

By: Representatives Scott, Blackmon,
Johnson, Evans, Flaggs, Fleming, Green,
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To: Ways and Means

HOUSE BILL NO. 1717

1 AN ACT TO CREATE A STUDY COMMITTEE TO STUDY THE TAX SYSTEM OF
2 THIS STATE AND TO MAKE RECOMMENDATIONS THEREON TO THE LEGISLATURE;
3 TO REQUIRE THE BUDGET OF STATE AGENCIES BE REDUCED BY 5% IN FISCAL
4 YEAR 2006; TO AMEND SECTION 27-7-5, MISSISSIPPI CODE OF 1972, TO
5 REVISE THE TAX BRACKETS UNDER THE INCOME TAX LAW; TO AMEND
6 SECTIONS 27-7-901 AND 27-7-903, MISSISSIPPI CODE OF 1972, TO
7 INCREASE THE TAX LEVIED UPON AMOUNTS THAT ARE PAID OR CREDITED BY
8 GAMING ESTABLISHMENTS TO THEIR PATRONS; TO AMEND SECTIONS 27-13-5
9 AND 27-13-7, MISSISSIPPI CODE OF 1972, TO INCREASE THE FRANCHISE
10 TAX LEVY; TO AMEND SECTIONS 27-15-103 AND 27-15-109, MISSISSIPPI
11 CODE OF 1972, TO INCREASE THE INSURANCE PREMIUM TAX; TO AMEND
12 SECTION 27-19-43, MISSISSIPPI CODE OF 1972, TO INCREASE THE
13 REGISTRATION FEE ON MOTOR VEHICLES; TO AMEND SECTION 27-65-17,
14 MISSISSIPPI CODE OF 1972, TO INCREASE THE SALES TAX ON RETAIL
15 SALES OF PRIVATE CARRIERS OF PASSENGERS AND LIGHT CARRIERS OF
16 PROPERTY; TO AMEND SECTION 27-65-19, MISSISSIPPI CODE OF 1972, TO
17 INCREASE THE SALES TAX ON SALES OF ELECTRICITY AND OTHER FUELS TO
18 MANUFACTURERS, CUSTOM PROCESSORS OR PUBLIC SERVICE COMPANIES FOR
19 INDUSTRIAL PURPOSES; TO AMEND SECTION 27-65-21, MISSISSIPPI CODE
20 OF 1972, TO INCREASE THE CONTRACTOR'S TAX; TO AMEND SECTION
21 27-65-33, MISSISSIPPI CODE OF 1972, TO REMOVE THE DISCOUNT GIVEN
22 FOR TIMELY FILING AND PAYING SALES TAXES; TO AMEND SECTION
23 27-65-75, MISSISSIPPI CODE OF 1972, TO INCREASE THE AMOUNT OF THE
24 SALES TAX DIVERSION TO CITIES AND TO PROVIDE THAT THE ADDITIONAL
25 SALES TAX ON MOTOR VEHICLES SHALL NOT BE DEPOSITED INTO THE MOTOR
26 VEHICLE AD VALOREM TAX REDUCTION FUND; TO AMEND SECTION 27-65-111,
27 MISSISSIPPI CODE OF 1972, TO REMOVE THE SALES TAX EXEMPTION ON
28 SALES OF MOTOR FUEL AND TO EXEMPT RETAIL SALES OF CERTAIN
29 GROCERIES FROM SALES TAXATION; TO AMEND SECTION 27-67-5,
30 MISSISSIPPI CODE OF 1972, TO INCREASE THE USE TAX; TO AMEND
31 SECTION 27-67-31, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE
32 ADDITIONAL USE TAX ON MOTOR VEHICLES SHALL NOT BE DEPOSITED INTO
33 THE MOTOR VEHICLE AD VALOREM TAX REDUCTION FUND; TO AMEND SECTION
34 27-69-13, MISSISSIPPI CODE OF 1972, TO INCREASE THE EXCISE TAX
35 LEVIED ON CIGARETTES; TO ELIMINATE THE DISCOUNT OR COMPENSATION
36 PROVIDED TO DEALERS AS CONSIDERATION FOR THEIR SERVICES IN
37 AFFIXING TOBACCO TAX STAMPS REQUIRED UNDER THE STATE TOBACCO TAX
38 LAW; TO AMEND SECTION 27-69-31, MISSISSIPPI CODE OF 1972, TO
39 ELIMINATE THE DISCOUNT OR COMPENSATION PROVIDED TO DEALERS AS
40 COMPENSATION FOR THEIR SERVICES IN AFFIXING TOBACCO TAX STAMPS
41 REQUIRED UNDER THE STATE TOBACCO TAX LAW; TO AMEND SECTION
42 27-69-75, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PRECEDING
43 PROVISIONS; AND FOR RELATED PURPOSES.

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

45 **SECTION 1.** The Legislature finds that tax revenues are not
46 sufficient to fund essential functions of state government and
47 without additional revenues to fund these functions, the health,

48 safety, welfare and future of the citizens of the State of
49 Mississippi will be compromised. It is the intent of the
50 Legislature that the additional General Fund revenue that is
51 generated as a result of the passage of this act shall be utilized
52 to:

53 (a) Maintain the current eligibility standards under
54 the Medicaid program;

55 (b) Fund the Medicaid Poverty Level Aged and Disabled
56 Group;

57 (c) Fund seven hundred fifty (750) slots under the
58 Medicaid Assisted Living Waiver Program;

59 (d) Fund the Children's Health Insurance Program
60 administered by the Department of Medicaid;

61 (e) Fund the Mississippi Adequate Education Program and
62 teacher salaries as provided by law;

63 (f) Fund State Institutions of Higher Learning and
64 Community and Junior Colleges;

65 (g) Fund the State and School Employees' Health
66 Insurance Plan;

67 (h) Fund a six percent (6%) increase in state employee
68 compensation;

69 (i) Fund mental health crisis centers; and

70 (j) Fund additional patrolmen for the Highway Safety
71 Patrol.

72 **SECTION 2.** (1) There is created a study committee on the
73 tax system of Mississippi. The committee shall make a report of
74 its findings and recommendations to the Legislature during the
75 2006 Regular Legislative Session, including any recommended
76 legislation.

77 (2) The committee shall be composed of the following
78 members:

79 (a) The President Pro Tempore of the Mississippi
80 Senate;

81 (b) The Speaker Pro Tempore of the Mississippi House of
82 Representatives;

83 (c) The Chairman of the Senate Appropriations
84 Committee;

85 (d) The Chairman of the House Appropriations Committee;

86 (e) The Chairman of the Senate Finance Committee;

87 (f) The Chairman of the House Ways and Means Committee;

88 (g) The State Treasurer, or his designee;

89 (h) The Executive Director of the Department of Finance
90 and Administration;

91 (i) The State Auditor, or his designee;

92 (j) One (1) member designated by the State Tax
93 Commission;

94 (k) One (1) member designated by the State Board of
95 Public Accountancy;

96 (l) One (1) member designated by the President of The
97 Mississippi Bar from the Taxation Section of The Mississippi Bar;

98 (m) One (1) member designated by the Mississippi
99 Supervisors Association;

100 (n) One (1) member designated by the Mississippi
101 Municipal Association; and

102 (o) Three (3) representatives of the general public,
103 one (1) designated by the Governor, one (1) by the Lieutenant
104 Governor and one (1) by the Speaker of the House of
105 Representatives.

106 Appointments shall be made within thirty (30) days after the
107 effective date of this act, and, within fifteen (15) days
108 thereafter on a day to be designated jointly by the Lieutenant
109 Governor and the Speaker of the House, the committee shall meet
110 and organize by selecting from its membership a chairman and a
111 vice chairman. The vice chairman shall also serve as secretary
112 and shall be responsible for keeping all records of the committee.
113 A majority of the members of the committee shall constitute a

114 quorum. In the selection of its officers and the adoption of
115 rules, resolutions and reports, an affirmative vote of a majority
116 of the committee shall be required. All members shall be notified
117 in writing of all meetings, such notices to be mailed at least
118 five (5) days before the date on which a meeting is to be held.

119 (3) The committee shall study and make recommendations with
120 respect to the imposition of state taxes and the granting of tax
121 exemptions in all areas of taxation including, but not limited to,
122 sales taxes, income taxes, privilege taxes, fuel taxes, diversions
123 of taxes and the relationship between state and local taxes.

124 (4) Members of the committee who are not legislators, state
125 officials or state employees shall be compensated at the per diem
126 rate authorized by Section 25-3-69, and shall be reimbursed in
127 accordance with Section 25-3-41 for mileage and actual expenses
128 incurred in the performance of their duties. Legislative members
129 of the committee shall be paid from the contingent expense funds
130 of their respective houses in the same manner as provided for
131 committee meetings when the Legislature is not in session;
132 however, no per diem or expense for attending meetings of the
133 committee will be paid while the Legislature is in session. No
134 committee member may incur per diem, travel or other expenses
135 unless previously authorized by vote, at a meeting of the
136 committee, which action shall be recorded in the official minutes
137 of the meeting. Nonlegislative members shall be paid from any
138 funds made available to the committee for that purpose.

139 (5) The committee shall utilize clerical and legal staff
140 already employed by the Legislature and any other staff assistance
141 made available to it. To effectuate the purpose of this
142 resolution, any department, division, board, bureau, commission or
143 agency of the state or of any political subdivision thereof shall,
144 at the request of the chairman of the committee, provide to the
145 committee such facilities, assistance and data as will enable the
146 committee properly to carry out its task.

147 (6) Upon presentation of its report to the 2006 Regular
148 Legislative Session, the committee shall be dissolved.

149 **SECTION 3.** In fiscal year 2006, the budget of each state
150 agency, as defined in Section 27-103-103, shall be reduced by five
151 percent (5%) from the level it was funded in fiscal year 2005.

152 **SECTION 4.** Section 27-7-5, Mississippi Code of 1972, is
153 amended as follows:

154 27-7-5. (1) There is * * * assessed and levied, to be
155 collected and paid as hereinafter provided, for the calendar year
156 1983 and fiscal years ending during the calendar year 1983 and all
157 taxable years thereafter, upon the entire net income of every
158 resident individual, corporation, association, trust or estate, in
159 excess of the credits provided, a tax at the following rates:

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

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

164 On all taxable income in excess of Ten Thousand Dollars
165 (\$10,000.00), at the rate of six percent (6%).

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

168 (3) A like tax is * * * imposed to be assessed, collected
169 and paid annually, except as hereinafter provided, at the rate
170 specified in this section and as hereinafter provided, upon and
171 with respect to the entire net income, from all property owned or
172 sold, and from every business, trade or occupation carried on in
173 this state by individuals, corporations, partnerships, trusts or
174 estates, not residents of the State of Mississippi.

175 (4) In the case of taxpayers having a fiscal year beginning
176 in the calendar year 1982 and ending after the first day of
177 January 1983, the tax due for that taxable year shall be
178 determined by:

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

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

185 (c) Applying to the tax computed under paragraph (a)
186 the ratio that the number of months falling within the earlier
187 calendar year bears to the total number of months in the fiscal
188 year; and

189 (d) Applying to the tax computed under paragraph (b)
190 the ratio that the number of months falling within the later
191 calendar year bears to the total number of months within the
192 fiscal year; and

193 (e) Adding to the tax determined under paragraph (c)
194 the tax determined under paragraph (d) the sum of which shall be
195 the amount of tax due for the fiscal year.

