobacco. The
341 excise tax shall be due and payable on or before the fifteenth day
342 of the month next succeeding the month in which the tax accrues.
343 The tax shall be filed with the commissioner on forms prescribed
344 by the commissioner.

345 Provided, however, manufacturers or other wholesale
346 distributors of tobacco, which are subject to the excise taxes
347 imposed by Sections 27-69-13, 27-69-13.1 and 27-69-13.2 * * * for
348 the privilege of selling or using such tobaccos within this state,
349 who maintain "terminals" or warehouses in which such tobaccos are
350 stored, and who sell only to licensed wholesale dealers within the
351 state who are qualified to purchase and affix the stamps required,
352 may maintain such "spot stocks," intended only for such sales,
353 without affixing the stamps or filing returns and paying the tax.

354 Any person desiring to maintain such "terminal" or warehouse,
355 shall make application to the commissioner and obtain a permit to
356 maintain such stocks without affixing stamps thereto, for sale
357 exclusively to out-of-state purchasers, or licensed wholesale
358 dealers within this state, and the commissioner is hereby
359 authorized to grant such permit upon the execution and filing with
360 the commissioner, by the applicant, a bond with surety companies,
361 authorized to do business in Mississippi, as surety thereon, and
362 conditioned for the strict compliance by the applicant, with the
363 following conditions under which said privilege may be granted.

364 The person maintaining such stock of untaxed tobacco shall
365 supply to the commissioner monthly, or at such times as the
366 commissioner may require, complete invoices of all tobaccos

367 received, and shall also supply correct invoices of all tobaccos
368 removed from such "terminal" or warehouse, said invoices to
369 contain the correct name and address of all persons to whom such
370 tobacco shall be delivered or consigned, whether within or without
371 the State of Mississippi.

372 The penalty of such bond shall be determined by the
373 commissioner, in an amount sufficient to protect the State of
374 Mississippi from any loss of revenue which might occur by reason
375 of the failure of principal to strictly adhere to the requirement
376 that no tobacco would be sold from such stock within the State of
377 Mississippi, except to licensed wholesale dealers.

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

380 27-69-31. Dealers subject to the provisions of this chapter
381 shall be allowed, as compensation for their services in affixing
382 the stamps * * * required by this chapter, a sum equal to eight
383 percent (8%) of the face value of the stamps purchased by them,
384 except as otherwise provided in Section 27-69-13(2); however, the
385 commission shall allow no discount on the purchase of stamps by
386 wholesalers of an aggregate amount of less than One Hundred
387 Dollars (\$100.00), and by retailers of an aggregate amount of less
388 than Fifty Dollars (\$50.00) in any one (1) order.

389 * * * The commissioner may, in his discretion, either
390 reduce the compensation allowed, or disallow any compensation for
391 the affixing of stamps, for failure of the dealer to comply with
392 any provisions of the law or rules and regulations promulgated by
393 the commissioner.

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

396 27-65-26. (1) From and after July 1, 2006, through June 30,
397 2007, retail sales of food for human consumption not purchased
398 with food stamps issued by the United States Department of
399 Agriculture, or other federal agency, but which would be exempt

400 under paragraph (o) of Section 27-65-111 from the taxes imposed by
401 this chapter if the food items were purchased with food stamps,
402 shall be taxed at the rate of four and one-half percent (4-1/2%).

403 (2) From and after July 1, 2007, through June 30, 2008,
404 retail sales of food for human consumption not purchased with food
405 stamps issued by the United States Department of Agriculture, or
406 other federal agency, but which would be exempt under paragraph
407 (o) of Section 27-65-111 from the taxes imposed by this chapter if
408 the food items were purchased with food stamps, shall be taxed at
409 the rate of three and one-half percent (3-1/2%).

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

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

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

431 (6) From and after July 1, 2011, through June 30, 2012,
432 retail sales of food for human consumption not purchased with food

433 stamps issued by the United States Department of Agriculture, or
434 other federal agency, but which would be exempt under paragraph
435 (o) of Section 27-65-111 from the taxes imposed by this chapter if
436 the food items were purchased with food stamps, shall be taxed at
437 the rate of one and one-half percent (1-1/2%).

438 (7) From and after July 1, 2012, through June 30, 2013,
439 retail sales of food for human consumption not purchased with food
440 stamps issued by the United States Department of Agriculture, or
441 other federal agency, but which would be exempt under paragraph
442 (o) of Section 27-65-111 from the taxes imposed by this chapter if
443 the food items were purchased with food stamps, shall be taxed at
444 the rate of one percent (1%).

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

452 (9) This section shall stand repealed from and after July 1,
453 2014.

