

By: Representative Mayo

To: Ways and Means

HOUSE BILL NO. 1795

1 AN ACT TO AMEND SECTIONS 27-7-5, 27-69-13, 27-69-75,
 2 27-71-307, 27-71-337, 27-71-11, 27-71-29, 75-76-177 AND 75-76-129,
 3 MISSISSIPPI CODE OF 1972, TO INCREASE THE STATE INCOME TAX; TO
 4 INCREASE THE EXCISE TAX ON CIGARETTES; TO INCREASE THE EXCISE TAX
 5 ON LIGHT WINE AND BEER; TO INCREASE THE MARKUP ON ALCOHOLIC
 6 BEVERAGES; TO INCREASE THE GAMING LICENSE GROSS REVENUE FEE; TO
 7 PROVIDE THAT THE REVENUE DERIVED FROM THE TAX INCREASE AUTHORIZED
 8 BY THIS ACT SHALL BE DEPOSITED INTO THE BUDGET CONTINGENCY FUND;
 9 TO PROVIDE THE PURPOSES FOR WHICH SUCH MONIES DEPOSITED INTO THE
 10 BUDGET CONTINGENCY FUND SHALL BE EXPENDED; AND FOR RELATED
 11 PURPOSES.

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

13 **SECTION 1.** Section 27-7-5, Mississippi Code of 1972, is
 14 amended as follows:

15 27-7-5. (1) (a) Except as otherwise provided in this
 16 subsection (1), there is hereby assessed and levied, to be
 17 collected and paid as hereinafter provided, for the calendar year
 18 1983 and fiscal years ending during the calendar year 1983 and all
 19 taxable years thereafter, upon the entire net income of every
 20 resident individual, corporation, association, trust or estate, in
 21 excess of the credits provided, a tax at the following rates:

22 On the first Five Thousand Dollars (\$5,000.00) of taxable
 23 income, or any part thereof, at the rate of three percent (3%);

24 On the next Five Thousand Dollars (\$5,000.00) of taxable
 25 income, or any part thereof, at the rate of four percent (4%); and

26 On all taxable income in excess of Ten Thousand Dollars
 27 (\$10,000.00), at the rate of five percent (5%).

28 (b) For calendar year 2004, and each calendar year
 29 thereafter, there is hereby assessed and levied, to be collected
 30 and paid as hereinafter provided, upon the entire net income of

31 every resident individual, association, trust or estate, in excess
32 of the credits provided, a tax at the following rates:

33 On the first Five Thousand Dollars (\$5,000.00) of taxable
34 income, or any part thereof, at the rate of three percent (3%);

35 On the next Five Thousand Dollars (\$5,000.00) of taxable
36 income, or any part thereof, at the rate of four percent (4%);

37 On the next Five Thousand Dollars (\$5,000.00) of taxable
38 income, or any part thereof, at the rate of five percent (5%); and

39 On all taxable income in excess of Fifteen Thousand Dollars
40 (\$15,000.00), at the rate of six percent (6%).

41 (2) An S corporation, as defined in Section 27-8-3(1)(g),
42 shall not be subject to the income tax imposed under this section.

43 (3) A like tax is hereby imposed to be assessed, collected
44 and paid annually, except as hereinafter provided, at the rate
45 specified in this section and as hereinafter provided, upon and
46 with respect to the entire net income, from all property owned or
47 sold, and from every business, trade or occupation carried on in
48 this state by individuals, corporations, partnerships, trusts or
49 estates, not residents of the State of Mississippi.

50 (4) Except as provided in subsection (5) of this section, in
51 the case of taxpayers having a fiscal year beginning in the
52 calendar year 1982 and ending after the first day of January 1983,
53 the tax due for that taxable year shall be determined by:

54 (a) Computing for the full fiscal year the amount of
55 tax that would be due under the rates in effect for the calendar
56 year 1982; and

57 (b) Computing for the full fiscal year the amount of
58 tax that would be due under the rates in effect for the calendar
59 year 1983; and

60 (c) Applying to the tax computed under paragraph (a)
61 the ratio which the number of months falling within the earlier
62 calendar year bears to the total number of months in the fiscal
63 year; and

64 (d) Applying to the tax computed under paragraph (b)
65 the ratio which the number of months falling within the later
66 calendar year bears to the total number of months within the
67 fiscal year; and

68 (e) Adding to the tax determined under paragraph (c)
69 the tax determined under paragraph (d) the sum of which shall be
70 the amount of tax due for the fiscal year.