196 **SECTION 5.** Section 27-7-901, Mississippi Code of 1972, is
197 amended as follows:

198 27-7-901. (1) There is * * * levied, assessed and shall be
199 collected a tax of five percent (5%) upon amounts that are paid or
200 credited by gaming establishments licensed under the provisions of
201 the Mississippi Gaming Control Act to their patrons. The tax
202 shall be collected by licensed gaming establishments and remitted
203 to the State Tax Commission in the manner provided for by
204 regulations promulgated by the Chairman of the State Tax
205 Commission.

206 (2) As used in this section, "amounts that are paid or
207 credited" means amounts or credits that are subject to the
208 withholding or reporting requirements of the Internal Revenue
209 Code.

210 (3) No credit shall be allowed under the Income Tax Law of
211 1952 for the tax collected by licensed gaming establishments under
212 this section.

213 **SECTION 6.** Section 27-7-903, Mississippi Code of 1972, is
214 amended as follows:

215 27-7-903. (1) There is * * * levied and assessed upon
216 patrons of gaming establishments located in this state that are
217 not licensed under the provisions of the Mississippi Gaming
218 Control Act, a tax of five percent (5%) of the amounts that are
219 paid or credited to those patrons by the gaming establishment,
220 which tax is the same in kind and rate as has heretofore been
221 imposed under Section 27-7-901 upon the patrons of gaming
222 establishments that are licensed under the Mississippi Gaming
223 Control Act. The legal incidence and duty to pay those taxes
224 shall fall upon the patron. The assessment of the tax is subject
225 to any exemptions as may exist under federal or state law. The
226 State Tax Commission may enter into tax collection agreements
227 regarding this tax.

228 (2) As used in this section, "amounts that are paid or
229 credited" means amounts or credits that are subject to the
230 withholding or reporting requirements of the Internal Revenue
231 Code.

232 (3) No credit shall be allowed under the Income Tax Law of
233 1952 for the tax collected by gaming establishments under this
234 section.

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

237 27-13-5. (1) **Franchise tax levy.** Except as otherwise
238 provided in subsections (3), (4) and (5) of this section, there
239 is * * * imposed, to be paid and collected as hereinafter
240 provided, a franchise or excise tax upon every corporation,
241 association or joint-stock company or partnership treated as a
242 corporation under the income tax laws or regulations, organized or

243 created for pecuniary gain, having privileges not possessed by
244 individuals, and having authorized capital stock now existing in
245 this state, or hereafter organized, created or established, under
246 and by virtue of the laws of the State of Mississippi, equal to
247 Five Dollars (\$5.00) for each One Thousand Dollars (\$1,000.00), or
248 fraction thereof, of the value of the capital used, invested or
249 employed in the exercise of any power, privilege or right enjoyed
250 by the organization within this state, except as hereinafter
251 provided. In no case shall the franchise tax due for the
252 accounting period be less than Twenty-five Dollars (\$25.00). It
253 is the purpose of this section to require the payment to the State
254 of Mississippi of this tax for the right granted by the laws of
255 this state to exist as that organization, and to enjoy, under the
256 protection of the laws of this state, the powers, rights,
257 privileges and immunities derived from the state by the form of
258 that existence.

259 (2) **Annual report of domestic corporations.** Each domestic
260 corporation shall file, within the time prescribed by Section
261 79-3-251, an annual report as required by the provisions of
262 Section 79-3-249.

263 (3) A corporation that has negotiated a fee-in-lieu as
264 defined in Section 57-75-5 shall not be subject to the tax levied
265 by this section on that project; * * * however, * * * the
266 fee-in-lieu payment shall be otherwise treated in the same manner
267 as the payment of franchise taxes.

268 (4) An approved business enterprise as defined in the Growth
269 and Prosperity Act shall not be subject to the tax levied by this
270 section on the value of capital used, invested or employed by the
271 approved business enterprise in a growth and prosperity county or
272 supervisors district as provided in the Growth and Prosperity Act.

273 (5) A business enterprise operating a project as defined in
274 Section 57-64-33, in a county that is a member of a regional
275 economic development alliance created under the Regional Economic

276 Development Act shall not be subject to the tax levied by this
277 section on the value of capital used, invested or employed by the
278 business enterprise in such a county as provided in Section
279 57-64-33.

280 **SECTION 8.** Section 27-13-7, Mississippi Code of 1972, is
281 amended as follows:

282 27-13-7. (1) **Franchise tax levy.** Except as otherwise
283 provided in subsections (3), (4) and (5) of this section, there
284 is * * * imposed, levied and assessed upon every corporation,
285 association or joint-stock company, or partnership treated as a
286 corporation under the Income Tax Laws or regulations as
287 hereinbefore defined, organized and existing under and by virtue
288 of the laws of some other state, territory or country, or
289 organized and existing without any specific statutory authority,
290 now or hereafter doing business or exercising any power, privilege
291 or right within this state, as hereinbefore defined, a franchise
292 or excise tax equal to Five Dollars (\$5.00) of each One Thousand
293 Dollars (\$1,000.00), or fraction thereof, of the value of capital
294 used, invested or employed within this state, except as
295 hereinafter provided. In no case shall the franchise tax due for
296 the accounting period be less than Twenty-five Dollars (\$25.00).
297 It is the purpose of this section to require the payment of a tax
298 by all organizations not organized under the laws of this state,
299 measured by the amount of capital or its equivalent, for which the
300 organization receives the benefit and protection of the government
301 and laws of the state.

302 (2) **Annual report of foreign corporations.** Each foreign
303 corporation authorized to transact business in this state shall
304 file, within the time prescribed by Section 79-3-251, an annual
305 report as required by the provisions of Section 79-3-249.

306 (3) A corporation that has negotiated a fee-in-lieu as
307 defined in Section 57-75-5 shall not be subject to the tax levied
308 by this section on that project; * * * however, * * * the

309 fee-in-lieu payment shall be otherwise treated in the same manner
310 as the payment of franchise taxes.

311 (4) An approved business enterprise as defined in the Growth
312 and Prosperity Act shall not be subject to the tax levied by this
313 section on the value of capital used, invested or employed by the
314 approved business enterprise in a growth and prosperity county or
315 supervisors district as provided in the Growth and Prosperity Act.

316 (5) A business enterprise operating a project as defined in
317 Section 57-64-33, in a county that is a member of a regional
318 economic development alliance created under the Regional Economic
319 Development Act shall not be subject to the tax levied by this
320 section on the value of capital used, invested or employed by the
321 business enterprise in such a county as provided in Section
322 57-64-33.

323 **SECTION 9.** Section 27-15-103, Mississippi Code of 1972, is
324 amended as follows:

325 27-15-103. (1) Except as otherwise provided in Section
326 83-61-11, in addition to the license tax now or hereafter provided
327 by law, which tax shall be paid when the company enters or is
328 admitted to do business in this state, there is * * * levied and
329 imposed upon all foreign insurance companies and associations,
330 including life insurance companies and associations, health,
331 accident and industrial insurance companies and associations, fire
332 and casualty insurance companies and associations, and all other
333 foreign insurance companies and associations of every kind and
334 description, an additional annual license or privilege tax of four
335 percent (4%) of the gross amount of premium receipts received
336 from, and on insurance policies and contracts written in, or
337 covering risks located in this state, except for premiums received
338 on policies issued to fund a deferred compensation plan qualified
339 under Section 457 of the Federal Tax Code for federal tax
340 exemption. In determining the amount of premiums, there shall be
341 deducted therefrom premiums received for reinsurance from

342 companies authorized to do business in this state, cash dividends
343 paid under policy contracts in this state, and premiums returned
344 to policyholders and cancellations on accounts of policies not
345 taken, and, in the case of mutual insurance companies (including
346 interinsurance and reciprocal exchanges, but not including mutual
347 life, accident, health or industrial insurance companies) any
348 refund made or credited to the policyholder other than for losses.
349 The term "premium" as used in this section shall also include
350 policy fees, membership fees, and all other fees collected by the
351 companies. No credit or deduction from gross premium receipts
352 shall be allowed for any commission, fee or compensation paid to
353 any agent, solicitor or representative. * * * However, * * * any
354 foreign insurance carrier selected to furnish service to the State
355 of Mississippi under the State Employees Life and Health Insurance
356 Plan shall not be required to pay the annual license or privilege
357 tax on the premiums collected for coverage under the * * * plan.

358 * * *

359 (2) The taxes * * * levied and imposed in this section for
360 the calendar year 1982 and all calendar years thereafter shall be
361 reduced by the net amount of income tax paid to this state for the
362 preceding calendar year, provided, in no event may the credit be
363 taken more than once. The credit * * * authorized in this
364 subsection shall, in no event, be greater than the premium tax due
365 under this section; it being the purpose and intent of this
366 paragraph that whichever of the annual insurance premium tax or
367 the income tax is greater in amount shall be paid.

368 **SECTION 10.** Section 27-15-109, Mississippi Code of 1972, is
369 amended as follows:

370 27-15-109. (1) Except as otherwise provided in Section
371 83-61-11, there is * * * levied and imposed upon each domestic
372 company doing business in this state an annual tax of four percent
373 (4%) of the gross amount of premiums collected by the domestic
374 company on insurance policies and contracts written in, or

375 covering risks located in this state, except for premiums received
376 on policies issued to fund a retirement, thrift or deferred
377 compensation plan qualified under Section 401, Section 403 or
378 Section 457 of the Federal Tax Code for federal tax
379 exemption. * * * However, * * * a domestic insurance company
380 against which is levied additional premium tax under retaliatory
381 laws of other states in which it does business, as a result of the
382 tax increase provided by Sections 27-15-103 through 27-15-117, may
383 deduct the total of the additional retaliatory tax from the state
384 income tax due by it to the State of Mississippi. The insurance
385 carriers selected to furnish service to the State of Mississippi,
386 under the State Employees Life and Health Insurance Plan, shall
387 not be required to pay the premium tax levied against insurance
388 companies under this section on the premiums collected for
389 coverage under the state employees plan.

390 (2) Except as expressly provided by subsection (1) of this
391 section, all of the provisions of Sections 27-15-103 through
392 27-15-117 shall be applicable to the domestic insurance companies.
393 However, the statement filed with the State Tax Commission by
394 domestic insurance companies as provided in Section 27-15-107
395 shall include therein a sworn statement of all additional
396 retaliatory premium taxes paid by them to other states as a result
397 of the increase in premium taxes imposed by Sections 27-15-103
398 through 27-15-117, itemized by states to which paid.

399 * * *

400 **SECTION 11.** Section 27-19-43, Mississippi Code of 1972, is
401 amended as follows:

402 27-19-43. (1) License tags, substitute tags and decals for
403 individual fleets and for private carriers of passengers, school
404 buses (excluding school buses owned by a school district in the
405 state), church buses, taxicabs, ambulances, hearses, motorcycles
406 and private carriers of property, and private commercial carriers
407 of property of a gross weight of ten thousand (10,000) pounds and

408 less, shall be sold and issued by the tax collectors of the
409 several counties.

410 (2) Applications for license tags for motor vehicles in a
411 corporate fleet registered under Section 27-19-66, and
412 applications for all other license tags, substitute tags and
413 decals shall be filed with the commission or the local tax
414 collector of the respective counties and forwarded to the
415 commission for issuance to the applicant. All tags and decals for
416 vehicles owned by the state or any agency or instrumentality
417 thereof, and vehicles owned by a fire protection district, school
418 district or a county or municipality, and all vehicles owned by a
419 road, drainage or levee district shall be issued by the
420 commission.

421 (3) In addition to the privilege taxes levied in this
422 section, there shall be collected the following registration or
423 tag fee:

424 (a) For the issuance of both a license tag and two (2)
425 decals, a fee of Five Dollars (\$5.00).

426 (b) For the issuance of up to two (2) decals only, a
427 fee of Three Dollars and Seventy-five Cents (\$3.75).

