

*****Adopted*****

AMENDMENT No. 1 PROPOSED TO

Senate Bill NO. 3120

By Representative(s) Committee

**Amend by striking all after the enacting clause and inserting
in lieu thereof the following:**

31 **SECTION 1.** Section 27-65-19, Mississippi Code of 1972, is
32 amended as follows:

33 27-65-19. (1) (a) Except as otherwise provided in this
34 subsection, upon every person selling to consumers, electricity,
35 current, power, potable water, steam, coal, natural gas, liquefied
36 petroleum gas or other fuel, there is hereby levied, assessed and
37 shall be collected a tax equal to seven percent (7%) of the gross
38 income of the business. Provided, gross income from sales to
39 consumers of electricity, current, power, natural gas, liquefied
40 petroleum gas or other fuel for residential heating, lighting or
41 other residential noncommercial or nonagricultural use, and sales
42 of potable water for residential, noncommercial or nonagricultural
43 use shall be excluded from taxable gross income of the business.
44 Provided further, upon every such seller using electricity,
45 current, power, potable water, steam, coal, natural gas, liquefied
46 petroleum gas or other fuel for nonindustrial purposes, there is
47 hereby levied, assessed and shall be collected a tax equal to
48 seven percent (7%) of the cost or value of the product or service
49 used.

50 (b) There is hereby levied, assessed and shall be

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

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

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

(iii) From and after July 1, 2002, through June 30, 2003, sales of fuel used to produce electric power by a company primarily engaged in the business of producing, generating or distributing electric power for sale shall be taxed at the rate of three-eighths of one percent (0.375%);

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

(c) The one and one-half percent (1-1/2%) industrial rate provided for in this subsection shall also apply when the electricity, current, power, steam, coal, natural gas, liquefied petroleum gas or other fuel is sold to a producer or processor for use directly in the production of poultry or poultry products, the production of livestock and livestock products, the production of

86 domesticated fish and domesticated fish products, the production
87 of marine aquaculture products, the production of plants or food
88 by commercial horticulturists, the processing of milk and milk
89 products, the processing of poultry and livestock feed, and the
90 irrigation of farm crops.

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

95 (e) Upon every person operating a telegraph or
96 telephone business for the transmission of messages or
97 conversations between points within this state, there is hereby
98 levied, assessed and shall be collected a tax equal to seven
99 percent (7%) of the gross income of such business, with no
100 deduction or allowance for any part of an intrastate rate charge
101 because of routing across a state line. Charges by one
102 telecommunications provider to another telecommunications provider
103 holding a permit issued under Section 27-65-27 for services that
104 are resold by such other telecommunications provider, including,
105 but not limited to, access charges, shall not be subject to the
106 tax levied pursuant to this paragraph (e). However, any sale of a
107 prepaid telephone calling card or prepaid authorization number, or
108 both, shall be deemed to be the sale of tangible personal property
109 subject only to such taxes imposed by law on the sale of tangible
110 personal property. If the sale of a prepaid telephone calling
111 card or prepaid authorization number does not take place at the
112 vendor's place of business, it shall be conclusively determined to
113 take place at the customer's shipping address. The
114 reauthorization of a prepaid telephone calling card or a prepaid
115 authorization number shall be conclusively determined to take
116 place at the customer's billing address. Except for the
117 provisions governing the sale of a prepaid telephone calling card
118 or prepaid authorization number, this paragraph (e) shall not
119 apply to persons providing mobile telecommunications services that
120 are taxed pursuant to paragraph (g) of this section.

(f) Upon every person operating a telegraph or telecommunications business for the transmission of messages or conversations originating in this state or terminating in this state via interstate telecommunications, which are charged to the customer's service address in this state, regardless of where such amount is billed or paid, there is hereby levied, assessed and shall be collected a tax equal to seven percent (7%) of the gross income received by such business from such interstate telecommunications. However, a person, upon proof that he has paid a tax in another state on such event, shall be allowed a credit against the tax imposed in this paragraph (f) on interstate telecommunications charges to the extent that the amount of such tax is properly due and actually paid in such other state and to the extent that the rate of sales tax imposed by and paid to such other state does not exceed the rate of sales tax imposed by this paragraph (f). Charges by one telecommunications provider to another telecommunications provider holding a permit issued under Section 27-65-27 for services that are resold by such other telecommunications provider, including, but not limited to, access charges, shall not be subject to the tax levied pursuant to this paragraph (f). This paragraph (f) shall not apply to persons providing mobile telecommunications services that are taxed pursuant to paragraph (g) of this subsection.