71 (5) In the case of a resident individual, association, trust
72 or estate having a fiscal year beginning in the calendar year 2003
73 and ending after the first day of January 2004, the tax due for
74 that taxable year shall be determined by:

75 (a) Computing for the full fiscal year the amount of
76 tax that would be due under the rates in effect for the calendar
77 year 2003;

78 (b) Computing for the full fiscal year the amount of
79 tax that would be due under the rates in effect for the calendar
80 year 2004;

81 (c) Applying to the tax computed under paragraph (a)
82 the ratio which the number of months falling within the earlier
83 calendar year bears to the total number of months in the fiscal
84 year;

85 (d) Applying to the tax computed under paragraph (b)
86 the ratio which the number of months falling within the later
87 calendar year bears to the total number of months within the
88 fiscal year; and

89 (e) Adding to the tax determined under paragraph (c)
90 the tax determined under paragraph (d) the sum of which shall be
91 the amount of tax due for the fiscal year.

92 (6) The revenue derived from the additional tax rate of one
93 percent (1%) imposed under House Bill No. 1795, 2004 Regular
94 Session, shall be deposited into the Budget Contingency Fund
95 created under Section 27-103-301. All of the remainder of the

96 proceeds from the taxes imposed under this section shall be
97 deposited into the State General Fund.

98 **SECTION 2.** Section 27-69-13, Mississippi Code of 1972, is
99 amended as follows:

100 27-69-13. There is hereby imposed, levied and assessed, to
101 be collected and paid as hereinafter provided in this chapter, an
102 excise tax on each person or dealer in cigarettes, cigars,
103 stogies, snuff, chewing tobacco, and smoking tobacco, or
104 substitutes therefor, upon the sale, use, consumption, handling or
105 distribution in the State of Mississippi, as follows:

106 (a) On cigarettes, the rate of tax shall be Two and
107 Eight-twentieths Cents (2-8/20¢) on each cigarette sold with a
108 maximum length of one hundred twenty (120) millimeters; any
109 cigarette in excess of this length shall be taxed as if it were
110 two (2) or more cigarettes. Provided, however, if the federal tax
111 rate on cigarettes in effect upon the passage of Senate Bill No.
112 2876, 1985 Regular Session, is reduced, then the rate as provided
113 herein shall be increased by the amount of the federal tax
114 reduction. Such tax increase shall take effect on the first day
115 of the month following the effective date of such reduction in the
116 federal tax rate.

117 (b) On cigars, cheroots, stogies, snuff, chewing and
118 smoking tobacco and all other tobacco products except cigarettes,
119 the rate of tax shall be fifteen percent (15%) of the
120 manufacturer's list price.

121 No stamp evidencing the tax herein levied on cigarettes shall
122 be of a denomination of less than One Cent (1¢), and whenever the
123 tax computed at the rates herein prescribed on cigarettes shall be
124 a specified amount, plus a fractional part of One Cent (1¢), the
125 package shall be stamped for the next full cent; however, the
126 additional face value of stamps purchased to comply with taxes
127 imposed by this section after June 1, 1985, shall be subject to a
128 four percent (4%) discount or compensation to dealers for their

129 services rather than the eight percent (8%) discount or
130 compensation allowed by Section 27-69-31.

131 Every wholesaler shall purchase stamps as provided in this
132 chapter, and affix the same to all packages of cigarettes handled
133 by him as herein provided.

134 The above tax is levied upon the sale, use, gift, possession,
135 or consumption of tobacco within the State of Mississippi, and the
136 impact of the tax levied by this chapter is hereby declared to be
137 on the vendee, user, consumer, or possessor of tobacco in this
138 state; and when said tax is paid by any other person, such payment
139 shall be considered as an advance payment and shall thereafter be
140 added to the price of the tobacco and recovered from the ultimate
141 consumer or user.