428 No tag or decal shall be issued either by a tax collector or
429 by the commission without the collection of the registration fee
430 except substitute tags and decals and license tags for vehicles
431 owned by the State of Mississippi.

432 Beginning July 1, 1987, and until the date specified in
433 Section 65-39-35, there shall be levied a registration fee of Five
434 Dollars (\$5.00) in addition to the regular registration fee
435 imposed in paragraphs (a) and (b) of this subsection. The
436 additional registration fee shall be levied in the same manner as
437 the regular registration fee.

438 (4) Beginning July 1, 2005, there shall be levied a
439 registration fee of Ten Dollars (\$10.00) in addition to the
440 regular registration fee imposed in subsection (3) of this

441 section. The additional registration fee shall be levied in the
442 same manner as the regular registration fee.

443 **SECTION 12.** Section 27-65-17, Mississippi Code of 1972, is
444 amended as follows:

445 27-65-17. (1) Upon every person engaging or continuing
446 within this state in the business of selling any tangible personal
447 property whatsoever, there is * * * levied, assessed and shall be
448 collected a tax equal to seven percent (7%) of the gross proceeds
449 of the retail sales of the business, except as otherwise provided
450 in this section.

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

453 Retail sales of farm implements sold to farmers and used
454 directly in the production of poultry, ratite, domesticated fish
455 as defined in Section 69-7-501, livestock, livestock products,
456 agricultural crops or ornamental plant crops or used for other
457 agricultural purposes shall be taxed at the rate of three percent
458 (3%) when used on the farm. The three percent (3%) rate shall
459 also apply to all equipment used in logging, pulpwood operations
460 or tree farming that is either (a) self-propelled or that is (b)
461 mounted so that it is (i) permanently attached to other equipment
462 that is self-propelled or (ii) permanently attached to other
463 equipment drawn by a vehicle that is self-propelled.

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

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

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

478 Sales of tangible personal property to electric power
479 associations for use in the ordinary and necessary operation of
480 their generating or distribution systems shall be taxed at the
481 rate of one percent (1%).

482 Wholesale sales of beer shall be taxed at the rate of seven
483 percent (7%), and the retailer shall file a return and compute the
484 retail tax on retail sales, but may take credit for the amount of
485 the tax paid to the wholesaler on the return covering the
486 subsequent sales of same property, provided adequate invoices and
487 records are maintained to substantiate the credit.

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

492 A manufacturer selling at retail in this state shall be
493 required to make returns of the gross proceeds of those sales and
494 pay the tax imposed in this section.

495 Any person exercising any privilege taxable under Section
496 27-65-15 and selling his natural resource products at wholesale or
497 to exempt persons shall pay the tax levied by that section in lieu
498 of the tax levied by this section.

499 (2) (a) From and after January 1, 1995, retail sales of
500 private carriers of passengers and light carriers of property, as
501 defined in Section 27-51-101, shall be taxed an additional two
502 percent (2%).

503 (b) From and after July 1, 2005, retail sales of
504 private carriers of passengers and light carriers of property, as
505 defined in Section 27-51-101, shall be taxed an additional one
506 percent (1%).

507 (3) In lieu of the tax levied in subsection (1) of this
508 section, there is levied on retail sales of truck-tractors and
509 semitrailers used in interstate commerce and registered under the
510 International Registration Plan (IRP) or any similar reciprocity
511 agreement or compact relating to the proportional registration of
512 commercial vehicles entered into as provided for in Section
513 27-19-143, a tax at the rate of three percent (3%) of the portion
514 of the sale that is attributable to the usage of the truck-tractor
515 or semitrailer in Mississippi. The portion of the retail sale
516 that is attributable to the usage of the truck-tractor or
517 semitrailer in Mississippi is the retail sales price of the
518 truck-tractor or semitrailer multiplied by the percentage of the
519 total miles traveled by the vehicle that are traveled in
520 Mississippi. The tax levied under this subsection (3) shall be
521 collected by the State Tax Commission from the purchaser of the
522 truck-tractor or semitrailer at the time of registration of the
523 truck-tractor or semitrailer.

524 **SECTION 13.** Section 27-65-19, Mississippi Code of 1972, is
525 amended as follows:

526 27-65-19. (1) (a) Except as otherwise provided in this
527 subsection, upon every person selling to consumers, electricity,
528 current, power, potable water, steam, coal, natural gas, liquefied
529 petroleum gas or other fuel, there is * * * levied, assessed and
530 shall be collected a tax equal to seven percent (7%) of the gross
531 income of the business. However, gross income from sales to
532 consumers of electricity, current, power, natural gas, liquefied
533 petroleum gas or other fuel for residential heating, lighting or
534 other residential noncommercial or nonagricultural use, and sales
535 of potable water for residential, noncommercial or nonagricultural
536 use shall be excluded from taxable gross income of the
537 business. * * * Upon every such seller using electricity,
538 current, power, potable water, steam, coal, natural gas, liquefied
539 petroleum gas or other fuel for nonindustrial purposes, there

540 is * * * levied, assessed and shall be collected a tax equal to
541 seven percent (7%) of the cost or value of the product or service
542 used.

543 * * *

544 (b) Upon every person operating a telegraph or
545 telephone business for the transmission of messages or
546 conversations between points within this state, there is * * *
547 levied, assessed and shall be collected a tax equal to seven
548 percent (7%) of the gross income of the business, with no
549 deduction or allowance for any part of an intrastate rate charge
550 because of routing across a state line. Charges by one (1)
551 telecommunications provider to another telecommunications provider
552 holding a permit issued under Section 27-65-27 for services that
553 are resold by the other telecommunications provider, including,
554 but not limited to, access charges, shall not be subject to the
555 tax levied under this paragraph (b). However, any sale of a
556 prepaid telephone calling card or prepaid authorization number, or
557 both, shall be deemed to be the sale of tangible personal property
558 subject only to those taxes imposed by law on the sale of tangible
559 personal property. If the sale of a prepaid telephone calling
560 card or prepaid authorization number does not take place at the
561 vendor's place of business, it shall be conclusively determined to
562 take place at the customer's shipping address. The
563 reauthorization of a prepaid telephone calling card or a prepaid
564 authorization number shall be conclusively determined to take
565 place at the customer's billing address. Except for the
566 provisions governing the sale of a prepaid telephone calling card
567 or prepaid authorization number, this paragraph (b) shall not
568 apply to persons providing mobile telecommunications services that
569 are taxed under paragraph (d) of this section.

570 (c) Upon every person operating a telegraph or
571 telecommunications business for the transmission of messages or
572 conversations originating in this state or terminating in this

573 state via interstate telecommunications, which are charged to the
574 customer's service address in this state, regardless of where the
575 amount is billed or paid, there is * * * levied, assessed and
576 shall be collected a tax equal to seven percent (7%) of the gross
577 income received by the business from those interstate
578 telecommunications. However, a person, upon proof that he has
579 paid a tax in another state on that event, shall be allowed a
580 credit against the tax imposed in this paragraph (c) on interstate
581 telecommunications charges to the extent that the amount of the
582 tax is properly due and actually paid in the other state and to
583 the extent that the rate of sales tax imposed by and paid to the
584 other state does not exceed the rate of sales tax imposed by this
585 paragraph (c). Charges by one (1) telecommunications provider to
586 another telecommunications provider holding a permit issued under
587 Section 27-65-27 for services that are resold by the other
588 telecommunications provider, including, but not limited to, access
589 charges, shall not be subject to the tax levied under this
590 paragraph (c). This paragraph (c) shall not apply to persons
591 providing mobile telecommunications services that are taxed
592 pursuant to paragraph (d) of this subsection.

593 (d) (i) Upon every person providing mobile
594 telecommunications services in this state, there is * * * levied,
595 assessed and shall be collected:

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

601 2. A tax equal to seven percent (7%) on the
602 gross income received from all charges for services that originate
603 in one (1) state and terminate in any other state.

604 Charges by one (1) telecommunications provider to another
605 telecommunications provider holding a permit issued under Section

606 27-65-27 for services that are resold by the other
607 telecommunications provider, including, but not limited to, access
608 charges, shall not be subject to the tax levied under this
609 paragraph (d).

610 (ii) Subject to the provisions of 4 USCS 116(c),
611 the tax levied by this paragraph (d) shall apply only to those
612 charges for mobile telecommunications services subject to tax that
613 are deemed to be provided to a customer by a home service provider
614 under 4 USCS 117(a), if the customer's place of primary use is
615 located within this state.

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

633 If the commissioner determines that the address used by a
634 home service provider as a customer's place of primary use does
635 not meet the definition of the term "place of primary use" as
636 defined in this paragraph, the commissioner shall give binding
637 notice to the home service provider to change the place of primary
638 use on a prospective basis from the date of notice of

639 determination; however, the customer shall have the opportunity,
640 before that notice of determination, to demonstrate that the
641 address satisfies that definition.

642 The commission has the right to collect any taxes due
643 directly from the home service provider's customer that has failed
644 to provide an address that meets the definition of the term "place
645 of primary use" that resulted in a failure of tax otherwise due
646 being remitted.

647 (iv) For purposes of this paragraph (d):

648 1. "Place of primary use" means the street
649 address representative of where the customer's use of mobile
650 telecommunications services primarily occurs, which shall be
651 either the residential street address of the customer or the
652 primary business street address of the customer.

653 2. "Customer" means the person or entity that
654 contracts with the home service provider for mobile
655 telecommunications services. For determining the place of primary
656 use, in those instances in which the end user of mobile
657 telecommunications services is not the contracting party, the end
658 user of the mobile telecommunications services shall be deemed the
659 customer. The term "customer" shall not include a reseller of
660 mobile telecommunications service, or a serving carrier under an
661 arrangement to serve the customer outside the home service
662 provider's licensed service area.

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

666 (e) (i) For purposes of this paragraph (e), "bundled
667 transaction" means a transaction that consists of distinct and
668 identifiable properties or services that are sold for a single
669 nonitemized price but that are treated differently for tax
670 purposes.

671 (ii) In the case of a bundled transaction that
672 includes telecommunications services taxed under this section in
673 which the price of the bundled transaction is attributable to
674 properties or services that are taxable and nontaxable, the
675 portion of the price that is attributable to any nontaxable
676 property or service shall be subject to the tax unless the
677 provider can reasonably identify that portion from its books and
678 records kept in the regular course of business.

679 (iii) In the case of a bundled transaction that
680 includes telecommunications services subject to tax under this
681 section in which the price is attributable to properties or
682 services that are subject to the tax but the tax revenue from the
683 different properties or services are dedicated to different funds
684 or purposes, the provider shall allocate the price among the
685 properties or services:

686 1. By reasonably identifying the portion of
687 the price attributable to each of the properties and services from
688 its books and records kept in the regular course of business; or

689 2. Based on a reasonable allocation
690 methodology approved by the commission.

691 (iv) This paragraph (e) shall not create a right
692 of action for a customer to require that the provider or the
693 commission, for purposes of determining the amount of tax
694 applicable to a bundled transaction, allocate the price to the
695 different portions of the transaction in order to minimize the
696 amount of tax charged to the customer. A customer shall not be
697 entitled to rely on the fact that a portion of the price is
698 attributable to properties or services not subject to tax unless
699 the provider elects, after receiving a written request from the
700 customer in the form required by the provider, to provide
701 verifiable data based upon the provider's books and records that
702 are kept in the regular course of business that reasonably

703 identifies the portion of the price attributable to the properties
704 or services not subject to the tax.

