

By: Senator(s) Little, Robertson, Gordon,  
Mettetal, Jordan, Tollison, King

To: Finance

SENATE BILL NO. 3084  
(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 AND TO REMOVE THE  
3 TAXATION OF SNUFF AND OTHER TOBACCO PRODUCTS FROM THE SECTION OF  
4 LAW THAT LEVIES THE EXCISE TAX ON DEALERS IN CIGARETTES; TO CREATE  
5 NEW SECTION 27-69-13.1, MISSISSIPPI CODE OF 1972, TO LEVY THE  
6 EXCISE TAX ON DEALERS IN SNUFF; TO CREATE NEW SECTION 27-69-13.2,  
7 MISSISSIPPI CODE OF 1972, TO LEVY THE EXCISE TAX ON DEALERS IN  
8 CIGARS, STOGIES, CHEWING TOBACCO, SMOKING TOBACCO AND ALL OTHER  
9 TOBACCO PRODUCTS, EXCEPT CIGARETTES AND SNUFF; TO CREATE THE  
10 MUNICIPAL SALES TAX DIVERSION FUND AND REQUIRE THAT MONEY IN THE  
11 FUND BE DISTRIBUTED MONTHLY TO MUNICIPALITIES IN THE PROPORTION  
12 THAT SALES TAX COLLECTIONS FOR GROCERIES DURING THE PRECEDING  
13 MONTH IN EACH MUNICIPALITY BEAR TO THE TOTAL SALES TAX COLLECTIONS  
14 FOR GROCERIES DURING THE PRECEDING MONTH IN ALL THE MUNICIPALITIES  
15 OF THE STATE; TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972,  
16 TO REQUIRE THAT A PORTION OF THE SALES TAX REVENUE COLLECTED EACH  
17 MONTH TO BE DEPOSITED IN THE MUNICIPAL SALES TAX DIVERSION FUND,  
18 THE EDUCATION ENHANCEMENT FUND AND THE SCHOOL AD VALOREM TAX  
19 REDUCTION FUND; TO AMEND SECTION 27-69-27, MISSISSIPPI CODE OF  
20 1972, IN CONFORMITY THERETO; TO AMEND SECTION 27-69-31,  
21 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR A DISCOUNT ON THE  
22 ADDITIONAL FACE VALUE OF STAMPS PURCHASED TO COMPLY WITH CERTAIN  
23 CIGARETTE EXCISE TAX INCREASES; TO CREATE A NEW SECTION 27-65-26,  
24 MISSISSIPPI CODE OF 1972, TO IMPOSE A SEPARATE SALES TAX LEVY ON  
25 RETAIL SALES OF CERTAIN FOOD FOR HUMAN CONSUMPTION AND TO REDUCE  
26 THE SALES TAX RATE ON SUCH FOOD; TO AMEND SECTION 27-65-17,  
27 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED  
28 PURPOSES.

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

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

32 27-69-13. (1) There is \* \* \* imposed, levied and assessed,  
33 to be collected and paid as hereinafter provided in this chapter,  
34 an excise tax on each person or dealer in cigarettes \* \* \* or  
35 substitutes therefor, upon the sale, use, consumption, handling or  
36 distribution in the State of Mississippi, \* \* \* at the rate  
37 of \* \* \* Four Cents (4¢) on each cigarette sold with a maximum  
38 length of one hundred twenty (120) millimeters; any cigarette in  
39 excess of this length shall be taxed as if it were two (2) or more  
40 cigarettes. \* \* \* However, if the federal tax rate on cigarettes

41 in effect on June 1, 1985, is reduced, then the rate as provided  
42 in this section shall be increased by the amount of the federal  
43 tax reduction. The tax increase shall take effect on the first  
44 day of the month following the effective date of such reduction in  
45 the federal tax rate.

46 \* \* \*

47 (2) No stamp evidencing the tax \* \* \* levied on cigarettes  
48 by this section shall be of a denomination of less than One Cent  
49 (1¢), and whenever the tax computed at the rates \* \* \* prescribed  
50 on cigarettes in this section is a specified amount, plus a  
51 fractional part of One Cent (1¢), the package shall be stamped for  
52 the next full cent. \* \* \*

53 (3) Every wholesaler shall purchase stamps as provided in  
54 this chapter, and affix the stamps to all packages of cigarettes  
55 handled by him as \* \* \* provided in this chapter.