(g) (i) Upon every person providing mobile telecommunications services in this state there is hereby levied, assessed and shall be collected:

1. A tax equal to seven percent (7%) of the gross income received on such services from all charges for transmission of messages or conversations between points within any single state as they shall be construed to be within this state; and

2. A tax equal to seven percent (7%) on the gross income received from all charges for services that originate in one state and terminate in any other state.

Charges by one telecommunications provider to another

telecommunications provider holding a permit issued under Section
27-65-27 for services that are resold by such other
telecommunications provider, including, but not limited to, access
charges, shall not be subject to the tax levied pursuant to this
paragraph (g).

(ii) Subject to the provisions of 4 USC 116(c),
the tax levied by this paragraph (g) shall apply only to those
charges for mobile telecommunications services subject to tax
which are deemed to be provided to a customer by a home service
provider pursuant to 4 USC 117(a), if the customer's place of
primary use is located within this state.

(iii) A home service provider shall be responsible
for obtaining and maintaining the customer's place of primary use.
The home service provider shall be entitled to rely on the
applicable residential or business street address supplied by such
customer, if the home service provider's reliance is in good
faith; and the home service provider shall be held harmless from
liability for any additional taxes based on a different
determination of the place of primary use for taxes that are
customarily passed on to the customer as a separate itemized
charge. A home service provider shall be allowed to treat the
address used for purposes of the tax levied by this chapter for
any customer under a service contract in effect on August 1, 2002,
as that customer's place of primary use for the remaining term of
such service contract or agreement, excluding any extension or
renewal of such service contract or agreement. Month-to-month
services provided after the expiration of a contract shall be
treated as an extension or renewal of such contract or agreement.

If the commissioner determines that the address used by a
home service provider as a customer's place of primary use does
not meet the definition of the term "place of primary use" as
defined in this paragraph, the commissioner shall give binding
notice to the home service provider to change the place of primary
use on a prospective basis from the date of notice of
determination; however, the customer shall have the opportunity,

191 prior to such notice of determination, to demonstrate that such
192 address satisfies such definition.

193 The commission has the right to collect any taxes due
194 directly from the home service provider's customer that has failed
195 to provide an address that meets the definition of the term "place
196 of primary use" which resulted in a failure of tax otherwise due
197 being remitted.

198 (iv) For purposes of this paragraph (g):

199 1. "Place of primary use" means the street
200 address representative of where the customer's use of mobile
201 telecommunications services primarily occurs, which shall be
202 either the residential street address of the customer or the
203 primary business street address of the customer.

204 2. "Customer" means the person or entity that
205 contracts with the home service provider for mobile
206 telecommunications services. For determining the place of primary
207 use, in those instances in which the end user of mobile
208 telecommunications services is not the contracting party, the end
209 user of the mobile telecommunications services shall be deemed the
210 customer. The term "customer" shall not include a reseller of
211 mobile telecommunications service, or a serving carrier under an
212 arrangement to serve the customer outside the home service
213 provider's licensed service area.

214 3. "Home service provider" means the
215 facilities-based carrier or reseller with which the customer
216 contracts for the provision of mobile telecommunications services.

217
218 (2) Persons making sales to consumers of electricity,
219 current, power, natural gas, liquefied petroleum gas or other fuel
220 for residential heating, lighting or other residential
221 noncommercial or nonagricultural use or sales of potable water for
222 residential, noncommercial or nonagricultural use shall indicate
223 on each statement rendered to customers that such charges are
224 exempt from sales taxes.