705 (2) Persons making sales to consumers of electricity,
706 current, power, natural gas, liquefied petroleum gas or other fuel
707 for residential heating, lighting or other residential
708 noncommercial or nonagricultural use or sales of potable water for
709 residential, noncommercial or nonagricultural use shall indicate
710 on each statement rendered to customers that those charges are
711 exempt from sales taxes.

712 (3) There is * * * levied, assessed and shall be paid on
713 transportation charges on shipments moving between points within
714 this state when paid directly by the consumer, a tax equal to the
715 rate applicable to the sale of the property being transported.
716 The tax shall be reported and paid directly to the State Tax
717 Commission by the consumer.

718 **SECTION 14.** Section 27-65-21, Mississippi Code of 1972, is
719 amended as follows:

720 27-65-21. (1) (a) (i) Upon every person engaging or
721 continuing in this state in the business of contracting or
722 performing a contract or engaging in any of the activities, or
723 similar activities, listed below for a price, commission, fee or
724 wage, there is * * * levied, assessed and shall be collected a tax
725 equal to four and one-half percent (4-1/2%) of the total contract
726 price or compensation received, including all charges related to
727 the contract such as finance charges and late charges, from
728 constructing, building, erecting, repairing, grading, excavating,
729 drilling, exploring, testing or adding to any building, highway,
730 street, sidewalk, bridge, culvert, sewer, irrigation or water
731 system, drainage or dredging system, levee or levee system or any
732 part thereof, railway, reservoir, dam, power plant, electrical
733 system, air conditioning system, heating system, transmission
734 line, pipeline, tower, dock, storage tank, wharf, excavation,
735 grading, water well, any other improvement or structure or any

736 part thereof when the compensation received exceeds Ten Thousand
737 Dollars (\$10,000.00). Those activities shall not include
738 constructing, repairing or adding to property that retains its
739 identity as personal property. The tax imposed in this section is
740 levied upon the prime contractor and shall be paid by him.

741 (ii) Amounts included in the contract price or
742 compensation received representing the sale of manufacturing or
743 processing machinery for a manufacturer or custom processor shall
744 be taxed at the rate of one and one-half percent (1-1/2%) in lieu
745 of the three and one-half percent (3-1/2%).

746 (b) The following shall be excluded from the tax levied
747 by this section:

748 (i) The contract price or compensation received
749 for constructing, building, erecting, repairing or adding to any
750 building, electrical system, air conditioning system, heating
751 system or any other improvement or structure that is used for or
752 primarily in connection with a residence or dwelling place for
753 human beings. Those residences shall include homes, apartment
754 buildings, condominiums, mobile homes, summer cottages, fishing
755 and hunting camp buildings and similar buildings, but shall not
756 include hotels, motels, hospitals, nursing or retirement homes,
757 tourist cottages or other commercial establishments.

758 (ii) The portion of the total contract price
759 attributable to design or engineering services if the total
760 contract price for the project exceeds the sum of One Hundred
761 Million Dollars (\$100,000,000.00).

762 (iii) The contract price or compensation received
763 to restore, repair or replace a utility distribution or
764 transmission system that has been damaged due to ice storm,
765 hurricane, flood, tornado, wind, earthquake or other natural
766 disaster if the restoration, repair or replacement is performed by
767 the entity providing the service at its cost.

768 (c) Sales of materials and services for use in the
769 activities * * * excluded from taxes imposed by this section,
770 except services used in activities excluded under paragraph
771 (b)(iii) of this subsection, shall be subject to taxes imposed by
772 other sections in this chapter.

773 (2) Upon every person engaging or continuing in this state
774 in the business of contracting or performing a contract of
775 redrilling, or working over, or of drilling an oil well or a gas
776 well, regardless of whether the well is productive or
777 nonproductive, for any valuable consideration, there is * * *
778 levied, assessed and shall be collected a tax equal to three and
779 one-half percent (3-1/2%) of the total contract price or
780 compensation received when the compensation exceeds Ten Thousand
781 Dollars (\$10,000.00).

782 The words, terms and phrases as used in this subsection shall
783 have the meaning ascribed to them as follows:

784 "Operator" -- One who holds all or a fraction of the working
785 or operating rights in an oil or gas lease, and is obligated for
786 the costs of production either as a fee owner or under a lease or
787 any other form of contract creating working or operating rights.

788 "Bottom-hole contribution" -- Money or property given to an
789 operator for his use in the drilling of a well on property in
790 which the payor has no interest. The contribution is payable
791 whether the well is productive or nonproductive.

792 "Dry-hole contribution" -- Money or property given to an
793 operator for his use in the drilling of a well on property in
794 which the payor has no interest. That contribution is payable
795 only if the well is found to be nonproductive.

796 "Turnkey drilling contract" -- A contract for the drilling of
797 a well that requires the driller to drill a well and, if
798 commercial production is obtained, to equip the well to such stage
799 that the lessee or operator may turn a valve and the oil will flow
800 into a tank.

801 "Total contract price or compensation received" -- As related
802 to oil and gas well contractors, shall include amounts received as
803 compensation for all costs of performing a turnkey drilling
804 contract; amounts received or to be received under assignment as
805 dry-hole money or bottom-hole money; and shall mean and include
806 anything of value received by the contractor as remuneration for
807 services taxable hereunder. When the kind and amount of
808 compensation received by the contractor is contingent upon
809 production, the taxable amount shall be the total compensation
810 receivable if the well is a dry hole. The taxable amount in the
811 event of production when the contractor receives a production
812 interest of an undetermined value in lieu of a fixed compensation
813 shall be an amount equal to the compensation to the contractor if
814 the well had been a dry hole.

815 (3) When the work to be performed under any contract is
816 sublet by the prime contractor to different persons, or in
817 separate contracts to the same persons, each such subcontractor
818 performing any part of that work shall be liable for the amount of
819 the tax that accrues on account of the work performed by the
820 person when the tax previously imposed has not been paid upon the
821 whole contract by the prime contractor.

822 When a person engaged in any business on which a tax is
823 levied in Section 27-65-23 also qualifies as a contractor and
824 contracts with the owner of any project to perform any services in
825 excess of Ten Thousand Dollars (\$10,000.00) herein taxed, the
826 person shall pay the tax imposed by this section in lieu of the
827 tax imposed by Section 27-65-23.

828 Any person entering into any contract over Seventy-five
829 Thousand Dollars (\$75,000.00) as defined in this section shall,
830 before beginning the performance of that contract or contracts,
831 either pay the contractors' tax in advance, together with any use
832 taxes due under Section 27-67-5, or execute and file with the
833 Chairman of the State Tax Commission a good and valid bond in a

834 surety company authorized to do business in this state, or with
835 sufficient sureties to be approved by the commissioner conditioned
836 that all taxes that may accrue to the State of Mississippi under
837 this chapter, or under Section 27-67-5 and Section 27-7-5, will be
838 paid when due. Those bonds shall be either (a) "job bonds" that
839 guarantee payment when due of the aforesaid taxes resulting from
840 performance of a specified job or activity regardless of date of
841 completion; or (b) "blanket bonds" that guarantee payment when due
842 of the aforesaid taxes resulting from performance of all jobs or
843 activities taxable under this section begun during the period
844 specified therein, regardless of date of completion. The payments
845 of the taxes due or the execution and filing of a surety bond
846 shall be a condition precedent to the commencing work on any
847 contract taxed hereunder. However, when any bond is filed in lieu
848 of the prepayment of the tax under this section, that the tax
849 shall be payable monthly on the amount received during the
850 previous month, and any use taxes due shall be payable on or
851 before the twentieth day of the month following the month in which
852 the property is brought into Mississippi.

853 Any person failing either to execute any bond herein
854 provided, or to pay the taxes in advance, before beginning the
855 performance of any contract shall be denied the right to perform
856 the contract until he complies with those requirements, and the
857 commissioner is * * * authorized to proceed either under Section
858 27-65-59, or by injunction to prevent any activity in the
859 performance of the contract until either a satisfactory bond is
860 executed and filed, or all taxes are paid in advance, and a
861 temporary injunction enjoining the execution of the contract shall
862 be granted without notice by any judge or chancellor now
863 authorized by law to grant injunctions.

864 Any person liable for a tax under this section may apply for
865 and obtain a material purchase certificate from the commissioner
866 that may entitle the holder to purchase materials and services

867 that are to become a component part of the structure to be erected
868 or repaired with no tax due. However, the contractor applying for
869 the contractor's material purchase certificate shall furnish the
870 State Tax Commission a list of all work sublet to others,
871 indicating the amount of work to be performed, and the names and
872 addresses of each subcontractor.

873 **SECTION 15.** Section 27-65-33, Mississippi Code of 1972, is
874 amended as follows:

875 27-65-33. (1) Except as otherwise provided in this section,
876 the taxes levied by this chapter shall be due and payable on or
877 before the twentieth day of the month next succeeding the month in
878 which the tax accrues, except as otherwise provided. Returns and
879 payments placed in the mail must be postmarked by the due date in
880 order to be considered timely filed, except when the due date
881 falls on a weekend or holiday, returns and payments placed in the
882 mail must be postmarked by the first working day following the due
883 date in order to be considered timely filed. The taxpayer shall
884 make a return showing the gross proceeds of sales or the gross
885 income of the business, and any and all allowable deductions, or
886 exempt sales, and compute the tax due for the period covered.

887 * * *

888 (2) A taxpayer required to collect sales taxes under this
889 chapter and having an average monthly sales tax liability of at
890 least Twenty Thousand Dollars (\$20,000.00) for the preceding
891 calendar year shall pay to the State Tax Commission on or before
892 June 25, 2003, and on or before the twenty-fifth day of June of
893 each succeeding year thereafter, an amount equal to at least
894 seventy-five percent (75%) of the taxpayer's estimated sales tax
895 liability for the month of June of the current calendar year, or
896 an amount equal to at least seventy-five percent (75%) of the
897 taxpayer's sales tax liability for the month of June of the
898 preceding calendar year. Payments required to be made under this
899 subsection must be received by the State Tax Commission no later

900 than June 25 in order to be considered timely made. A taxpayer
901 that fails to comply with the requirements of this subsection may
902 be assessed a penalty in an amount equal to ten percent (10%) of
903 the taxpayer's actual sales tax liability for the month of June
904 for which the estimated payment was required to be made. Payments
905 made by a taxpayer under this subsection shall not be considered
906 to be collected for the purposes of any sales tax diversions
907 required by law until the taxpayer files a return for the actual
908 sales taxes collected during the month of June. This subsection
909 shall not apply to any agency, department or instrumentality of
910 the United States, any agency, department, institution,
911 instrumentality or political subdivision of the State of
912 Mississippi, or any agency, department, institution or
913 instrumentality of any political subdivision of the State of
914 Mississippi. Payments made under this subsection for the month of
915 June 2003, shall be deposited by the State Tax Commission into the
916 Budget Contingency Fund created under Section 27-103-301, and
917 payments made under this subsection for the month of June of 2004,
918 and each succeeding year thereafter, shall be deposited by the
919 State Tax Commission into the State General Fund.

920 (3) All returns shall be sworn to by the taxpayer, if made
921 by an individual, or by the president, vice president, secretary
922 or treasurer of a corporation, or authorized agent, if made on
923 behalf of a corporation. If made on behalf of a partnership,
924 joint venture, association, trust, estate, or in any other group
925 or combination acting as a unit, any individual delegated by the
926 firm shall swear to the return on behalf of the taxpayer. The
927 commissioner may prescribe methods by which the taxpayer may swear
928 to his return.

929 (4) The commissioner may promulgate rules and regulations to
930 require or permit filing periods of any duration, in lieu of
931 monthly filing periods, for any taxpayer or group thereof.

