

By: Senator(s) Simmons, Dearing, Dawkins,
Thomas, Jordan, Jackson (11th), Walls,
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To: Finance

SENATE BILL NO. 3023

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 2005; 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 PROVIDE THAT ON SALES TO CONSUMERS OF ELECTRICITY AND OTHER FUELS
18 FOR RESIDENTIAL HEATING OR LIGHTING AND ON SALES OF POTABLE WATER
19 FOR RESIDENTIAL USE SHALL BE TAXED AT A 3% RATE; TO INCREASE THE
20 SALES TAX ON SALES OF ELECTRICITY AND OTHER FUELS TO
21 MANUFACTURERS, CUSTOM PROCESSORS OR PUBLIC SERVICE COMPANIES FOR
22 INDUSTRIAL PURPOSES; TO AMEND SECTION 27-65-21, MISSISSIPPI CODE
23 OF 1972, TO INCREASE THE CONTRACTOR'S TAX; TO AMEND SECTION
24 27-65-33, MISSISSIPPI CODE OF 1972, TO REMOVE THE DISCOUNT GIVEN
25 FOR TIMELY FILING AND PAYING SALES TAXES; TO AMEND SECTION
26 27-65-75, MISSISSIPPI CODE OF 1972, TO INCREASE THE AMOUNT OF THE
27 SALES TAX DIVERSION TO CITIES AND TO PROVIDE THAT THE ADDITIONAL
28 SALES TAX ON MOTOR VEHICLES SHALL NOT BE DEPOSITED INTO THE MOTOR
29 VEHICLE AD VALOREM TAX REDUCTION FUND; TO AMEND SECTION 27-65-111,
30 MISSISSIPPI CODE OF 1972, TO REMOVE THE SALES TAX EXEMPTION ON
31 SALES OF MOTOR FUEL AND TO EXEMPT RETAIL SALES OF CERTAIN
32 GROCERIES FROM SALES TAXATION; TO AMEND SECTION 27-67-5,
33 MISSISSIPPI CODE OF 1972, TO INCREASE THE USE TAX; TO AMEND
34 SECTION 27-67-31, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE
35 ADDITIONAL USE TAX ON MOTOR VEHICLES SHALL NOT BE DEPOSITED INTO
36 THE MOTOR VEHICLE AD VALOREM TAX REDUCTION FUND; TO AMEND SECTION
37 27-69-13, MISSISSIPPI CODE OF 1972, TO INCREASE THE EXCISE TAX
38 LEVIED ON CIGARETTES; AND FOR RELATED PURPOSES.

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

40 **SECTION 1.** The Legislature finds that tax revenues are not
41 sufficient to fund essential functions of state government and
42 without additional revenues to fund these functions, the health,
43 safety, welfare and future of the citizens of the State of
44 Mississippi will be compromised. It is the intent of the
45 Legislature that the additional General Fund revenue that is

46 generated as a result of the passage of this act shall be utilized
47 to:

48 (a) Maintain the current eligibility standards under
49 the Medicaid program;

50 (b) Fund the Medicaid Poverty Level Aged and Disabled
51 Group;

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

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

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

58 (f) Fund State Institutions of Higher Learning and
59 Community and Junior Colleges;

60 (g) Fund the State and School Employees' Health
61 Insurance Plan;

62 (h) Fund a three percent (3%) increase in state
63 employee compensation;

64 (i) Fund mental health crisis centers; and

65 (j) Fund additional patrolmen for the Highway Safety
66 Patrol.

67 **SECTION 2.** (1) There is hereby created a study committee on
68 the tax system of Mississippi. The committee shall make a report
69 of its findings and recommendations to the Legislature during the
70 2006 Regular Legislative Session, including any recommended
71 legislation.