225 (3) There is hereby levied, assessed and shall be paid on

transportation charges on shipments moving between points within this state when paid directly by the consumer, a tax equal to the rate applicable to the sale of the property being transported. Such tax shall be reported and paid directly to the State Tax Commission by the consumer.

SECTION 2. Section 27-65-5, Mississippi Code of 1972, is amended as follows:

27-65-5. "Wholesaler," "jobber" or "distributor" means a person doing a regularly organized wholesale or jobbing business, known to the trade as such, and selling to licensed retail dealers or other wholesalers for resale in the regular course of business. This classification has no bearing on rates of tax due under this chapter, each sale or part of sales being taxable or exempt depending upon the class in which it falls.

"Wholesale sales" shall apply to:

(1) A sale of tangible personal property taxable under Sections 27-65-17 and 27-65-25 for resale in the regular line of business, when made in good faith to a retailer regularly selling or renting that property and when said dealer is licensed under Section 27-65-27 of this chapter if located in this state.

A sale of a service taxable under Section 27-65-23 for resale in the regular line of business, when made to a regular dealer in that service and when said dealer is licensed under Section 27-65-27 of this chapter if located in this state, or a charge for custom processing rendered upon merchandise for resale or rental by a dealer licensed under Section 27-65-27.

A sale of telecommunications services taxable under Section 27-65-19 for resale in the regular course of business, when made to a regular telecommunications provider of such service and such provider is the holder of a permit issued under Section 27-65-27 and is located in this state or is providing telecommunications services in this state.

"Wholesale sale" shall not include a transaction whereby property is delivered to and collection for same is made from a person that will consume the property rather than resell it even

though the billing is to a retailer.

Provided, however, that when a taxpayer sells merchandise and has paid a rate equal to the retail rate of tax on the purchase price to a wholesaler, the taxpayer may take credit for the tax paid to the wholesaler from the tax due on the sale of the merchandise specifically included in his return to the commissioner.

(2) A sale of tangible personal property (except sand or gravel when sold by the producer thereof) or service which is to become a component part of a structure or improvement erected, constructed, repaired, or made only when such sale is made to a contractor taxable under Section 27-65-21 of this chapter on the contract in which the component materials are to be used; and only when the contractor holds a material purchase certificate as required by Section 27-65-21 of this chapter.

(3) A sale of boxes, crates, cartons, cans, bottles and other packaging materials to a retailer or retail custom processor for use as a container to accompany goods or services sold by said retailer or custom processor where possession thereof will pass to the customer at the time of sale of the goods or services contained therein.

(4) The value of soft drinks and syrup withdrawn from the business by a manufacturer for sale at retail and food or drink withdrawn by a manufacturer or wholesaler to be sold through full service vending machines for human consumption.

The quantity of property or services sold or the price at which sold is immaterial in determining whether or not a sale is at wholesale. Sales may be classed as wholesale, or exempt, only if evidenced by proper and adequate records and invoices to substantiate the wholesale rate or exemption from the tax on each individual sale.

The substantiation of the wholesale sales must be by an invoice clearly indicating the date, the name and address of the vendor and vendee, the items sold and the price thereof. Such proof of wholesale sales shall be filed in chronological order and

thus preserved for a period of three (3) years from the date of sale. These records shall be subject to inspection by the commissioner and his agents, at their discretion, for the verification of returns filed by either the wholesaler or his customers.

The substantiation of an exempt sale must be by an invoice containing the same information as required for the wholesale sales. This requirement shall apply equally to a retailer making wholesale or exempt sales.

Any failure to comply with all the above requirements shall subject the violator to the retail rate of tax on all such violations.

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

27-65-27. (1) Any person who engages, or who intends to engage, in any business or activity which will subject such person to a privilege tax imposed by this chapter, shall apply to the commissioner for a permit to engage in and to conduct any business or activity upon the condition that he shall pay the tax accruing to the State of Mississippi under the provisions of this chapter, and shall keep adequate records of such business or activity as required by this chapter. By making an application for a permit issued pursuant to this section, a person agrees, regardless of his presence in this state, to:

(a) Be subject to the jurisdiction of this state for purposes of taxation;

(b) Collect and remit all taxes levied under this chapter on the type of business or activity to be conducted by the applicant;

(c) Be subject to all the provisions of this chapter.