932 (5) The commissioner may require the execution and filing by
933 the taxpayer with the commissioner of a good and solvent bond with
934 some surety company authorized to do business in Mississippi as
935 surety thereon in an amount double the aggregate tax liability by
936 the taxpayer for any previous three (3) months' period within the
937 last calendar year or estimated three (3) months' tax liability.
938 The bond is to be conditioned for the prompt payment of those
939 taxes as may be due for each such return.

940 (6) The commissioner, for good cause, may grant such
941 reasonable additional time within which to make any return
942 required under the provisions of this chapter as he may deem
943 proper, but the time for filing any return shall not be extended
944 beyond the twentieth of the month next succeeding the regular due
945 date of the return without the imposition of interest at the rate
946 of one percent (1%) per month or fractional part of a month from
947 the time the return was due until the tax is paid.

948 (7) For persistent, willful, or recurring failure to make
949 any return and pay the tax shown thereby to be due by the time
950 specified, there shall be added to the amount of tax shown to be
951 due ten percent (10%) damages, or interest at the rate of one
952 percent (1%) per month, or both.

953 (8) Any taxpayer may, upon making application therefor,
954 obtain from the commissioner an extension of time for the payment
955 of taxes due on credit sales until collections thereon have been
956 made. When that extension is granted, the taxpayer shall
957 thereafter include in each monthly or quarterly report all
958 collections made during the preceding month or quarter, and shall
959 pay the taxes due thereon at the time of filing the report. That
960 permission may be revoked or denied at the discretion of the
961 commissioner when, in his opinion, a total sales basis will best
962 reflect the taxable income or expedite examination of the
963 taxpayer's records.

964 (9) Any taxpayer reporting credit sales before collection
965 thereof has been made may take credit on later returns or reports
966 for bad debts actually charged off, if the amounts charged off
967 have previously been included in taxable gross income or taxable
968 gross proceeds of sales, as the case may be, and the tax paid
969 thereon. However, any amounts subsequently collected on accounts
970 that have been charged off as bad debts shall be included in later
971 reports and the tax shall be paid thereon.

972 (10) In cases where an extension of time has been granted by
973 the commissioner for payment of taxes due on credit sales and the
974 taxpayer thereafter discontinues the business, the taxpayer shall
975 be required to file with the commissioner within ten (10) days, or
976 such further time as the commissioner may direct, from the date of
977 the discontinuance of the business, a special report showing the
978 amounts of any credit sales that have not been included in
979 determining the measure of the tax previously paid and any other
980 information with reference to credit sales as the commissioner may
981 require. The commissioner shall thereupon investigate the facts
982 with reference to credit sales and the condition of the accounts,
983 and shall determine, from the best evidence available, the value
984 of all open accounts, notes, or other evidence of debt arising
985 from credit sales. The value of all notes, open accounts and
986 other evidence of debt, as thus determined by the commissioner,
987 shall be used in determining the amount of the tax for which the
988 taxpayer shall be liable. When the amount of the tax has been
989 ascertained, the taxpayer shall be required to pay the same within
990 ten (10) days or such further time as the commissioner may allow,
991 notwithstanding the fact that the note or accounts may still
992 remain uncollected.

993 **SECTION 16.** Section 27-65-75, Mississippi Code of 1972, is
994 amended as follows:

995 27-65-75. On or before the fifteenth day of each month, the
996 revenue collected under the provisions of this chapter during the
997 preceding month shall be paid and distributed as follows:

998 (1) On or before August 15, 1992, and each succeeding month
999 thereafter through July 15, 1993, eighteen percent (18%) of the
1000 total sales tax revenue collected during the preceding month under
1001 the provisions of this chapter, except that collected under the
1002 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
1003 business activities within a municipal corporation shall be
1004 allocated for distribution to the municipality and paid to the
1005 municipal corporation. On or before August 15, 1993, and each
1006 succeeding month thereafter, nineteen percent (19%) of the total
1007 sales tax revenue collected during the preceding month under the
1008 provisions of this chapter, except that collected under the
1009 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
1010 business activities within a municipal corporation shall be
1011 allocated for distribution to the municipality and paid to the
1012 municipal corporation.

1013 A municipal corporation, for the purpose of distributing the
1014 tax under this subsection, shall mean and include all incorporated
1015 cities, towns and villages.

1016 Monies allocated for distribution and credited to a municipal
1017 corporation under this subsection may be pledged as security for
1018 any loan received by the municipal corporation for the purpose of
1019 capital improvements as authorized under Section 57-1-303, or
1020 loans as authorized under Section 57-44-7, or water systems
1021 improvements as authorized under Section 41-3-16.

1022 In any county having a county seat that is not an
1023 incorporated municipality, the distribution provided under this
1024 subsection shall be made as though the county seat was an
1025 incorporated municipality; however, the distribution to the
1026 municipality shall be paid to the county treasury in which the

1027 municipality is located, and those funds shall be used for road,
1028 bridge and street construction or maintenance in the county.

1029 (2) On or before September 15, 1987, and each succeeding
1030 month thereafter, from the revenue collected under this chapter
1031 during the preceding month One Million One Hundred Twenty-five
1032 Thousand Dollars (\$1,125,000.00) shall be allocated for
1033 distribution to municipal corporations as defined under subsection
1034 (1) of this section in the proportion that the number of gallons
1035 of gasoline and diesel fuel sold by distributors to consumers and
1036 retailers in each such municipality during the preceding fiscal
1037 year bears to the total gallons of gasoline and diesel fuel sold
1038 by distributors to consumers and retailers in municipalities
1039 statewide during the preceding fiscal year. The State Tax
1040 Commission shall require all distributors of gasoline and diesel
1041 fuel to report to the commission monthly the total number of
1042 gallons of gasoline and diesel fuel sold by them to consumers and
1043 retailers in each municipality during the preceding month. The
1044 State Tax Commission shall have the authority to promulgate such
1045 rules and regulations as are necessary to determine the number of
1046 gallons of gasoline and diesel fuel sold by distributors to
1047 consumers and retailers in each municipality. In determining the
1048 percentage allocation of funds under this subsection for the
1049 fiscal year beginning July 1, 1987, and ending June 30, 1988, the
1050 State Tax Commission may consider gallons of gasoline and diesel
1051 fuel sold for a period of less than one (1) fiscal year. For the
1052 purposes of this subsection, the term "fiscal year" means the
1053 fiscal year beginning July 1 of a year.

1054 (3) On or before September 15, 1987, and on or before the
1055 fifteenth day of each succeeding month, until the date specified
1056 in Section 65-39-35, the proceeds derived from contractors' taxes
1057 levied under Section 27-65-21 on contracts for the construction or
1058 reconstruction of highways designated under the highway program
1059 created under Section 65-3-97 shall, except as otherwise provided

1060 in Section 31-17-127, be deposited into the State Treasury to the
1061 credit of the State Highway Fund to be used to fund that highway
1062 program. The Mississippi Department of Transportation shall
1063 provide to the State Tax Commission such information as is
1064 necessary to determine the amount of proceeds to be distributed
1065 under this subsection.

1066 (4) On or before August 15, 1994, and on or before the
1067 fifteenth day of each succeeding month through July 15, 1999, from
1068 the proceeds of gasoline, diesel fuel or kerosene taxes as
1069 provided in Section 27-5-101(a)(ii)1, Four Million Dollars
1070 (\$4,000,000.00) shall be deposited in the State Treasury to the
1071 credit of a special fund designated as the "State Aid Road Fund,"
1072 created by Section 65-9-17. On or before August 15, 1999, and on
1073 or before the fifteenth day of each succeeding month, from the
1074 total amount of the proceeds of gasoline, diesel fuel or kerosene
1075 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million
1076 Dollars (\$4,000,000.00) or an amount equal to twenty-three and
1077 one-fourth percent (23.25%) of those funds, whichever is the
1078 greater amount, shall be deposited in the State Treasury to the
1079 credit of the "State Aid Road Fund," created by Section 65-9-17.
1080 Those funds shall be pledged to pay the principal of and interest
1081 on state aid road bonds previously issued under Sections 19-9-51
1082 through 19-9-77, in lieu of and in substitution for the funds
1083 previously allocated to counties under this section. Those funds
1084 may not be pledged for the payment of any state aid road bonds
1085 issued after April 1, 1981; however, this prohibition against the
1086 pledging of any such funds for the payment of bonds shall not
1087 apply to any bonds for which intent to issue those bonds has been
1088 published, for the first time, as provided by law before March 29,
1089 1981. From the amount of taxes paid into the special fund under
1090 this subsection and subsection (9) of this section, there shall be
1091 first deducted and paid the amount necessary to pay the expenses
1092 of the Office of State Aid Road Construction, as authorized by the

1093 Legislature for all other general and special fund agencies. The
1094 remainder of the fund shall be allocated monthly to the several
1095 counties in accordance with the following formula:

1096 (a) One-third (1/3) shall be allocated to all counties
1097 in equal shares;

1098 (b) One-third (1/3) shall be allocated to counties
1099 based on the proportion that the total number of rural road miles
1100 in a county bears to the total number of rural road miles in all
1101 counties of the state; and

1102 (c) One-third (1/3) shall be allocated to counties
1103 based on the proportion that the rural population of the county
1104 bears to the total rural population in all counties of the state,
1105 according to the latest federal decennial census.

1106 For the purposes of this subsection, the term "gasoline,
1107 diesel fuel or kerosene taxes" means such taxes as defined in
1108 paragraph (f) of Section 27-5-101.

1109 The amount of funds allocated to any county under this
1110 subsection for any fiscal year after fiscal year 1994 shall not be
1111 less than the amount allocated to the county for fiscal year 1994.
1112 Monies allocated to a county from the State Aid Road Fund for
1113 fiscal year 1995 or any fiscal year thereafter that exceed the
1114 amount of funds allocated to that county from the State Aid Road
1115 Fund for fiscal year 1994, first must be expended by the county
1116 for replacement or rehabilitation of bridges on the state aid road
1117 system that have a sufficiency rating of less than twenty-five
1118 (25), according to National Bridge Inspection standards before
1119 the monies may be approved for expenditure by the State Aid Road
1120 Engineer on other projects that qualify for the use of state aid
1121 road funds.

1122 Any reference in the general laws of this state or the
1123 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
1124 construed to refer and apply to subsection (4) of Section
1125 27-65-75.

1126 (5) One Million Six Hundred Sixty-six Thousand Six Hundred
1127 Sixty-six Dollars (\$1,666,666.00) each month shall be paid into
1128 the special fund known as the "State Public School Building Fund"
1129 created and existing under the provisions of Sections 37-47-1
1130 through 37-47-67. Those payments into that fund are to be made on
1131 the last day of each succeeding month hereafter.

1132 (6) An amount each month beginning August 15, 1983, through
1133 November 15, 1986, as specified in Section 6 of Chapter 542, Laws
1134 of 1983, shall be paid into the special fund known as the
1135 Correctional Facilities Construction Fund created in Section 6 of
1136 Chapter 542, Laws of 1983.

1137 (7) On or before August 15, 1992, and each succeeding month
1138 thereafter through July 15, 2000, two and two hundred sixty-six
1139 one-thousandths percent (2.266%) of the total sales tax revenue
1140 collected during the preceding month under the provisions of this
1141 chapter, except that collected under the provisions of Section
1142 27-65-17(2) shall be deposited by the commission into the School
1143 Ad Valorem Tax Reduction Fund created under Section 37-61-35. On
1144 or before August 15, 2000, and each succeeding month thereafter,
1145 two and two hundred sixty-six one-thousandths percent (2.266%) of
1146 the total sales tax revenue collected during the preceding month
1147 under the provisions of this chapter, except that collected under
1148 the provisions of Section 27-65-17(2), shall be deposited into the
1149 School Ad Valorem Tax Reduction Fund created under Section
1150 37-61-35 until such time that the total amount deposited into the
1151 fund during a fiscal year equals Forty-two Million Dollars
1152 (\$42,000,000.00). Thereafter, the amounts diverted under this
1153 subsection (7) during the fiscal year in excess of Forty-two
1154 Million Dollars (\$42,000,000.00) shall be deposited into the
1155 Education Enhancement Fund created under Section 37-61-33 for
1156 appropriation by the Legislature as other education needs and
1157 shall not be subject to the percentage appropriation requirements
1158 set forth in Section 37-61-33.