56 (4) The \* \* \* tax levied by this section is levied upon the  
57 sale, use, gift, possession or consumption of cigarettes or  
58 substitutes therefor within the State of Mississippi, and the  
59 impact of the tax levied by this section is \* \* \* declared to be  
60 on the vendee, user, consumer or possessor of tobacco in this  
61 state. \* \* \* When the tax is paid by any other person, the  
62 payment shall be considered as an advance payment and shall  
63 thereafter be added to the price of the tobacco and recovered from  
64 the ultimate consumer or user.

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

67 27-69-13.1. (1) There is imposed, levied and assessed, to  
68 be collected and paid as hereinafter provided in this chapter, an  
69 excise tax on each person or dealer in snuff or substitutes  
70 therefor, upon the sale, use, consumption, handling or  
71 distribution in the State of Mississippi, at the rate of fifteen  
72 percent (15%) of the manufacturer's list price.

73           (2) The tax levied by this section is levied upon the sale,  
74 use, gift, possession or consumption of snuff or substitutes  
75 therefor within the State of Mississippi, and the impact of the  
76 tax levied by this section is declared to be on the vendee, user,  
77 consumer or possessor of snuff in this state. When the tax is  
78 paid by any other person, the payment shall be considered as an  
79 advance payment and shall thereafter be added to the price of the  
80 snuff and recovered from the ultimate consumer or user.

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

83           27-69-13.2. (1) There is imposed, levied and assessed, to  
84 be collected and paid as hereinafter provided in this chapter, an  
85 excise tax on each person or dealer in cigars, stogies, chewing  
86 tobacco, smoking tobacco and all other tobacco products, except  
87 cigarettes and snuff, upon the sale, use, consumption, handling or  
88 distribution in the State of Mississippi, at the rate of fifteen  
89 percent (15%) of the manufacturer's list price.

90           (2) The tax levied by this section is levied upon the sale,  
91 use, gift, possession or consumption of cigars, stogies, chewing  
92 tobacco, smoking tobacco and all other tobacco products, except  
93 cigarettes or snuff, and the impact of the tax levied by this  
94 section is declared to be on the vendee, user, consumer or  
95 possessor of tobacco in this state. When the tax is paid by any  
96 other person, such payment shall be considered as an advance  
97 payment and shall thereafter be added to the price of the tobacco  
98 and recovered from the ultimate consumer or user.

99           **SECTION 4.** (1) There is created in the State Treasury a  
100 special fund known as the Municipal Sales Tax Diversion Fund which  
101 shall be comprised of the money required to be deposited into the  
102 fund under Section 27-65-75. Money in the fund shall be expended  
103 by the State Tax Commission to make payments to municipalities as  
104 required by this section. Unexpended amounts remaining in the  
105 special fund at the end of a fiscal year shall not lapse into the

106 State General Fund, and any interest earned or investment earnings  
107 on amounts in the special fund shall be deposited to the credit of  
108 the special fund.

109 (2) On or before September 15, 2006, and each succeeding  
110 month thereafter, the State Tax Commission shall distribute from  
111 the special fund the amount required to be deposited in the  
112 special fund during the preceding month under Section 27-65-75 to  
113 each municipality in the state, in an amount equal to the  
114 proportion that the sales tax collections from retail sales of  
115 food taxed under Section 27-65-26 for the preceding month in each  
116 municipality bear to the total sales tax collections from retail  
117 sales of food taxed under Section 27-65-26 for the preceding month  
118 in all the municipalities of the state.