142 **SECTION 3.** Section 27-69-75, Mississippi Code of 1972, is
143 amended as follows:

144 27-69-75. All taxes levied by this chapter shall be payable
145 to the commissioner in cash, or by personal check, cashier's
146 check, bank exchange, post office money order or express money
147 order, and shall be deposited by the commissioner in the State
148 Treasury on the same day collected. No remittance other than cash
149 shall be a final discharge of liability for the tax herein
150 assessed and levied, unless and until it has been paid in cash to
151 the commissioner.

152 Except for the taxes collected from the rate equal to One and
153 One-half Cents (1-1/2¢) on each cigarette sold, all tobacco taxes
154 collected, including tobacco license taxes, shall be deposited
155 into the State Treasury to the credit of the General Fund. The
156 taxes collected from the rate equal to One and One-half Cents
157 (1-1/2¢) on each cigarette sold shall be deposited into the State
158 Treasury to the credit of the Budget Contingency Fund created
159 under Section 27-103-301.

160 Wholesalers who are entitled to purchase stamps at a
161 discount, as provided by Section 27-69-31, may have consigned to

162 them, without advance payment, such stamps, if and when such
163 wholesaler shall give to the commissioner a good and sufficient
164 bond executed by some surety company authorized to do business in
165 this state, conditioned to secure the payment for the stamps so
166 consigned. The commissioner shall require payment for such stamps
167 not later than thirty (30) days from the date the stamps were
168 consigned.

169 **SECTION 4.** Section 27-71-307, Mississippi Code of 1972, is
170 amended as follows:

171 27-71-307. (1) (a) In addition to the specific tax imposed
172 in Section 27-71-303, there is hereby imposed, levied, assessed
173 and shall be collected, as hereinafter provided, an excise or
174 privilege tax upon each person engaged or continuing in the
175 business of wholesaler or distributor of light wines or beer
176 equivalent to Forty-seven and Sixty-eight One-hundredths Cents
177 (47-68/100¢) per gallon upon all light wines and beer acquired for
178 sale or distribution in this state. Such excise or privilege tax
179 is also imposed at the same rate upon each gallon of light wine or
180 beer manufactured by brewpubs, each of which shall accurately and
181 reliably measure the quantity of light wine and beer produced by
182 using a measuring device such as a meter or gauge glass or any
183 other suitable method approved by the commissioner. Such tax is
184 hereby imposed as an additional tax for the privilege of engaging
185 or continuing in business.

186 (b) The excise tax imposed in this section shall be
187 paid to the State Tax Commission monthly on or before the
188 fifteenth day of the month following the month in which the beer
189 or light wine was manufactured or received in this state. Monthly
190 report forms shall be furnished by the commissioner to the
191 wholesalers, distributors and brewpubs.

192 (c) Provided that persons operating a railroad dining
193 car, club car or other car in interstate commerce upon which light
194 wines or beer may be sold and who are licensed under the

195 provisions of Section 67-3-27 and any other law relating to the
196 sale of such beverages shall keep such records of the sales of
197 such light wines and beer in this state as the commissioner shall
198 prescribe and shall submit monthly reports of such sales to the
199 commissioner within fifteen (15) days after the end of each month
200 on a form prescribed therefor by the commissioner, and shall pay
201 the tax due under the provisions of this section at the time such
202 reports are filed.

203 No official crowns, lids, labels or stamps with the word
204 "MISSISSIPPI" or "MS" imprinted thereon or any other evidence of
205 tax payment is required by this section, or may be required under
206 rule or regulation promulgated by the commissioner, to be affixed
207 on or to any part of a beer, light wine or malt cooler bottle, can
208 or other light wine or malt cooler container. For purposes of
209 this section, malt cooler products shall be defined as a flavored
210 malt beverage made from a base of malt beverage and flavored with
211 fruit juices, aromatics and essences of other flavoring in
212 quantities and proportions such that the resulting product
213 possesses a character and flavor distinctive from the base malt
214 beverage and distinguishable from other malt beverages.

215 (2) A licensed wholesaler or distributor of beer or light
216 wine may not import beer or light wine from any source other than
217 a brewer or importer authorized by the commissioner to sell such
218 beer or light wine in Mississippi. Any person who violates the
219 provisions of this subsection, upon conviction thereof, shall be
220 punished by a fine of not more than One Thousand Dollars
221 (\$1,000.00) or by imprisonment in the county jail for not more
222 than six (6) months, or by both such fine and imprisonment, in the
223 discretion of the court and shall be subject to license forfeiture
224 following an appropriate hearing before the State Tax Commission.