1159 (8) On or before August 15, 1992, and each succeeding month
1160 thereafter, nine and seventy-three one-thousandths percent
1161 (9.073%) of the total sales tax revenue collected during the
1162 preceding month under the provisions of this chapter, except that
1163 collected under the provisions of Section 27-65-17(2), shall be
1164 deposited into the Education Enhancement Fund created under
1165 Section 37-61-33.

1166 (9) On or before August 15, 1994, and each succeeding month
1167 thereafter, from the revenue collected under this chapter during
1168 the preceding month, Two Hundred Fifty Thousand Dollars
1169 (\$250,000.00) shall be paid into the State Aid Road Fund.

1170 (10) On or before August 15, 1994, and each succeeding month
1171 thereafter through August 15, 1995, from the revenue collected
1172 under this chapter during the preceding month, Two Million Dollars
1173 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
1174 Valorem Tax Reduction Fund established in Section 27-51-105.

1175 (11) Notwithstanding any other provision of this section to
1176 the contrary, on or before February 15, 1995, and each succeeding
1177 month thereafter, the sales tax revenue collected during the
1178 preceding month under the provisions of Section 27-65-17(2)(a) and
1179 the corresponding levy in Section 27-65-23 on the rental or lease
1180 of private carriers of passengers and light carriers of property
1181 as defined in Section 27-51-101 shall be deposited, without
1182 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund
1183 established in Section 27-51-105.

1184 (12) Notwithstanding any other provision of this section to
1185 the contrary, on or before August 15, 1995, and each succeeding
1186 month thereafter, the sales tax revenue collected during the
1187 preceding month under the provisions of Section 27-65-17(1) on
1188 retail sales of private carriers of passengers and light carriers
1189 of property, as defined in Section 27-51-101 and the corresponding
1190 levy in Section 27-65-23 on the rental or lease of these vehicles,

1191 shall be deposited, after diversion, into the Motor Vehicle Ad
1192 Valorem Tax Reduction Fund established in Section 27-51-105.

1193 (13) On or before July 15, 1994, and on or before the
1194 fifteenth day of each succeeding month thereafter, that portion of
1195 the avails of the tax imposed in Section 27-65-22 that is derived
1196 from activities held on the Mississippi state fairgrounds complex,
1197 shall be paid into a special fund that is created in the State
1198 Treasury and shall be expended upon legislative appropriation
1199 solely to defray the costs of repairs and renovation at the Trade
1200 Mart and Coliseum.

1201 (14) On or before August 15, 1998, and each succeeding month
1202 thereafter through July 15, 2005, that portion of the avails of
1203 the tax imposed in Section 27-65-23 that is derived from sales by
1204 cotton compresses or cotton warehouses and that would otherwise be
1205 paid into the General Fund, shall be deposited in an amount not to
1206 exceed Two Million Dollars (\$2,000,000.00) into the special fund
1207 created under Section 69-37-39.

1208 (15) Notwithstanding any other provision of this section to
1209 the contrary, on or before September 15, 2000, and each succeeding
1210 month thereafter, the sales tax revenue collected during the
1211 preceding month under the provisions of Section 27-65-19(1)(f) and
1212 (g)(i)2, shall be deposited, without diversion, into the
1213 Telecommunications Ad Valorem Tax Reduction Fund established in
1214 Section 27-38-7.

1215 (16) On or before August 15, 2000, and each succeeding month
1216 thereafter, the sales tax revenue collected during the preceding
1217 month under the provisions of this chapter on the gross proceeds
1218 of sales of a project as defined in Section 57-30-1 shall be
1219 deposited, after all diversions except the diversion provided for
1220 in subsection (1) of this section, into the Sales Tax Incentive
1221 Fund created in Section 57-30-3.

1222 (17) Notwithstanding any other provision of this section to
1223 the contrary, on or before April 15, 2002, and each succeeding

1224 month thereafter, the sales tax revenue collected during the
1225 preceding month under Section 27-65-23 on sales of parking
1226 services of parking garages and lots at airports shall be
1227 deposited, without diversion, into the special fund created under
1228 Section 27-5-101(d).

1229 (18) On or before August 15, 2005, and each succeeding month
1230 thereafter through July 15, 2006, from the sales tax revenue
1231 collected during the preceding month under the provisions of this
1232 chapter, Two Million Five Hundred Thousand Dollars (\$2,500,000.00)
1233 shall be deposited into the Special Funds Transfer Fund created in
1234 Section 4 of Chapter 556, Laws of 2003.

1235 (19) The remainder of the amounts collected under the
1236 provisions of this chapter shall be paid into the State Treasury
1237 to the credit of the General Fund.

1238 (20) It shall be the duty of the municipal officials of any
1239 municipality that expands its limits, or of any community that
1240 incorporates as a municipality, to notify the commissioner of
1241 that action thirty (30) days before the effective date. Failure
1242 to so notify the commissioner shall cause the municipality to
1243 forfeit the revenue that it would have been entitled to receive
1244 during this period of time when the commissioner had no knowledge
1245 of the action. If any funds have been erroneously disbursed to
1246 any municipality or any overpayment of tax is recovered by the
1247 taxpayer, the commissioner may make correction and adjust the
1248 error or overpayment with the municipality by withholding the
1249 necessary funds from any later payment to be made to the
1250 municipality.

1251 **SECTION 17.** Section 27-65-111, Mississippi Code of 1972, is
1252 amended as follows:

1253 **[Through June 30, 2006, this section shall read as follows:]**

1254 27-65-111. The exemptions from the provisions of this
1255 chapter that are not industrial, agricultural or governmental, or
1256 that do not relate to utilities or taxes, or that are not properly

1257 classified as one of the exemption classifications of this
1258 chapter, shall be confined to persons or property exempted by this
1259 section or by the Constitution of the United States or the State
1260 of Mississippi. No exemptions as now provided by any other
1261 section, except the classified exemption sections of this chapter
1262 set forth herein, shall be valid as against the tax herein levied.
1263 Any later exemption from the tax levied hereunder, except as
1264 indicated above, shall be provided by amendments to this section.

1265 No exemption provided in this section shall apply to taxes
1266 levied by Section 27-65-15 or 27-65-21.

1267 The tax levied by this chapter shall not apply to the
1268 following:

1269 (a) Sales of tangible personal property and services to
1270 hospitals or infirmaries owned and operated by a corporation or
1271 association in which no part of the net earnings inures to the
1272 benefit of any private shareholder, group or individual, and which
1273 are subject to and governed by Sections 41-7-123 through 41-7-127.

1274 Only sales of tangible personal property or services that are
1275 ordinary and necessary to the operation of those hospitals and
1276 infirmaries are exempted from tax.

1277 (b) Sales of daily or weekly newspapers, and
1278 periodicals or publications of scientific, literary or educational
1279 organizations exempt from federal income taxation under Section
1280 501(c)(3) of the Internal Revenue Code of 1954, as it exists as of
1281 March 31, 1975, and subscription sales of all magazines.

1282 (c) Sales of coffins, caskets and other materials used
1283 in the preparation of human bodies for burial.

1284 (d) Sales of tangible personal property for immediate
1285 export to a foreign country.

1286 (e) Sales of tangible personal property to an
1287 orphanage, old men's or ladies' home, supported wholly or in part
1288 by a religious denomination, fraternal nonprofit organization or
1289 other nonprofit organization.

1290 (f) Sales of tangible personal property, labor or
1291 services taxable under Sections 27-65-17, 27-65-19 and 27-65-23,
1292 to a YMCA, YWCA, a Boys' or Girls' Club owned and operated by a
1293 corporation or association in which no part of the net earnings
1294 inures to the benefit of any private shareholder, group or
1295 individual.

1296 (g) Sales to elementary and secondary grade schools,
1297 junior and senior colleges owned and operated by a corporation or
1298 association in which no part of the net earnings inures to the
1299 benefit of any private shareholder, group or individual, and that
1300 are exempt from state income taxation, provided that this
1301 exemption does not apply to sales of property or services that are
1302 not to be used in the ordinary operation of the school, or that
1303 are to be resold to the students or the public.

1304 (h) The gross proceeds of retail sales and the use or
1305 consumption in this state of drugs and medicines:

1306 (i) Prescribed for the treatment of a human being
1307 by a person authorized to prescribe the medicines, and dispensed
1308 or prescription filled by a registered pharmacist in accordance
1309 with law; or

1310 (ii) Furnished by a licensed physician, surgeon,
1311 dentist or podiatrist to his own patient for treatment of the
1312 patient; or

1313 (iii) Furnished by a hospital for treatment of any
1314 person under the order of a licensed physician, surgeon, dentist
1315 or podiatrist; or

1316 (iv) Sold to a licensed physician, surgeon,
1317 podiatrist, dentist or hospital for the treatment of a human
1318 being; or

1319 (v) Sold to this state or any political
1320 subdivision or municipal corporation thereof, for use in the
1321 treatment of a human being or furnished for the treatment of a
1322 human being by a medical facility or clinic maintained by this

1323 state or any political subdivision or municipal corporation
1324 thereof.

1325 "Medicines," as used in this paragraph (h), shall mean and
1326 include any substance or preparation intended for use by external
1327 or internal application to the human body in the diagnosis, cure,
1328 mitigation, treatment or prevention of disease and that is
1329 commonly recognized as a substance or preparation intended for
1330 that use; however, "medicines" do not include any auditory,
1331 prosthetic, ophthalmic or ocular device or appliance, any dentures
1332 or parts thereof or any artificial limbs or their replacement
1333 parts, articles that are in the nature of splints, bandages, pads,
1334 compresses, supports, dressings, instruments, apparatus,
1335 contrivances, appliances, devices or other mechanical, electronic,
1336 optical or physical equipment or article or the component parts
1337 and accessories thereof, or any alcoholic beverage or any other
1338 drug or medicine not commonly referred to as a prescription drug.

1339 Notwithstanding the preceding sentence of this paragraph (h),
1340 "medicines" as used in this paragraph (h), shall mean and include
1341 sutures, whether or not permanently implanted, bone screws, bone
1342 pins, pacemakers and other articles permanently implanted in the
1343 human body to assist the functioning of any natural organ, artery,
1344 vein or limb and which remain or dissolve in the body.

1345 "Hospital," as used in this paragraph (h), shall have the
1346 meaning ascribed to it in Section 41-9-3.

1347 Insulin furnished by a registered pharmacist to a person for
1348 treatment of diabetes as directed by a physician shall be deemed
1349 to be dispensed on prescription within the meaning of this
1350 paragraph (h).

1351 (i) Retail sales of automobiles, trucks and
1352 truck-tractors if exported from this state within forty-eight (48)
1353 hours and registered and first used in another state.

1354 (j) Sales of tangible personal property or services to
1355 the Salvation Army and the Muscular Dystrophy Association, Inc.

1356 (k) From July 1, 1985, through December 31, 1992,
1357 retail sales of "alcohol blended fuel" as that term is defined in
1358 Section 75-55-5. The gasoline-alcohol blend or the straight
1359 alcohol eligible for this exemption shall not contain alcohol
1360 distilled outside the State of Mississippi.