(2) Upon receipt of such permit, the applicant shall be duly licensed under this chapter to engage in and conduct such business or activity. Said permit shall continue in force so long as the person to whom it is issued shall continue in the same business at

the same location, unless revoked by the commissioner for cause.

(3) The commissioner shall require of every person desiring to engage in business within this state who maintains no permanent place of business within this state, of every person desiring to engage in the business of making sales of mobile homes, a cash bond or an approved surety bond in an amount sufficient to cover twice the estimated tax liability for a period of three (3) months. Provided, however, that the bond shall in no case be less than One Hundred Dollars (\$100.00) and that the tax may be prepaid in lieu of filing bond if the amount is approved by the commissioner. This bond shall be filed with the commissioner prior to the issuance of a permit to do business and before any such person may engage in business within this state. Failure to comply with the provision will subject such person to the penalties provided by this chapter.

(4) The commissioner is hereby authorized to revoke the permit of any person failing to comply with any of the provisions of this chapter, after giving to the person holding such permit ten (10) days' notice of the intention of the commissioner to revoke such license. Unless good cause be shown within said ten (10) days why such permit should not be revoked, the commissioner may revoke such permit, and revocation of such permit, or engaging or continuing in business after such permit is revoked, shall subject such person to all the penalties imposed by this chapter.

(5) Any person liable for the tax who fails to obtain a permit from the commissioner, or who continues in business after such permit has been revoked, or who fails to make his returns for taxation as provided, or who fails to keep adequate records and invoices provided by this chapter, or who fails or refuses to permit inspection of such records, or who fails to pay any taxes due hereunder, shall forfeit his rights to do business in this state until he complies with all the provisions of this chapter and until he enters into a bond, with sureties, to be approved by the commissioner, in an amount not to exceed twice the amount of all taxes estimated to become due under this chapter by said

person for any period of three (3) months, conditioned to comply with the provisions of this chapter, and pay all taxes legally due by him.

(6) If any person is engaged in or continuing in this state in any business or activity without obtaining a permit, or after such permit has been revoked, or without filing a required bond, or without keeping and allowing inspection of all records required by this chapter, or without making a return, or returns, and without paying all taxes due by him hereunder, it shall be the duty of the commissioner to proceed by injunction to prevent the continuance of said business. Any temporary injunction enjoining the continuance of such business shall be granted without notice by a judge or chancellor now authorized to grant injunctions.

SECTION 4. Section 27-65-75, Mississippi Code of 1972, as amended by House Bill No. 1127, 2002 Regular Session, is amended as follows:

[From and after the effective date of House Bill No. 1127, 2002 Regular Session, through July 31, 2002, this section shall read as follows:]

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

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

corporation shall be allocated for distribution to such municipality and paid to such municipal corporation.

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

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

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

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

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

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

(4) On or before August 15, 1994, and on or before the fifteenth day of each succeeding month through July 15, 1999, from the proceeds of gasoline, diesel fuel or kerosene taxes as provided in Section 27-5-101(a)(ii)1, Four Million Dollars (\$4,000,000.00) shall be deposited in the State Treasury to the credit of a special fund designated as the "State Aid Road Fund," created by Section 65-9-17. On or before August 15, 1999, and on or before the fifteenth day of each succeeding month, from the total amount of the proceeds of gasoline, diesel fuel or kerosene taxes apportioned by Section 27-5-101(a)(ii)1, Four Million Dollars (\$4,000,000.00) or an amount equal to twenty-three and one-fourth percent (23.25%) of such funds, whichever is the greater amount, shall be deposited in the State Treasury to the credit of the "State Aid Road Fund," created by Section 65-9-17. Such funds shall be pledged to pay the principal of and interest

on state aid road bonds heretofore issued under Sections 19-9-51 through 19-9-77, in lieu of and in substitution for the funds heretofore allocated to counties under this section. Such funds may not be pledged for the payment of any state aid road bonds issued after April 1, 1981; however, this prohibition against the pledging of any such funds for the payment of bonds shall not apply to any bonds for which intent to issue such bonds has been published, for the first time, as provided by law prior to March 29, 1981. From the amount of taxes paid into the special fund pursuant to this subsection and subsection (9) of this section, there shall be first deducted and paid the amount necessary to pay the expenses of the Office of State Aid Road Construction, as authorized by the Legislature for all other general and special fund agencies. The remainder of the fund shall be allocated monthly to the several counties in accordance with the following formula:

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

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

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

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

The amount of funds allocated to any county under this subsection for any fiscal year after fiscal year 1994 shall not be less than the amount allocated to such county for fiscal year 1994. Monies allocated to a county from the State Aid Road Fund for fiscal year 1995 or any fiscal year thereafter that exceed the amount of funds allocated to that county from the State Aid Road

Fund for fiscal year 1994, first must be expended by the county for replacement or rehabilitation of bridges on the state aid road system that have a sufficiency rating of less than twenty-five (25), according to National Bridge Inspection standards before such monies may be approved for expenditure by the State Aid Road Engineer on other projects that qualify for the use of state aid road funds.

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

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

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

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

under Section 37-61-35 until such time that the total amount deposited into the fund during a fiscal year equals Forty-two Million Dollars (\$42,000,000.00). Thereafter, the amounts diverted under this subsection (7) during the fiscal year in excess of Forty-two Million Dollars (\$42,000,000.00) shall be deposited into the Education Enhancement Fund created under Section 37-61-33 for appropriation by the Legislature as other education needs and shall not be subject to the percentage appropriation requirements set forth in Section 37-61-33.

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

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

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

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

(12) Notwithstanding any other provision of this section to

the contrary, on or before August 15, 1995, and each succeeding month thereafter, the sales tax revenue collected during the preceding month under the provisions of Section 27-65-17(1) on retail sales of private carriers of passengers and light carriers of property, as defined in Section 27-51-101 and the corresponding levy in Section 27-65-23 on the rental or lease of these vehicles, shall be deposited, after diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund established in Section 27-51-105.

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

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

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

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

611 Fund created in Section 57-30-3.

612 (17) Notwithstanding any other provision of this section to
613 the contrary, on or before April 15, 2002, and each succeeding
614 month thereafter, the sales tax revenue collected during the
615 preceding month under Section 27-65-23 on sales of parking
616 services of parking garages and lots at airports shall be
617 deposited, without diversion, into the special fund created
618 pursuant to Section 27-5-101(d).

619 (18) The remainder of the amounts collected under the
620 provisions of this chapter shall be paid into the State Treasury
621 to the credit of the General Fund.

622 (19) It shall be the duty of the municipal officials of any
623 municipality which expands its limits, or of any community which
624 incorporates as a municipality, to notify the commissioner of such
625 action thirty (30) days before the effective date. Failure to so
626 notify the commissioner shall cause such municipality to forfeit
627 the revenue which it would have been entitled to receive during
628 this period of time when the commissioner had no knowledge of the
629 action. If any funds have been erroneously disbursed to any
630 municipality or any overpayment of tax is recovered by the
631 taxpayer, the commissioner may make correction and adjust the
632 error or overpayment with such municipality by withholding the
633 necessary funds from any subsequent payment to be made to the
634 municipality.

635 **[From and after August 1, 2002, this section shall read as**
636 **follows:]**

637 27-65-75. On or before the fifteenth day of each month, the
638 revenue collected under the provisions of this chapter during the
639 preceding month shall be paid and distributed as follows:

640 (1) On or before August 15, 1992, and each succeeding month
641 thereafter through July 15, 1993, eighteen percent (18%) of the
642 total sales tax revenue collected during the preceding month under
643 the provisions of this chapter, except that collected under the
644 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
645 business activities within a municipal corporation shall be

646 allocated for distribution to such municipality and paid to such
647 municipal corporation. On or before August 15, 1993, and each
648 succeeding month thereafter, eighteen and one-half percent
649 (18-1/2%) of the total sales tax revenue collected during the
650 preceding month under the provisions of this chapter, except that
651 collected under the provisions of Sections 27-65-15, 27-65-19(3)
652 and 27-65-21, on business activities within a municipal
653 corporation shall be allocated for distribution to such
654 municipality and paid to such municipal corporation.