225 (3) The wholesaler or distributor shall be allowed credit
226 for tax paid on beer or light wine which is no longer marketable
227 and which is destroyed by same when such destruction is witnessed

228 by an agent of the commissioner and when the amount of the excise
229 tax exceeds One Hundred Dollars (\$100.00). No other loss will be
230 allowed.

231 A brewpub shall be allowed credit for light wine or beer
232 which has passed through the meter, gauge glass or other approved
233 measuring device and which has been soured or damaged. The
234 brewpub shall record the removal of sour or damaged light wine or
235 beer and may take credit after the destruction is witnessed by an
236 agent of the commissioner and when the amount of excise tax
237 exceeds Twenty-five Dollars (\$25.00). No other loss shall be
238 allowed.

239 (4) All manufacturers, brewers and importers of beer or
240 light wine shall file monthly reports as prescribed by the
241 commissioner listing sales to each wholesaler or distributor by
242 date, invoice number, quantity and container size, and any other
243 information deemed necessary.

244 (5) All administrative provisions of the Mississippi Sales
245 Tax Law, including those which fix damages, penalties and interest
246 for nonpayment of taxes and for noncompliance with the provisions
247 of such chapter, and all other requirements and duties imposed
248 upon taxpayers, shall apply to all persons liable for taxes under
249 the provisions of this chapter, and the commissioner shall
250 exercise all the power and authority and perform all the duties
251 with respect to taxpayers under this chapter as are provided in
252 the sales tax law except where there is conflict, then the
253 provisions of this chapter shall control.

254 **SECTION 5.** Section 27-71-337, Mississippi Code of 1972, is
255 amended as follows:

256 27-71-337. All taxes levied by this article and required to
257 be paid to the commissioner shall be payable to the commissioner
258 in cash or by personal check, cashier's check, bank exchange,
259 post-office money order or express money order and shall be
260 deposited by the commissioner into the State Treasury on the same

261 day collected, provided that no remittances other than cash shall
262 be a final discharge of liability for the tax herein imposed and
263 levied unless and until it has been paid in cash to the
264 commissioner.

265 The revenue collected from Five Cents (5¢) per gallon upon
266 all light wines and beer shall be deposited into the State
267 Treasury to the credit of the Budget Contingency Fund created
268 under Section 27-103-301. All other revenue collected under this
269 article shall be deposited into the State General Fund.

270 **SECTION 6.** Section 27-71-11, Mississippi Code of 1972, is
271 amended as follows:

272 27-71-11. The commission shall from time to time by
273 resolution request the State Bond Commission to provide sufficient
274 funds required to maintain an adequate alcoholic beverage
275 inventory. Said funds shall be provided under the provisions of
276 Chapter 557, Laws of 1966.

277 The commission shall add to the cost of all alcoholic
278 beverages a markup of thirty and one-half percent (30-1/2%),
279 inclusive of the three percent (3%) markup imposed by Section
280 27-71-7(2).

281 The commission shall sell alcoholic beverages at uniform
282 prices throughout the state.

283 **SECTION 7.** Section 27-71-29, Mississippi Code of 1972, is
284 amended as follows:

285 27-71-29. All taxes levied by this article shall be paid to
286 the State Tax Commission in cash or by personal check, cashier's
287 check, bank exchange, post-office money order or express money
288 order and shall be deposited by the commission in the State
289 Treasury on the same day collected, but no remittances other than
290 cash shall be a final discharge of liability for the tax herein
291 imposed and levied unless and until it has been paid in cash to
292 the State Tax Commission.

293 All taxes levied under Section 27-71-7(1) and received by the
294 commission under this article shall be paid into the General Fund,
295 and the three percent (3%) levied under Section 27-71-7(2) and
296 received by the commission under this article shall be paid into
297 the special fund in the State Treasury designated as the
298 "Alcoholism Treatment and Rehabilitation Fund" as required by law.
299 Any funds derived from the sale of alcoholic beverages in excess
300 of inventory requirements, less the funds received from the
301 additional three percent (3%) markup on the cost of all alcoholic
302 beverages provided for under House Bill No. 1795, 2004 Regular
303 Session, shall be paid not less often than annually into the
304 General Fund. The funds received from the additional three
305 percent (3%) markup on the cost of all alcoholic beverages
306 provided for under House Bill No. 1795, 2004 Regular Session,
307 shall be deposited monthly into the State Treasury to the credit
308 of the Budget Contingency Fund created under Section 27-103-301.