1361 (l) Sales of tangible personal property or services to
1362 the Institute for Technology Development.

1363 (m) The gross proceeds of retail sales of food and
1364 drink for human consumption made through vending machines serviced
1365 by full line vendors from and not connected with other taxable
1366 businesses.

1367 * * *

1368 (n) Retail sales of food for human consumption
1369 purchased with food stamps issued by the United States Department
1370 of Agriculture, or other federal agency, from and after October 1,
1371 1987, or from and after the expiration of any waiver granted under
1372 federal law, the effect of which waiver is to permit the
1373 collection by the state of tax on those retail sales of food for
1374 human consumption purchased with food stamps.

1375 (o) Sales of cookies for human consumption by the Girl
1376 Scouts of America no part of the net earnings from which sales
1377 inures to the benefit of any private group or individual.

1378 (p) Gifts or sales of tangible personal property or
1379 services to public or private nonprofit museums of art.

1380 (q) Sales of tangible personal property or services to
1381 alumni associations of state-supported colleges or universities.

1382 (r) Sales of tangible personal property or services to
1383 chapters of the National Association of Junior Auxiliaries, Inc.

1384 (s) Sales of tangible personal property or services to
1385 domestic violence shelters that qualify for state funding under
1386 Sections 93-21-101 through 93-21-113.

1387 (t) Sales of tangible personal property or services to
1388 the National Multiple Sclerosis Society, Mississippi Chapter.

1389 (u) Retail sales of food for human consumption
1390 purchased with food instruments issued the Mississippi Band of
1391 Choctaw Indians under the Women, Infants and Children Program
1392 (WIC) funded by the United States Department of Agriculture.

1393 (v) Sales of tangible personal property or services to
1394 a private company, as defined in Section 57-61-5, that is making
1395 those purchases with proceeds of bonds issued under Section
1396 57-61-1 et seq., the Mississippi Business Investment Act.

1397 (w) The gross collections from the operation of
1398 self-service, coin-operated car washing equipment and sales of the
1399 service of washing motor vehicles with portable high-pressure
1400 washing equipment on the premises of the customer.

1401 (x) Sales of tangible personal property or services to
1402 the Mississippi Technology Alliance.

1403 (y) Retail sales of food for human consumption not
1404 purchased with food stamps issued by the United States Department
1405 of Agriculture, or other federal agency, but which would be exempt
1406 under paragraph (n) of this section from the taxes imposed by this
1407 chapter if the food items were purchased with food stamps.

1408 **[From and after July 1, 2006, this section shall read as**
1409 **follows:]**

1410 27-65-111. The exemptions from the provisions of this
1411 chapter that are not industrial, agricultural or governmental, or
1412 that do not relate to utilities or taxes, or that are not properly
1413 classified as one of the exemption classifications of this
1414 chapter, shall be confined to persons or property exempted by this
1415 section or by the Constitution of the United States or the State
1416 of Mississippi. No exemptions as now provided by any other
1417 section, except the classified exemption sections of this chapter
1418 set forth herein, shall be valid as against the tax herein levied.
1419 Any later exemption from the tax levied hereunder, except as
1420 indicated above, shall be provided by amendments to this section.

1421 No exemption provided in this section shall apply to taxes
1422 levied by Section 27-65-15 or 27-65-21.

1423 The tax levied by this chapter shall not apply to the
1424 following:

1425 (a) Sales of tangible personal property and services to
1426 hospitals or infirmaries owned and operated by a corporation or
1427 association in which no part of the net earnings inures to the
1428 benefit of any private shareholder, group or individual, and which
1429 are subject to and governed by Sections 41-7-123 through 41-7-127.

1430 Only sales of tangible personal property or services that are
1431 ordinary and necessary to the operation of those hospitals and
1432 infirmaries are exempted from tax.

1433 (b) Sales of daily or weekly newspapers, and
1434 periodicals or publications of scientific, literary or educational
1435 organizations exempt from federal income taxation under Section
1436 501(c)(3) of the Internal Revenue Code of 1954, as it exists as of
1437 March 31, 1975, and subscription sales of all magazines.

1438 (c) Sales of coffins, caskets and other materials used
1439 in the preparation of human bodies for burial.

1440 (d) Sales of tangible personal property for immediate
1441 export to a foreign country.

1442 (e) Sales of tangible personal property to an
1443 orphanage, old men's or ladies' home, supported wholly or in part
1444 by a religious denomination, fraternal nonprofit organization or
1445 other nonprofit organization.

1446 (f) Sales of tangible personal property, labor or
1447 services taxable under Sections 27-65-17, 27-65-19 and 27-65-23,
1448 to a YMCA, YWCA, a Boys' or Girls' Club owned and operated by a
1449 corporation or association in which no part of the net earnings
1450 inures to the benefit of any private shareholder, group or
1451 individual.

1452 (g) Sales to elementary and secondary grade schools,
1453 junior and senior colleges owned and operated by a corporation or

1454 association in which no part of the net earnings inures to the
1455 benefit of any private shareholder, group or individual, and which
1456 are exempt from state income taxation, provided that this
1457 exemption does not apply to sales of property or services that are
1458 not to be used in the ordinary operation of the school, or that
1459 are to be resold to the students or the public.

1460 (h) The gross proceeds of retail sales and the use or
1461 consumption in this state of drugs and medicines:

1462 (i) Prescribed for the treatment of a human being
1463 by a person authorized to prescribe the medicines, and dispensed
1464 or prescription filled by a registered pharmacist in accordance
1465 with law; or

1466 (ii) Furnished by a licensed physician, surgeon,
1467 dentist or podiatrist to his own patient for treatment of the
1468 patient; or

1469 (iii) Furnished by a hospital for treatment of any
1470 person under the order of a licensed physician, surgeon, dentist
1471 or podiatrist; or

1472 (iv) Sold to a licensed physician, surgeon,
1473 podiatrist, dentist or hospital for the treatment of a human
1474 being; or

1475 (v) Sold to this state or any political
1476 subdivision or municipal corporation thereof, for use in the
1477 treatment of a human being or furnished for the treatment of a
1478 human being by a medical facility or clinic maintained by this
1479 state or any political subdivision or municipal corporation
1480 thereof.

1481 "Medicines," as used in this paragraph (h), shall mean and
1482 include any substance or preparation intended for use by external
1483 or internal application to the human body in the diagnosis, cure,
1484 mitigation, treatment or prevention of disease and that is
1485 commonly recognized as a substance or preparation intended for
1486 that use; however, "medicines" do not include any auditory,

1487 prosthetic, ophthalmic or ocular device or appliance, any dentures
1488 or parts thereof or any artificial limbs or their replacement
1489 parts, articles that are in the nature of splints, bandages, pads,
1490 compresses, supports, dressings, instruments, apparatus,
1491 contrivances, appliances, devices or other mechanical, electronic,
1492 optical or physical equipment or article or the component parts
1493 and accessories thereof, or any alcoholic beverage or any other
1494 drug or medicine not commonly referred to as a prescription drug.

1495 Notwithstanding the preceding sentence of this paragraph (h),
1496 "medicines" as used in this paragraph (h), shall mean and include
1497 sutures, whether or not permanently implanted, bone screws, bone
1498 pins, pacemakers and other articles permanently implanted in the
1499 human body to assist the functioning of any natural organ, artery,
1500 vein or limb and which remain or dissolve in the body.

1501 "Hospital," as used in this paragraph (h), shall have the
1502 meaning ascribed to it in Section 41-9-3.

1503 Insulin furnished by a registered pharmacist to a person for
1504 treatment of diabetes as directed by a physician shall be deemed
1505 to be dispensed on prescription within the meaning of this
1506 paragraph (h).

1507 (i) Retail sales of automobiles, trucks and
1508 truck-tractors if exported from this state within forty-eight (48)
1509 hours and registered and first used in another state.

1510 (j) Sales of tangible personal property or services to
1511 the Salvation Army and the Muscular Dystrophy Association, Inc.

1512 (k) From July 1, 1985, through December 31, 1992,
1513 retail sales of "alcohol blended fuel" as that term is defined in
1514 Section 75-55-5. The gasoline-alcohol blend or the straight
1515 alcohol eligible for this exemption shall not contain alcohol
1516 distilled outside the State of Mississippi.

1517 (l) Sales of tangible personal property or services to
1518 the Institute for Technology Development.

1519 (m) The gross proceeds of retail sales of food and
1520 drink for human consumption made through vending machines serviced
1521 by full line vendors from and not connected with other taxable
1522 businesses.

1523 (n) The gross proceeds of sales of motor fuel.

1524 (o) Retail sales of food for human consumption
1525 purchased with food stamps issued by the United States Department
1526 of Agriculture, or other federal agency, from and after October 1,
1527 1987, or from and after the expiration of any waiver granted under
1528 federal law, the effect of which waiver is to permit the
1529 collection by the state of tax on those retail sales of food for
1530 human consumption purchased with food stamps.

1531 (p) Sales of cookies for human consumption by the Girl
1532 Scouts of America no part of the net earnings from which sales
1533 inures to the benefit of any private group or individual.

1534 (q) Gifts or sales of tangible personal property or
1535 services to public or private nonprofit museums of art.

1536 (r) Sales of tangible personal property or services to
1537 alumni associations of state-supported colleges or universities.

1538 (s) Sales of tangible personal property or services to
1539 chapters of the National Association of Junior Auxiliaries, Inc.

1540 (t) Sales of tangible personal property or services to
1541 domestic violence shelters that qualify for state funding under
1542 Sections 93-21-101 through 93-21-113.

1543 (u) Sales of tangible personal property or services to
1544 the National Multiple Sclerosis Society, Mississippi Chapter.

1545 (v) Retail sales of food for human consumption
1546 purchased with food instruments issued the Mississippi Band of
1547 Choctaw Indians under the Women, Infants and Children Program
1548 (WIC) funded by the United States Department of Agriculture.

1549 (w) Sales of tangible personal property or services to
1550 a private company, as defined in Section 57-61-5, that is making

1551 those purchases with proceeds of bonds issued under Section
1552 57-61-1 et seq., the Mississippi Business Investment Act.

1553 (x) The gross collections from the operation of
1554 self-service, coin-operated car washing equipment and sales of the
1555 service of washing motor vehicles with portable high-pressure
1556 washing equipment on the premises of the customer.

1557 (y) Sales of tangible personal property or services to
1558 the Mississippi Technology Alliance.

1559 (z) Retail sales of food for human consumption not
1560 purchased with food stamps issued by the United States Department
1561 of Agriculture, or other federal agency, but which would be exempt
1562 under paragraph (o) of this section from the taxes imposed by this
1563 chapter if the food items were purchased with food stamps.

1564 **SECTION 18.** Section 27-67-5, Mississippi Code of 1972, is
1565 amended as follows:

1566 27-67-5. There is * * * levied, assessed and shall be
1567 collected from every person a tax for the privilege of using,
1568 storing or consuming, within this state, any tangible personal
1569 property possession of which is acquired in any manner.

1570 (a) The use tax * * * imposed and levied by this
1571 section shall be collected at the same rates as imposed under
1572 Section 27-65-24, and Sections 27-65-17, 27-65-18, 27-65-19 and
1573 27-65-25 computed on the purchase or sales price, or value, as
1574 defined in this article.

1575 (b) From and after July 1, 2005, items taxed in
1576 paragraph (a) of this section shall be taxed an additional one
1577 percent (1%); however, this additional tax shall not apply to
1578 private carriers of passengers and light carriers of property, as
1579 defined in Section 27-51-101.