119 **SECTION 5.** Section 27-65-75, Mississippi Code of 1972, is  
120 amended as follows:

121 27-65-75. On or before the fifteenth day of each month, the  
122 revenue collected under the provisions of this chapter during the  
123 preceding month shall be paid and distributed as follows:

124 (1) On or before August 15, 1992, and each succeeding month  
125 thereafter through July 15, 1993, eighteen percent (18%) of the  
126 total sales tax revenue collected during the preceding month under  
127 the provisions of this chapter, except that collected under the  
128 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on  
129 business activities within a municipal corporation shall be  
130 allocated for distribution to the municipality and paid to the  
131 municipal corporation. On or before August 15, 1993, and each  
132 succeeding month thereafter, eighteen and one-half percent  
133 (18-1/2%) of the total sales tax revenue collected during the  
134 preceding month under the provisions of this chapter, except that  
135 collected under the provisions of Sections 27-65-15, 27-65-19(3)  
136 and 27-65-21, on business activities within a municipal  
137 corporation shall be allocated for distribution to the  
138 municipality and paid to the municipal corporation.

139 A municipal corporation, for the purpose of distributing the  
140 tax under this subsection, shall mean and include all incorporated  
141 cities, towns and villages.

142 Monies allocated for distribution and credited to a municipal  
143 corporation under this subsection may be pledged as security for a  
144 loan if the distribution received by the municipal corporation is  
145 otherwise authorized or required by law to be pledged as security  
146 for such a loan.

147 In any county having a county seat that is not an  
148 incorporated municipality, the distribution provided under this  
149 subsection shall be made as though the county seat was an  
150 incorporated municipality; however, the distribution to the  
151 municipality shall be paid to the county treasury in which the  
152 municipality is located, and those funds shall be used for road,  
153 bridge and street construction or maintenance in the county.

154 (2) On or before September 15, 1987, and each succeeding  
155 month thereafter, from the revenue collected under this chapter  
156 during the preceding month, One Million One Hundred Twenty-five  
157 Thousand Dollars (\$1,125,000.00) shall be allocated for  
158 distribution to municipal corporations as defined under subsection  
159 (1) of this section in the proportion that the number of gallons  
160 of gasoline and diesel fuel sold by distributors to consumers and  
161 retailers in each such municipality during the preceding fiscal  
162 year bears to the total gallons of gasoline and diesel fuel sold  
163 by distributors to consumers and retailers in municipalities  
164 statewide during the preceding fiscal year. The State Tax  
165 Commission shall require all distributors of gasoline and diesel  
166 fuel to report to the commission monthly the total number of  
167 gallons of gasoline and diesel fuel sold by them to consumers and  
168 retailers in each municipality during the preceding month. The  
169 State Tax Commission shall have the authority to promulgate such  
170 rules and regulations as is necessary to determine the number of  
171 gallons of gasoline and diesel fuel sold by distributors to

172 consumers and retailers in each municipality. In determining the  
173 percentage allocation of funds under this subsection for the  
174 fiscal year beginning July 1, 1987, and ending June 30, 1988, the  
175 State Tax Commission may consider gallons of gasoline and diesel  
176 fuel sold for a period of less than one (1) fiscal year. For the  
177 purposes of this subsection, the term "fiscal year" means the  
178 fiscal year beginning July 1 of a year.

179 (3) On or before September 15, 1987, and on or before the  
180 fifteenth day of each succeeding month, until the date specified  
181 in Section 65-39-35, the proceeds derived from contractors' taxes  
182 levied under Section 27-65-21 on contracts for the construction or  
183 reconstruction of highways designated under the highway program  
184 created under Section 65-3-97 shall, except as otherwise provided  
185 in Section 31-17-127, be deposited into the State Treasury to the  
186 credit of the State Highway Fund to be used to fund that highway  
187 program. The Mississippi Department of Transportation shall  
188 provide to the State Tax Commission such information as is  
189 necessary to determine the amount of proceeds to be distributed  
190 under this subsection.

191 (4) On or before August 15, 1994, and on or before the  
192 fifteenth day of each succeeding month through July 15, 1999, from  
193 the proceeds of gasoline, diesel fuel or kerosene taxes as  
194 provided in Section 27-5-101(a)(ii)1, Four Million Dollars  
195 (\$4,000,000.00) shall be deposited in the State Treasury to the  
196 credit of a special fund designated as the "State Aid Road Fund,"  
197 created by Section 65-9-17. On or before August 15, 1999, and on  
198 or before the fifteenth day of each succeeding month, from the  
199 total amount of the proceeds of gasoline, diesel fuel or kerosene  
200 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million  
201 Dollars (\$4,000,000.00) or an amount equal to twenty-three and  
202 one-fourth percent (23-1/4%) of those funds, whichever is the  
203 greater amount, shall be deposited in the State Treasury to the  
204 credit of the "State Aid Road Fund," created by Section 65-9-17.