309 **SECTION 8.** Section 75-76-177, Mississippi Code of 1972, is
310 amended as follows:

311 75-76-177. (1) From and after August 1, 1990, through June
312 30, 2004, there is hereby imposed and levied on each gaming
313 licensee a license fee based upon all the gross revenue of the
314 licensee as follows:

315 (a) Four percent (4%) of all the gross revenue of the
316 licensee which does not exceed Fifty Thousand Dollars (\$50,000.00)
317 per calendar month;

318 (b) Six percent (6%) of all the gross revenue of the
319 licensee which exceeds Fifty Thousand Dollars (\$50,000.00) per
320 calendar month and does not exceed One Hundred Thirty-four
321 Thousand Dollars (\$134,000.00) per calendar month; and

322 (c) Eight percent (8%) of all the gross revenue of the
323 licensee which exceeds One Hundred Thirty-four Thousand Dollars
324 (\$134,000.00) per calendar month.

325 (2) From and after July 1, 2004, there is hereby imposed and
326 levied on each gaming licensee a license fee based upon all the
327 gross revenue of the licensee as follows:

328 (a) Five percent (5%) of all the gross revenue of the
329 licensee which does not exceed Fifty Thousand Dollars (\$50,000.00)
330 per calendar month;

331 (b) Seven percent (7%) of all the gross revenue of the
332 licensee which exceeds Fifty Thousand Dollars (\$50,000.00) per
333 calendar month and does not exceed One Hundred Thirty-four
334 Thousand Dollars (\$134,000.00) per calendar month; and

335 (c) Nine percent (9%) of all the gross revenue of the
336 licensee which exceeds One Hundred Thirty-four Thousand Dollars
337 (\$134,000.00) per calendar month.

338 (3) All revenue received from any game or gaming device
339 which is leased for operation on the premises of the
340 licensee-owner to a person other than the owner thereof or which
341 is located in an area or space on such premises which is leased by
342 the licensee-owner to any such person, must be attributed to the
343 owner for the purposes of this section and be counted as part of
344 the gross revenue of the owner. The lessee is liable to the owner
345 for his proportionate share of such license fees.

346 (4) If the amount of license fees required to be reported
347 and paid pursuant to this section is later determined to be
348 greater or less than the amount actually reported and paid by the
349 licensee, the Chairman of the State Tax Commission shall:

350 (a) Assess and collect the additional license fees
351 determined to be due, with interest thereon until paid; or

352 (b) Refund any overpayment, with interest thereon, to
353 the licensee.

354 Interest must be computed, until paid, at the rate of one
355 percent (1%) per month from the first day of the first month
356 following either the due date of the additional license fees or
357 the date of overpayment.

358 (5) Failure to pay the fees provided for in this section
359 when they are due for continuation of a license shall be deemed a
360 surrender of the license.

361 **SECTION 9.** Section 75-76-129, Mississippi Code of 1972, is
362 amended as follows:

363 **[Through June 30, 2022, this section shall read as follows:]**

364 75-76-129. On or before the last day of each month all
365 taxes, fees, interest, penalties, damages, fines or other monies
366 collected by the State Tax Commission during that month under the
367 provisions of this chapter, with the exception of (a) the local
368 government fees imposed under Section 75-76-195, * * * (b) an
369 amount equal to Three Million Dollars (\$3,000,000.00) of the
370 revenue collected pursuant to the fee imposed under Section
371 75-76-177(1)(c), or an amount equal to twenty-five percent (25%)
372 of the revenue collected pursuant to the fee imposed under Section
373 75-76-177(1)(c), whichever is the greater amount, and (c) the
374 revenue collected as a result of the fee increase in Section
375 75-76-177(2), shall be paid by the State Tax Commission to the
376 State Treasurer to be deposited in the State General Fund. The
377 local government fees shall be distributed by the State Tax
378 Commission pursuant to Section 75-76-197. An amount equal to
379 Three Million Dollars (\$3,000,000.00) of the revenue collected
380 during that month pursuant to the fee imposed under Section
381 75-76-177(1)(c) shall be deposited by the State Tax Commission
382 into the bond sinking fund created in Section 65-39-3. The
383 revenue collected during that month pursuant to the fee imposed
384 under Section 75-76-177(1)(c) that is in excess of Three Million
385 Dollars (\$3,000,000.00), but is less than twenty-five percent
386 (25%) of the amount of revenue collected during that month, shall
387 be deposited into the State Highway Fund to be used exclusively
388 for the reconstruction and maintenance of highways of the State of
389 Mississippi. The revenue collected as a result of the fee
390 increase in Section 75-76-177(2), as provided in House Bill No.