655 A municipal corporation, for the purpose of distributing the
656 tax under this subsection, shall mean and include all incorporated
657 cities, towns and villages.

658 Monies allocated for distribution and credited to a municipal
659 corporation under this subsection may be pledged as security for
660 any loan received by the municipal corporation for the purpose of
661 capital improvements as authorized under Section 57-1-303, or
662 loans as authorized under Section 57-44-7, or water systems
663 improvements as authorized under Section 41-3-16.

664 In any county having a county seat which is not an
665 incorporated municipality, the distribution provided hereunder
666 shall be made as though the county seat was an incorporated
667 municipality; however, the distribution to such municipality shall
668 be paid to the county treasury wherein the municipality is located
669 and such funds shall be used for road, bridge and street
670 construction or maintenance therein.

671 (2) On or before September 15, 1987, and each succeeding
672 month thereafter, from the revenue collected under this chapter
673 during the preceding month One Million One Hundred Twenty-five
674 Thousand Dollars (\$1,125,000.00) shall be allocated for
675 distribution to municipal corporations as defined under subsection
676 (1) of this section in the proportion that the number of gallons
677 of gasoline and diesel fuel sold by distributors to consumers and
678 retailers in each such municipality during the preceding fiscal
679 year bears to the total gallons of gasoline and diesel fuel sold
680 by distributors to consumers and retailers in municipalities

681 statewide during the preceding fiscal year. The State Tax
682 Commission shall require all distributors of gasoline and diesel
683 fuel to report to the commission monthly the total number of
684 gallons of gasoline and diesel fuel sold by them to consumers and
685 retailers in each municipality during the preceding month. The
686 State Tax Commission shall have the authority to promulgate such
687 rules and regulations as is necessary to determine the number of
688 gallons of gasoline and diesel fuel sold by distributors to
689 consumers and retailers in each municipality. In determining the
690 percentage allocation of funds under this subsection for the
691 fiscal year beginning July 1, 1987, and ending June 30, 1988, the
692 State Tax Commission may consider gallons of gasoline and diesel
693 fuel sold for a period of less than one (1) fiscal year. For the
694 purposes of this subsection, the term "fiscal year" means the
695 fiscal year beginning July 1 of a year.

696 (3) On or before September 15, 1987, and on or before the
697 fifteenth day of each succeeding month, until the date specified
698 in Section 65-39-35, the proceeds derived from contractors' taxes
699 levied under Section 27-65-21 on contracts for the construction or
700 reconstruction of highways designated under the Four-Lane Highway
701 Program created under Section 65-3-97 shall, except as otherwise
702 provided in Section 31-17-127, be deposited into the State
703 Treasury to the credit of the State Highway Fund to be used to
704 fund such Four-Lane Highway Program. The Mississippi Department
705 of Transportation shall provide to the State Tax Commission such
706 information as is necessary to determine the amount of proceeds to
707 be distributed under this subsection.

708 (4) On or before August 15, 1994, and on or before the
709 fifteenth day of each succeeding month through July 15, 1999, from
710 the proceeds of gasoline, diesel fuel or kerosene taxes as
711 provided in Section 27-5-101(a)(ii)1, Four Million Dollars
712 (\$4,000,000.00) shall be deposited in the State Treasury to the
713 credit of a special fund designated as the "State Aid Road Fund,"
714 created by Section 65-9-17. On or before August 15, 1999, and on
715 or before the fifteenth day of each succeeding month, from the

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

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

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

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

For the purposes of this subsection, the term "gasoline, diesel fuel or kerosene taxes" means such taxes as defined in

paragraph (f) of Section 27-5-101.