205 Those funds shall be pledged to pay the principal of and interest  
206 on state aid road bonds heretofore issued under Sections 19-9-51  
207 through 19-9-77, in lieu of and in substitution for the funds  
208 previously allocated to counties under this section. Those funds  
209 may not be pledged for the payment of any state aid road bonds  
210 issued after April 1, 1981; however, this prohibition against the  
211 pledging of any such funds for the payment of bonds shall not  
212 apply to any bonds for which intent to issue those bonds has been  
213 published, for the first time, as provided by law before March 29,  
214 1981. From the amount of taxes paid into the special fund under  
215 this subsection and subsection (9) of this section, there shall be  
216 first deducted and paid the amount necessary to pay the expenses  
217 of the Office of State Aid Road Construction, as authorized by the  
218 Legislature for all other general and special fund agencies. The  
219 remainder of the fund shall be allocated monthly to the several  
220 counties in accordance with the following formula:

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

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

227 (c) One-third (1/3) shall be allocated to counties  
228 based on the proportion that the rural population of the county  
229 bears to the total rural population in all counties of the state,  
230 according to the latest federal decennial census.

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

234 The amount of funds allocated to any county under this  
235 subsection for any fiscal year after fiscal year 1994 shall not be  
236 less than the amount allocated to the county for fiscal year 1994.

237 Any reference in the general laws of this state or the  
238 Mississippi Code of 1972 to Section 27-5-105 shall mean and be  
239 construed to refer and apply to subsection (4) of Section  
240 27-65-75.

241 (5) One Million Six Hundred Sixty-six Thousand Six Hundred  
242 Sixty-six Dollars (\$1,666,666.00) each month shall be paid into  
243 the special fund known as the "State Public School Building Fund"  
244 created and existing under the provisions of Sections 37-47-1  
245 through 37-47-67. Those payments into that fund are to be made on  
246 the last day of each succeeding month hereafter.

247 (6) An amount each month beginning August 15, 1983, through  
248 November 15, 1986, as specified in Section 6 of Chapter 542, Laws  
249 of 1983, shall be paid into the special fund known as the  
250 Correctional Facilities Construction Fund created in Section 6 of  
251 Chapter 542, Laws of 1983.

252 (7) On or before August 15, 1992, and each succeeding month  
253 thereafter through July 15, 2000, two and two hundred sixty-six  
254 one-thousandths percent (2.266%) of the total sales tax revenue  
255 collected during the preceding month under the provisions of this  
256 chapter, except that collected under the provisions of Section  
257 27-65-17(2) shall be deposited by the commission into the School  
258 Ad Valorem Tax Reduction Fund created under Section 37-61-35. On  
259 or before August 15, 2000, and each succeeding month thereafter,  
260 two and two hundred sixty-six one-thousandths percent (2.266%) of  
261 the total sales tax revenue collected during the preceding month  
262 under the provisions of this chapter, except that collected under  
263 the provisions of Section 27-65-17(2), shall be deposited into the  
264 School Ad Valorem Tax Reduction Fund created under Section  
265 37-61-35 until such time that the total amount deposited into the  
266 fund during a fiscal year equals Forty-two Million Dollars  
267 (\$42,000,000.00). Thereafter, the amounts diverted under this  
268 subsection (7) during the fiscal year in excess of Forty-two  
269 Million Dollars (\$42,000,000.00) shall be deposited into the



270 Education Enhancement Fund created under Section 37-61-33 for  
271 appropriation by the Legislature as other education needs and  
272 shall not be subject to the percentage appropriation requirements  
273 set forth in Section 37-61-33.

274 (8) On or before August 15, 1992, and each succeeding month  
275 thereafter, nine and seventy-three one-thousandths percent  
276 (9.073%) of the total sales tax revenue collected during the  
277 preceding month under the provisions of this chapter, except that  
278 collected under the provisions of Section 27-65-17(2), shall be  
279 deposited into the Education Enhancement Fund created under  
280 Section 37-61-33.