1580 (c) It shall be the duty of the tax collectors of the
1581 several counties, or the State Tax Commissioner, as the case may
1582 be, to collect, remit and account for the tax on the use of all
1583 vehicles licensed or registered by the State of Mississippi for

1584 the first time, except when the Mississippi use tax was collected
1585 by an authorized out-of-state dealer at the time of purchase, or
1586 when the use thereof was exempt by Section 27-67-7. The tax
1587 collector or the State Tax Commissioner shall give to the person
1588 registering the vehicle a receipt in a form prescribed and
1589 furnished by the State Tax Commission for the amount of tax
1590 collected.

1591 The tax collector or State Tax Commissioner is expressly
1592 prohibited from issuing a license tag to any applicant without
1593 collecting the tax levied by this article, unless positive proof
1594 is filed, together with the application for the license tag, that
1595 the Mississippi tax has been paid, or that the sale was exempt by
1596 Section 27-67-7.

1597 Persons not engaging and continuing in business so as to be
1598 registered for payment of sales and/or use tax may pay use tax due
1599 on the first use of boats, airplanes, equipment or other tangible
1600 personal property to county tax collectors who are * * *
1601 authorized to accept those payments on behalf of the commissioner.
1602 Receipts for all those payments shall be given to taxpayers in a
1603 form prescribed and furnished by the State Tax Commission.

1604 County tax collectors and the State Tax Commissioner shall be
1605 liable for the tax they are required * * * to collect, and taxes
1606 that are in fact collected under authority of this section; and
1607 failure to properly collect or maintain proper records shall not
1608 relieve them of liability for payment to the commissioner.
1609 Deficiencies in collection or payment shall be assessed against
1610 the tax collector or State Tax Commissioner in the same manner and
1611 subject to the same penalties and provisions for appeal as are
1612 deficiencies assessed against taxpayers.

1613 A dealer authorized to collect and remit the tax to the State
1614 Tax Commission shall give to the purchaser a receipt for the
1615 payment of the tax, in a form prescribed and furnished by the

1616 commissioner, which shall serve as proof of payment to the tax
1617 collector of the county in which the license is to be issued.

1618 Each tax collector of the several counties shall, on or
1619 before the twentieth day of each month, file a report with and pay
1620 to the commissioner all funds collected under the provisions of
1621 this article, less a commission of five percent (5%), which shall
1622 be retained by the tax collector as a commission for collecting
1623 that tax and be deposited in the county general fund. The report
1624 required to be filed shall cover all collections made during the
1625 calendar month next preceding the date on which the report is due
1626 and filed.

1627 Any error in the report and remittance to the commissioner
1628 may be adjusted on a subsequent report. If the error was in the
1629 collection by the tax collector, it shall be adjusted through the
1630 tax collector with the taxpayer before credit is allowed by the
1631 commissioner.

1632 All information relating to the collection of use tax by tax
1633 collectors and such records as the commissioner may require shall
1634 be preserved in the tax collector's office for a period of three
1635 (3) years for audit by the commissioner.

1636 **SECTION 19.** Section 27-67-31, Mississippi Code of 1972, is
1637 amended as follows:

1638 27-67-31. All administrative provisions of the sales tax
1639 law, and amendments thereto, including those that fix damages,
1640 penalties and interest for failure to comply with the provisions
1641 of the sales tax law, and all other requirements and duties
1642 imposed upon the taxpayer, shall apply to all persons liable for
1643 use taxes under the provisions of this article. The commissioner
1644 shall exercise all power and authority and perform all duties with
1645 respect to taxpayers under this article as are provided in the
1646 sales tax law, except where there is conflict, then the provisions
1647 of this article shall control.

1648 The commissioner may require transportation companies to
1649 permit the examination of waybills, freight bills, or other
1650 documents covering shipments of tangible personal property into
1651 this state.

1652 On or before the fifteenth day of each month, the amount
1653 received from taxes, damages and interest under the provisions of
1654 this article during the preceding month shall be paid and
1655 distributed as follows:

1656 (a) On or before July 15, 1994, through July 15, 2000,
1657 and each succeeding month thereafter, two and two hundred
1658 sixty-six one-thousandths percent (2.266%) of the total use tax
1659 revenue collected during the preceding month under the provisions
1660 of this article shall be deposited in the School Ad Valorem Tax
1661 Reduction Fund created under Section 37-61-35. On or before
1662 August 15, 2000, and each succeeding month thereafter, two and two
1663 hundred sixty-six one-thousandths percent (2.266%) of the total
1664 use tax revenue collected during the preceding month under the
1665 provisions of this chapter shall be deposited into the School Ad
1666 Valorem Tax Reduction Fund created under Section 37-61-35 until
1667 such time that the total amount deposited into the fund during a
1668 fiscal year equals Four Million Dollars (\$4,000,000.00).
1669 Thereafter, the amounts diverted under this paragraph (a) during
1670 the fiscal year in excess of Four Million Dollars (\$4,000,000.00)
1671 shall be deposited into the Education Enhancement Fund created
1672 under Section 37-61-33 for appropriation by the Legislature as
1673 other education needs and shall not be subject to the percentage
1674 appropriation requirements set forth in Section 37-61-33.

1675 (b) On or before July 15, 1994, and each succeeding
1676 month thereafter, nine and seventy-three one-thousandths percent
1677 (9.073%) of the total use tax revenue collected during the
1678 preceding month under the provisions of this article shall be
1679 deposited into the Education Enhancement Fund created under
1680 Section 37-61-33.

1681 (c) On or before July 15, 1997, and on or before the
1682 fifteenth day of each succeeding month thereafter, the revenue
1683 collected under the provisions of this article imposed and levied
1684 as a result of Section 27-65-17(2)(a) and the corresponding levy
1685 in Section 27-65-23 on the rental or lease of private carriers of
1686 passengers and light carriers of property as defined in Section
1687 27-51-101 shall be deposited into the Motor Vehicle Ad Valorem Tax
1688 Reduction Fund created under Section 27-51-105.

1689 (d) On or before July 15, 1997, and on or before the
1690 fifteenth day of each succeeding month thereafter and after the
1691 deposits required by paragraphs (a) and (b) of this section are
1692 made, the remaining revenue collected under the provisions of this
1693 article imposed and levied as a result of Section 27-65-17(1) and
1694 the corresponding levy in Section 27-65-23 on the rental or lease
1695 of private carriers of passengers and light carriers of property
1696 as defined in Section 27-51-101 shall be deposited into the Motor
1697 Vehicle Ad Valorem Tax Reduction Fund created under Section
1698 27-51-105.

1699 (e) The remainder of the amount received from taxes,
1700 damages and interest under the provisions of this article shall be
1701 paid into the General Fund of the State Treasury by the
1702 commissioner.

1703 **SECTION 20.** Section 27-69-13, Mississippi Code of 1972, is
1704 amended as follows:

1705 27-69-13. There is * * * imposed, levied and assessed, to be
1706 collected and paid as hereinafter provided in this chapter, an
1707 excise tax on each person or dealer in cigarettes, cigars,
1708 stogies, snuff, chewing tobacco, and smoking tobacco, or
1709 substitutes therefor, upon the sale, use, consumption, handling or
1710 distribution in the State of Mississippi, as follows:

1711 (a) (i) On cigarettes, the rate of tax shall be
1712 Eighteen-twentieths of One Cent (18/20 of 1¢) on each cigarette
1713 sold with a maximum length of one hundred twenty (120)

1714 millimeters; any cigarette in excess of this length shall be taxed
1715 as if it were two (2) or more cigarettes. * * * However, if the
1716 federal tax rate on cigarettes in effect on June 1, 1985, is
1717 reduced, then the rate as provided in this section shall be
1718 increased by the amount of the federal tax reduction. That tax
1719 increase shall take effect on the first day of the month following
1720 the effective date of the reduction in the federal tax rate.

1721 (ii) In addition to the excise tax levied by
1722 paragraph (a)(i) of this subsection, there is levied, imposed and
1723 assessed an excise tax of Eighteen-twentieths of One Cent (18/20
1724 of 1¢) on each cigarette sold with a maximum length of one hundred
1725 twenty (120) millimeters; any cigarette in excess of this length
1726 shall be taxed as if it were two (2) or more cigarettes.

1727 (b) On cigars, cheroots, stogies, snuff, chewing and
1728 smoking tobacco and all other tobacco products except cigarettes,
1729 the rate of tax shall be fifteen percent (15%) of the
1730 manufacturer's list price.

1731 No stamp evidencing the tax * * * levied by this section on
1732 cigarettes shall be of a denomination of less than One Cent (1¢),
1733 and whenever the tax computed at the rates * * * prescribed in
1734 this section on cigarettes shall be a specified amount, plus a
1735 fractional part of One Cent (1¢), the package shall be stamped for
1736 the next full cent * * *.

1737 Every wholesaler shall purchase stamps as provided in this
1738 chapter, and affix the same to all packages of cigarettes handled
1739 by him as * * * provided in this section.

1740 The * * * tax levied by this section is levied upon the sale,
1741 use, gift, possession, or consumption of tobacco within the State
1742 of Mississippi, and the impact of the tax levied by this chapter
1743 is * * * declared to be on the vendee, user, consumer, or
1744 possessor of tobacco in this state; and when the tax is paid by
1745 any other person, the payment shall be considered as an advance

1746 payment and shall thereafter be added to the price of the tobacco
1747 and recovered from the ultimate consumer or user.

1748 **SECTION 21.** Section 27-69-31, Mississippi Code of 1972, is
1749 amended as follows:

1750 27-69-31. Except as otherwise provided in this section,
1751 dealers subject to the provisions of this chapter shall be
1752 allowed, as compensation for their services in affixing the stamps
1753 herein required, a sum equal to eight percent (8%) of the face
1754 value of the stamps purchased by them, provided that the
1755 commission shall allow no discount on the purchase of stamps by
1756 wholesalers of an aggregate amount of less than One Hundred
1757 Dollars (\$100.00), and by retailers of an aggregate amount of less
1758 than Fifty Dollars (\$50.00) in any one order.

1759 It is further provided that the commissioner may, in his
1760 discretion, either reduce the compensation allowed, or disallow
1761 any compensation for the affixing of stamps, for failure of such
1762 dealer to comply with any provisions of the law or rules and
1763 regulations promulgated by the commissioner.

1764 From and after July 1, 2005, there shall be no compensation
1765 or discount allowed under this section.

1766 **SECTION 22.** Section 27-69-75, Mississippi Code of 1972, is
1767 amended as follows:

1768 27-69-75. All taxes levied by this chapter shall be payable
1769 to the commissioner in cash, or by personal check, cashier's
1770 check, bank exchange, post office money order or express money
1771 order, and shall be deposited by the commissioner in the State
1772 Treasury on the same day collected. No remittance other than cash
1773 shall be a final discharge of liability for the tax herein
1774 assessed and levied, unless and until it has been paid in cash to
1775 the commissioner.

1776 All tobacco taxes collected, including tobacco license taxes,
1777 shall be deposited into the State Treasury to the credit of the
1778 General Fund.

1779 Wholesalers who are entitled to purchase stamps * * * may
1780 have consigned to them, without advance payment, such stamps, if
1781 and when such wholesaler shall give to the commissioner a good and
1782 sufficient bond executed by some surety company authorized to do
1783 business in this state, conditioned to secure the payment for the
1784 stamps so consigned. The commissioner shall require payment for
1785 such stamps not later than thirty (30) days from the date the
1786 stamps were consigned.

1787 **SECTION 23.** This act shall take effect and be in force from
1788 and after July 1, 2005, except for Sections 1 and 2, which shall
1789 take effect and be in force from and after the passage of this
1790 act.