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

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

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

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

(7) On or before August 15, 1992, and each succeeding month thereafter through July 15, 2000, two and two hundred sixty-six one-thousandths percent (2.266%) of the total sales tax revenue collected during the preceding month under the provisions of this chapter, except that collected under the provisions of Section 27-65-17(2) shall be deposited by the commission into the School

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

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

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

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

(11) Notwithstanding any other provision of this section to the contrary, on or before February 15, 1995, and each succeeding month thereafter, the sales tax revenue collected during the

preceding month under the provisions of Section 27-65-17(2) and the corresponding levy in Section 27-65-23 on the rental or lease of private carriers of passengers and light carriers of property as defined in Section 27-51-101 shall be deposited, without diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund established in Section 27-51-105.

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

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

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

(15) Notwithstanding any other provision of this section to the contrary, on or before September 15, 2000, and each succeeding month thereafter, the sales tax revenue collected during the preceding month under the provisions of Section 27-65-19(1)(f) and (g)(i)2, shall be deposited, without diversion, into the

Telecommunications Ad Valorem Tax Reduction Fund established in
Section 27-38-7.

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

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

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

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

SECTION 5. Sections 1 and 4 of this act shall take effect and be in force from and after August 1, 2002, and shall apply only to customer bills issued after August 1, 2002. The remainder

891 of this act shall take effect and be in force from and after July
892 1, 2002.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 27-65-19, MISSISSIPPI CODE OF 1972,
2 TO INCREASE TO 7% THE SALES TAX ON PERSONS OPERATING A TELEGRAPH
3 OR TELECOMMUNICATIONS BUSINESS TRANSMITTING CERTAIN MESSAGES OR
4 CONVERSATIONS VIA INTERSTATE TELECOMMUNICATIONS; TO PROVIDE THAT
5 IF THE PRIMARY PLACE OF USE OF THE CUSTOMER OF A MOBILE
6 TELECOMMUNICATIONS PROVIDER IS IN THIS STATE, A SALES TAX EQUAL TO
7 7% OF THE GROSS PROCEEDS OF SALES OF SUCH PROVIDER IS LEVIED UPON
8 ALL CHARGES FOR TRANSMISSION OF MESSAGES OR CONVERSATIONS; TO
9 AMEND SECTION 27-65-5, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
10 THE TERM "WHOLESALE SALES" APPLIES TO A SALE OF TELECOMMUNICATIONS
11 SERVICES TAXABLE UNDER SECTION 27-65-19 FOR RESALE IN THE REGULAR
12 COURSE OF BUSINESS WHEN MADE TO A REGULAR TELECOMMUNICATIONS
13 PROVIDER OF SUCH SERVICE WHO IS THE HOLDER OF A PERMIT TO ENGAGE
14 IN BUSINESS, IS LOCATED IN THIS STATE OR IS PROVIDING
15 TELECOMMUNICATIONS SERVICES IN THIS STATE; TO AMEND SECTION
16 27-65-27, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT BY MAKING
17 APPLICATION FOR A PERMIT TO ENGAGE IN BUSINESS, A PERSON AGREES,
18 REGARDLESS OF HIS PRESENCE IN THIS STATE, TO BE SUBJECT TO THE
19 JURISDICTION OF THIS STATE FOR PURPOSES OF TAXATION, TO COLLECT
20 AND REMIT ALL TAXES LEVIED IN THE MISSISSIPPI SALES TAX LAW AND TO
21 BE SUBJECT TO THE PROVISIONS OF THE MISSISSIPPI SALES TAX LAW; TO
22 AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972, TO REQUIRE THE
23 SALES TAX COLLECTED ON INTERSTATE MOBILE TELECOMMUNICATIONS SHALL
24 BE DEPOSITED INTO THE TELECOMMUNICATIONS AD VALOREM TAX REDUCTION
25 FUND; TO PROVIDE THAT THE STATE SALES TAX COLLECTED ON SALES OF
26 PARKING SERVICES AT AIRPORTS SHALL BE DEPOSITED, WITHOUT
27 DIVERSION, INTO THE SPECIAL FUND IN THE STATE TREASURY FOR THE
28 SUPPORT AND DEVELOPMENT OF AIR TRANSPORTATION, AIRPORTS AND OTHER
29 AIR NAVIGATION FACILITIES; AND FOR RELATED PURPOSES.