281 (9) On or before August 15, 1994, and each succeeding month  
282 thereafter, from the revenue collected under this chapter during  
283 the preceding month, Two Hundred Fifty Thousand Dollars  
284 (\$250,000.00) shall be paid into the State Aid Road Fund.

285 (10) On or before August 15, 1994, and each succeeding month  
286 thereafter through August 15, 1995, from the revenue collected  
287 under this chapter during the preceding month, Two Million Dollars  
288 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad  
289 Valorem Tax Reduction Fund established in Section 27-51-105.

290 (11) Notwithstanding any other provision of this section to  
291 the contrary, on or before February 15, 1995, and each succeeding  
292 month thereafter, the sales tax revenue collected during the  
293 preceding month under the provisions of Section 27-65-17(2) and  
294 the corresponding levy in Section 27-65-23 on the rental or lease  
295 of private carriers of passengers and light carriers of property  
296 as defined in Section 27-51-101 shall be deposited, without  
297 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund  
298 established in Section 27-51-105.

299 (12) Notwithstanding any other provision of this section to  
300 the contrary, on or before August 15, 1995, and each succeeding  
301 month thereafter, the sales tax revenue collected during the  
302 preceding month under the provisions of Section 27-65-17(1) on

303 retail sales of private carriers of passengers and light carriers  
304 of property, as defined in Section 27-51-101 and the corresponding  
305 levy in Section 27-65-23 on the rental or lease of these vehicles,  
306 shall be deposited, after diversion, into the Motor Vehicle Ad  
307 Valorem Tax Reduction Fund established in Section 27-51-105.

308 (13) On or before July 15, 1994, and on or before the  
309 fifteenth day of each succeeding month thereafter, that portion of  
310 the avails of the tax imposed in Section 27-65-22 that is derived  
311 from activities held on the Mississippi state fairgrounds complex,  
312 shall be paid into a special fund that is created in the State  
313 Treasury and shall be expended upon legislative appropriation  
314 solely to defray the costs of repairs and renovation at the Trade  
315 Mart and Coliseum.

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

323 (15) Notwithstanding any other provision of this section to  
324 the contrary, on or before September 15, 2000, and each succeeding  
325 month thereafter, the sales tax revenue collected during the  
326 preceding month under the provisions of Section 27-65-19(1)(f) and  
327 (g)(i)2, shall be deposited, without diversion, into the  
328 Telecommunications Ad Valorem Tax Reduction Fund established in  
329 Section 27-38-7.

330 (16) On or before August 15, 2000, and each succeeding month  
331 thereafter, the sales tax revenue collected during the preceding  
332 month under the provisions of this chapter on the gross proceeds  
333 of sales of a project as defined in Section 57-30-1 shall be  
334 deposited, after all diversions except the diversion provided for

335 in subsection (1) of this section, into the Sales Tax Incentive  
336 Fund created in Section 57-30-3.

337 (17) Notwithstanding any other provision of this section to  
338 the contrary, on or before April 15, 2002, and each succeeding  
339 month thereafter, the sales tax revenue collected during the  
340 preceding month under Section 27-65-23 on sales of parking  
341 services of parking garages and lots at airports shall be  
342 deposited, without diversion, into the special fund created under  
343 Section 27-5-101(d).

344 (18) On or before August 15, 2007, and each succeeding month  
345 thereafter through July 15, 2008, from the sales tax revenue  
346 collected during the preceding month under the provisions of this  
347 chapter, Two Million Five Hundred Thousand Dollars (\$2,500,000.00)  
348 shall be deposited into the Special Funds Transfer Fund created in  
349 Section 4 of Chapter 556, Laws of 2003.

350 (19) (a) On or before August 15, 2005, and each succeeding  
351 month thereafter, the sales tax revenue collected during the  
352 preceding month under the provisions of this chapter on the gross  
353 proceeds of sales of a business enterprise located within a  
354 redevelopment project area under the provisions of Sections  
355 57-91-1 through 57-91-11, and the revenue collected on the gross  
356 proceeds of sales from sales made to a business enterprise located  
357 in a redevelopment project area under the provisions of Sections  
358 57-91-1 through 57-91-11 (provided that such sales made to a  
359 business enterprise are made on the premises of the business  
360 enterprise), shall, except as otherwise provided in this  
361 subsection (19), be deposited, after all diversions, into the  
362 Redevelopment Project Incentive Fund as created in Section  
363 57-91-9.