391 1795, 2004 Regular Session, shall be deposited monthly into the
392 State Treasury to the credit of the Budget Contingency Fund
393 created under Section 27-103-301.

394 **[From and after July 1, 2022, this section shall read as**
395 **follows:]**

396 75-76-129. On or before the last day of each month, all
397 taxes, fees, interest, penalties, damages, fines or other monies
398 collected by the State Tax Commission during that month under the
399 provisions of this chapter, with the exception of (a) the local
400 government fees imposed under Section 75-76-195, and (b) the
401 revenue collected as a result of the fee increase in Section
402 75-76-177(2), as provided in House Bill No. 1795, 2004 Regular
403 Session, shall be paid by the State Tax Commission to the State
404 Treasurer to be deposited in the State General Fund. The local
405 government fees shall be distributed by the State Tax Commission
406 pursuant to Section 75-76-197. The revenue collected as a result
407 of the fee increase in Section 75-76-177(2), as provided in House
408 Bill No. 1795, 2004 Regular Session, shall be deposited monthly
409 into the State Treasury to the credit of the Budget Contingency
410 Fund created under Section 27-103-301.

411 **SECTION 10.** Monies deposited into Budget Contingency Fund
412 under Sections 27-7-5, 27-69-75, 27-71-337, 27-71-29 and
413 75-76-129, as amended by House Bill No. 1795, 2004 Regular
414 Session, shall be expended, upon appropriation by the Legislature
415 as follows:

- 416 (a) Department of Mental Health..... \$ 25,592,266.00
417 (i) Operation of crisis centers... \$ 17,100,571.00
418 (ii) Matching funds for Medicaid
419 Home- and Community-Based
420 Services..... \$ 4,000,000.00
421 (iii) Matching funds for services to
422 Medicaid patients in nursing
423 homes and ICF/MRs of the

424 department..... \$ 4,491,695.00

425 (b) State Board of Education..... \$144,442,209.00

426 (i) Teacher pay raise..... \$ 98,000,000.00

427 (ii) Additional Mississippi Adequate

428 Education critical needs..... \$ 23,504,970.00

429 (iii) Restore teacher supply

430 funds..... \$ 15,900,000.00

431 (iv) Teacher salary supplements for

432 national board certification. \$ 1,359,881.00

433 (v) Severely disabled educable

434 children's program..... \$ 701,459.00

435 (vi) Critical needs teachers shortage

436 scholarships..... \$ 901,493.00

437 (vii) School attendance officers.. \$ 668,618.00

438 (viii) Vocational educational

439 needs..... \$ 1,087,404.00

440 (ix) Mississippi Schools for the

441 the Blind and Deaf..... \$ 2,318,384.00

442 (c) Department of Human Services, for

443 child care assistance and community

444 family resource centers..... \$ 10,300,000.00

445 (d) Department of Rehabilitation

446 Services..... \$ 1,405,779.00

447 (i) Office of Vocational Rehabilitation

448 for the Blind as follows:

449 1. Salaries, wages and

450 fringe benefits..... \$ 543,350.00

451 2. Travel and subsistence.... \$ 12,399.00

452 3. Contractual services..... \$ 23,431.00

453 4. Equipment..... \$ 22,243.00

454 5. Subsidies, loans and

455 grants..... \$ 304,356.00

456 (ii) Office of Special Disability

457 Programs, for subsidies, loans
458 and grants..... \$ 500,000.00

459 **SECTION 11.** This act shall take effect and be in force from
460 and after July 1, 2004, except for Sections 1 and 2, which shall
461 take effect and be in force from and after January 1, 2004.