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

456 27-65-17. (1) (a) Except as otherwise provided in this
457 section, upon every person engaging or continuing within this
458 state in the business of selling any tangible personal property
459 whatsoever there is hereby levied, assessed and shall be collected
460 a tax equal to seven percent (7%) of the gross proceeds of the
461 retail sales of the business.

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

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

473 (i) Self-propelled, or
474 (ii) Mounted so that it is permanently attached to
475 other equipment which is self-propelled or permanently attached to
476 other equipment drawn by a vehicle which is self-propelled.

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

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

487 (f) Sales of machinery and machine parts when made to a
488 technology intensive enterprise for plant use only when the
489 machinery and machine parts will be used exclusively and directly
490 within this state for industrial purposes, including, but not
491 limited to, manufacturing or research and development activities,
492 shall be taxed at the rate of one and one-half percent (1-1/2%).
493 In order to be considered a technology intensive enterprise for
494 purposes of this paragraph:

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

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

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

502 (iv) The enterprise shall manufacture plastics,
503 chemicals, automobiles, aircraft, computers or electronics; or
504 shall be a research and development facility, a computer design or
505 related facility, or a software publishing facility or other
506 technology intensive facility or enterprise as determined by the
507 Mississippi Development Authority;

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

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

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

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

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

527 (j) Wholesale sales of food and drink for human
528 consumption to full service vending machine operators to be sold
529 through vending machines located apart from and not connected with

530 other taxable businesses shall be taxed at the rate of eight
531 percent (8%).

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

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

546 (2) From and after January 1, 1995, retail sales of private
547 carriers of passengers and light carriers of property, as defined
548 in Section 27-51-101, shall be taxed an additional two percent
549 (2%).

550 (3) In lieu of the tax levied in subsection (1) of this
551 section, there is levied on retail sales of truck-tractors and
552 semitrailers used in interstate commerce and registered under the
553 International Registration Plan (IRP) or any similar reciprocity
554 agreement or compact relating to the proportional registration of
555 commercial vehicles entered into as provided for in Section
556 27-19-143, a tax at the rate of three percent (3%) of the portion
557 of the sale that is attributable to the usage of such
558 truck-tractor or semitrailer in Mississippi. The portion of the
559 retail sale that is attributable to the usage of such
560 truck-tractor or semitrailer in Mississippi is the retail sales
561 price of the truck-tractor or semitrailer multiplied by the
562 percentage of the total miles traveled by the vehicle that are

563 traveled in Mississippi. The tax levied pursuant to this
564 subsection (3) shall be collected by the State Tax Commission from
565 the purchaser of such truck-tractor or semitrailer at the time of
566 registration of such truck-tractor or semitrailer.

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

570 (5) Any person exercising any privilege taxable under
571 Section 27-65-15 and selling his natural resource products at
572 wholesale or to exempt persons shall pay the tax levied by said
573 section in lieu of the tax levied by this section.

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

576 27-65-111. The exemptions from the provisions of this
577 chapter which are not industrial, agricultural or governmental, or
578 which do not relate to utilities or taxes, or which are not
579 properly classified as one of the exemption classifications of
580 this chapter, shall be confined to persons or property exempted by
581 this section or by the Constitution of the United States or the
582 State of Mississippi. No exemptions as now provided by any other
583 section, except the classified exemption sections of this chapter
584 set forth herein, shall be valid as against the tax herein levied.
585 Any subsequent exemption from the tax levied hereunder, except as
586 indicated above, shall be provided by amendments to this section.

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

589 The tax levied by this chapter shall not apply to the
590 following:

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

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

599 (b) Sales of daily or weekly newspapers, and
600 periodicals or publications of scientific, literary or educational
601 organizations exempt from federal income taxation under Section
602 501(c)(3) of the Internal Revenue Code of 1954, as it exists as of
603 March 31, 1975, and subscription sales of all magazines.

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

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

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

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

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

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

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

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

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

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

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

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

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

667 "Hospital," as used in this paragraph (h), shall have the
668 meaning ascribed to it in Section 41-9-3, Mississippi Code of
669 1972.

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

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

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

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

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

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

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

691 (o) Retail sales of food for human consumption
692 purchased with food stamps issued by the United States Department
693 of Agriculture, or other federal agency, from and after October 1,

694 1987, or from and after the expiration of any waiver granted
695 pursuant to federal law, the effect of which waiver is to permit
696 the collection by the state of tax on such retail sales of food
697 for human consumption purchased with food stamps.

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

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

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

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

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

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

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

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

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

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

726 (z) From and after July 1, 2014, retail sales of food
727 for human consumption not purchased with food stamps issued by the
728 United States Department of Agriculture, or other federal agency,
729 but which would be exempt under paragraph (o) of this section from
730 the taxes imposed by this chapter if the food items were purchased
731 with food stamps.

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