364 (b) For a municipality participating in the Economic  
365 Redevelopment Act created in Sections 57-91-1 through 57-91-11,  
366 the diversion provided for in subsection (1) of this section  
367 attributable to the gross proceeds of sales of a business

368 enterprise located within a redevelopment project area under the  
369 provisions of Sections 57-91-1 through 57-91-11, and attributable  
370 to the gross proceeds of sales from sales made to a business  
371 enterprise located in a redevelopment project area under the  
372 provisions of Sections 57-91-1 through 57-91-11 (provided that  
373 such sales made to a business enterprise are made on the premises  
374 of the business enterprise), shall be deposited into the  
375 Redevelopment Project Incentive Fund as created in Section  
376 57-91-9, as follows:

377 (i) For the first six (6) years in which payments  
378 are made to a developer from the Redevelopment Project Incentive  
379 Fund, one hundred percent (100%) of the diversion shall be  
380 deposited into the fund;

381 (ii) For the seventh year in which such payments  
382 are made to a developer from the Redevelopment Project Incentive  
383 Fund, eighty percent (80%) of the diversion shall be deposited  
384 into the fund;

385 (iii) For the eighth year in which such payments  
386 are made to a developer from the Redevelopment Project Incentive  
387 Fund, seventy percent (70%) of the diversion shall be deposited  
388 into the fund;

389 (iv) For the ninth year in which such payments are  
390 made to a developer from the Redevelopment Project Incentive Fund,  
391 sixty percent (60%) of the diversion shall be deposited into the  
392 fund; and

393 (v) For the tenth year in which such payments are  
394 made to a developer from the Redevelopment Project Incentive Fund,  
395 fifty percent (50%) of the funds shall be deposited into the fund.

396 (20) On or before September 15, 2006, and each succeeding  
397 month thereafter, the following amount of sales tax revenue  
398 collected during the preceding month under the provisions of this  
399 chapter shall be deposited, after all diversions, into the  
400 following funds:

401           (a) Two Million Four Hundred Thousand Dollars  
402 (\$2,400,000.00) into the Municipal Sales Tax Diversion Fund  
403 created under Section 4 of Senate Bill No. 3084, 2006 Regular  
404 Session.

405           (b) One Million Three Hundred Five Thousand Dollars  
406 (\$1,305,000.00) into the Education Enhancement Fund created under  
407 Section 37-61-33.

408           (c) Three Hundred Twenty-six Thousand Dollars  
409 (\$326,000.00) into the School Ad Valorem Tax Reduction Fund  
410 created under Section 37-61-35.

411       (21) The remainder of the amounts collected under the  
412 provisions of this chapter shall be paid into the State Treasury  
413 to the credit of the General Fund.

414       (22) It shall be the duty of the municipal officials of any  
415 municipality that expands its limits, or of any community that  
416 incorporates as a municipality, to notify the commissioner of that  
417 action thirty (30) days before the effective date. Failure to so  
418 notify the commissioner shall cause the municipality to forfeit  
419 the revenue that it would have been entitled to receive during  
420 this period of time when the commissioner had no knowledge of the  
421 action. If any funds have been erroneously disbursed to any  
422 municipality or any overpayment of tax is recovered by the  
423 taxpayer, the commissioner may make correction and adjust the  
424 error or overpayment with the municipality by withholding the  
425 necessary funds from any later payment to be made to the  
426 municipality.

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

429       27-69-27. The payment of the tax imposed by this chapter  
430 shall be evidenced by affixing stamps to each individual package  
431 of cigarettes usually sold to consumers, as distinguished from  
432 cartons or larger units which are composed of a number of  
433 individual packages.

434           The stamp shall be affixed within seventy-two (72) hours  
435 after the receipt of the cigarettes by the wholesaler, and within  
436 forty-eight (48) hours after receipt of the cigarettes by the  
437 retailer; provided, that in the case a dealer conducts a wholesale  
438 and retail business at one (1) place of business, stamps shall be  
439 affixed within forty-eight (48) hours after receipt of the  
440 cigarettes. The stamp must be so securely affixed as to require  
441 the continued application of water or of steam to remove it, or so  
442 that it cannot be otherwise removed without destruction or  
443 mutilation.

444           The excise tax imposed on cigars, smoking tobacco, chewing  
445 tobacco, snuff and all other tobacco products except cigarettes  
446 shall be computed by the application of the excise tax rate to the  
447 manufacturer's list price on all purchases of such tobacco. The  
448 excise tax shall be due and payable on or before the fifteenth day  
449 of the month next succeeding the month in which the tax accrues.  
450 The tax shall be filed with the commissioner on forms prescribed  
451 by the commissioner.

452           Provided, however, manufacturers or other wholesale  
453 distributors of tobacco, which are subject to the excise taxes  
454 imposed by Sections 27-69-13, 27-69-13.1 and 27-69-13.2 \* \* \* for  
455 the privilege of selling or using such tobaccos within this state,  
456 who maintain "terminals" or warehouses in which such tobaccos are  
457 stored, and who sell only to licensed wholesale dealers within the  
458 state who are qualified to purchase and affix the stamps required,  
459 may maintain such "spot stocks," intended only for such sales,  
460 without affixing the stamps or filing returns and paying the tax.

461           Any person desiring to maintain such "terminal" or warehouse,  
462 shall make application to the commissioner and obtain a permit to  
463 maintain such stocks without affixing stamps thereto, for sale  
464 exclusively to out-of-state purchasers, or licensed wholesale  
465 dealers within this state, and the commissioner is hereby  
466 authorized to grant such permit upon the execution and filing with

467 the commissioner, by the applicant, a bond with surety companies,  
468 authorized to do business in Mississippi, as surety thereon, and  
469 conditioned for the strict compliance by the applicant, with the  
470 following conditions under which said privilege may be granted.

471 The person maintaining such stock of untaxed tobacco shall  
472 supply to the commissioner monthly, or at such times as the  
473 commissioner may require, complete invoices of all tobaccos  
474 received, and shall also supply correct invoices of all tobaccos  
475 removed from such "terminal" or warehouse, said invoices to  
476 contain the correct name and address of all persons to whom such  
477 tobacco shall be delivered or consigned, whether within or without  
478 the State of Mississippi.

479 The penalty of such bond shall be determined by the  
480 commissioner, in an amount sufficient to protect the State of  
481 Mississippi from any loss of revenue which might occur by reason  
482 of the failure of principal to strictly adhere to the requirement  
483 that no tobacco would be sold from such stock within the State of  
484 Mississippi, except to licensed wholesale dealers.

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

487 27-69-31. Dealers subject to the provisions of this chapter  
488 shall be allowed, as compensation for their services in affixing  
489 the stamps \* \* \* required by this chapter, a sum equal to eight  
490 percent (8%) of the face value of the stamps purchased by them;  
491 however, the additional face value of stamps purchased to comply  
492 with taxes imposed by Section 27-69-31 after June 1, 1985, and  
493 prior to July 1, 2006, shall be subject to a four percent (4%)  
494 discount or compensation to dealers for their services rather than  
495 the eight percent (8%) discount or compensation allowed by this  
496 section, and the additional face value of stamps purchased to  
497 comply with taxes imposed by Section 27-69-31 on or after July 1,  
498 2006, shall be subject to a one percent (1%) discount rather than  
499 the eight percent (8%) discount or compensation allowed by this

500 section. The commission shall allow no discount on the purchase  
501 of stamps by wholesalers of an aggregate amount of less than One  
502 Hundred Dollars (\$100.00), and by retailers of an aggregate amount  
503 of less than Fifty Dollars (\$50.00) in any one order.

504 \* \* \* The commissioner may, in his discretion, either  
505 reduce the compensation allowed, or disallow any compensation for  
506 the affixing of stamps, for failure of the dealer to comply with  
507 any provisions of the law or rules and regulations promulgated by  
508 the commissioner.

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

511 27-65-26. From and after July 1, 2006, retail sales of food  
512 for human consumption not purchased with food stamps issued by the  
513 United States Department of Agriculture, or other federal agency,  
514 but which would be exempt under paragraph (o) of Section 27-65-111  
515 from the taxes imposed by this chapter if the food items were  
516 purchased with food stamps, shall be taxed at the rate of three  
517 and one-half percent (3-1/2%).

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

520 27-65-17. (1) (a) Except as otherwise provided in this  
521 section, upon every person engaging or continuing within this  
522 state in the business of selling any tangible personal property  
523 whatsoever there is hereby levied, assessed and shall be collected  
524 a tax equal to seven percent (7%) of the gross proceeds of the  
525 retail sales of the business.

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

529 (c) Retail sales of farm implements sold to farmers and  
530 used directly in the production of poultry, ratite, domesticated  
531 fish as defined in Section 69-7-501, livestock, livestock  
532 products, agricultural crops or ornamental plant crops or used for



533 other agricultural purposes shall be taxed at the rate of three  
534 percent (3%) when used on the farm. The three percent (3%) rate  
535 shall also apply to all equipment used in logging, pulpwood  
536 operations or tree farming which is either:

537 (i) Self-propelled, or

538 (ii) Mounted so that it is permanently attached to  
539 other equipment which is self-propelled or permanently attached to  
540 other equipment drawn by a vehicle which is self-propelled.

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

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

551 (f) Sales of machinery and machine parts when made to a  
552 technology intensive enterprise for plant use only when the  
553 machinery and machine parts will be used exclusively and directly  
554 within this state for industrial purposes, including, but not  
555 limited to, manufacturing or research and development activities,  
556 shall be taxed at the rate of one and one-half percent (1-1/2%).  
557 In order to be considered a technology intensive enterprise for  
558 purposes of this paragraph:

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

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

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

566 (iv) The enterprise shall manufacture plastics,  
567 chemicals, automobiles, aircraft, computers or electronics; or  
568 shall be a research and development facility, a computer design or  
569 related facility, or a software publishing facility or other  
570 technology intensive facility or enterprise as determined by the  
571 Mississippi Development Authority;

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

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

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

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

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

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

596 (k) Sales of equipment used or designed for the purpose  
597 of assisting disabled persons, such as wheelchair equipment and  
598 lifts, that is mounted or attached to or installed on a private

599 carrier of passengers or light carrier of property, as defined in  
600 Section 27-51-101, at the time when the private carrier of  
601 passengers or light carrier of property is sold shall be taxed at  
602 the same rate as the sale of such vehicles under this section.

603 (1) From and after July 1, 2006, retail sales of food  
604 for human consumption not purchased with food stamps issued by the  
605 United States Department of Agriculture, or other federal agency,  
606 but which would be exempt under paragraph (o) of Section 27-65-111  
607 from the taxes imposed by this chapter if the food items were  
608 purchased with food stamps, shall be taxed as provided for in  
609 Section 27-65-26.

610 (2) From and after January 1, 1995, retail sales of private  
611 carriers of passengers and light carriers of property, as defined  
612 in Section 27-51-101, shall be taxed an additional two percent  
613 (2%).

614 (3) In lieu of the tax levied in subsection (1) of this  
615 section, there is levied on retail sales of truck-tractors and  
616 semitrailers used in interstate commerce and registered under the  
617 International Registration Plan (IRP) or any similar reciprocity  
618 agreement or compact relating to the proportional registration of  
619 commercial vehicles entered into as provided for in Section  
620 27-19-143, a tax at the rate of three percent (3%) of the portion  
621 of the sale that is attributable to the usage of such  
622 truck-tractor or semitrailer in Mississippi. The portion of the  
623 retail sale that is attributable to the usage of such  
624 truck-tractor or semitrailer in Mississippi is the retail sales  
625 price of the truck-tractor or semitrailer multiplied by the  
626 percentage of the total miles traveled by the vehicle that are  
627 traveled in Mississippi. The tax levied pursuant to this  
628 subsection (3) shall be collected by the State Tax Commission from  
629 the purchaser of such truck-tractor or semitrailer at the time of  
630 registration of such truck-tractor or semitrailer.

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

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

638           **SECTION 10.** This act shall take effect and be in force from  
639 and after July 1, 2006.