72 (2) The committee shall be composed of the following
73 members:

74 (a) The President Pro Tempore of the Mississippi
75 Senate;

76 (b) The Speaker Pro Tempore of the Mississippi House of
77 Representatives;

78 (c) The Chairman of the Senate Appropriations
79 Committee;
80 (d) The Chairman of the House Appropriations Committee;
81 (e) The Chairman of the Senate Finance Committee;
82 (f) The Chairman of the House Ways and Means Committee;
83 (g) The State Treasurer, or his designee;
84 (h) The Executive Director of the Department of Finance
85 and Administration;
86 (i) The State Auditor, or his designee;
87 (j) One (1) member designated by the State Tax
88 Commission;
89 (k) One (1) member designated by the State Board of
90 Public Accountancy;
91 (l) One (1) member designated by the President of The
92 Mississippi Bar from the Taxation Section of The Mississippi Bar;
93 (m) One (1) member designated by the Mississippi
94 Supervisors Association;
95 (n) One (1) member designated by the Mississippi
96 Municipal Association; and
97 (o) Three (3) representatives of the general public,
98 one (1) designated by the Governor, one (1) by the Lieutenant
99 Governor and one (1) by the Speaker of the House of
100 Representatives.

101 Appointments shall be made within thirty (30) days after the
102 adoption of this resolution by the Legislature, and, within
103 fifteen (15) days thereafter on a day to be designated jointly by
104 the Lieutenant Governor and the Speaker of the House, the
105 committee shall meet and organize by selecting from its membership
106 a chairman and a vice chairman. The vice chairman shall also
107 serve as secretary and shall be responsible for keeping all
108 records of the committee. A majority of the members of the
109 committee shall constitute a quorum. In the selection of its
110 officers and the adoption of rules, resolutions and reports, an

111 affirmative vote of a majority of the committee shall be required.
112 All members shall be notified in writing of all meetings, such
113 notices to be mailed at least five (5) days prior to the date on
114 which a meeting is to be held.

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

121 (4) Members of the committee who are not legislators, state
122 officials or state employees shall be compensated at the per diem
123 rate authorized by Section 25-3-69, Mississippi Code of 1972, and
124 shall be reimbursed in accordance with Section 25-3-41,
125 Mississippi Code of 1972, for mileage and actual expenses incurred
126 in the performance of their duties. Legislative members of the
127 committee shall be paid from the contingent expense funds of their
128 respective houses in the same manner as provided for committee
129 meetings when the Legislature is not in session; however, no per
130 diem or expense for attending meetings of the committee will be
131 paid while the Legislature is in session. No committee member may
132 incur per diem, travel or other expenses unless previously
133 authorized by vote, at a meeting of the committee, which action
134 shall be recorded in the official minutes of the meeting.
135 Nonlegislative members shall be paid from any funds made available
136 to the committee for that purpose.

137 (5) The committee shall utilize clerical and legal staff
138 already employed by the Legislature and any other staff assistance
139 made available to it. To effectuate the purpose of this
140 resolution, any department, division, board, bureau, commission or
141 agency of the state or of any political subdivision thereof shall,
142 at the request of the chairman of the committee, provide to the

143 committee such facilities, assistance and data as will enable the
144 committee properly to carry out its task.

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

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

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

152 27-7-5. (1) There is hereby assessed and levied, to be
153 collected and paid as hereinafter provided, for the calendar year
154 1983 and fiscal years ending during the calendar year 1983 and all
155 taxable years thereafter, upon the entire net income of every
156 resident individual, corporation, association, trust or estate, in
157 excess of the credits provided, a tax at the following rates:

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

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

162 On all taxable income in excess of Ten Thousand Dollars
163 (\$10,000.00), at the rate of six percent (6%).

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

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

173 (4) In the case of taxpayers having a fiscal year beginning
174 in the calendar year 1982 and ending after the first day of

175 January 1983, the tax due for that taxable year shall be
176 determined by:

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

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

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

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

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

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

196 27-7-901. (1) There is hereby levied, assessed and shall be
197 collected a tax of four percent (4%) upon amounts that are paid or
198 credited by gaming establishments licensed under the provisions of
199 the Mississippi Gaming Control Act to their patrons. The tax
200 shall be collected by licensed gaming establishments and remitted
201 to the State Tax Commission in the manner provided for by
202 regulations promulgated by the Chairman of the State Tax
203 Commission.

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

208 (3) No credit shall be allowed under the Income Tax Law of
209 1952 for the tax collected by licensed gaming establishments
210 pursuant to this section.

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

213 27-7-903. (1) There is hereby levied and assessed upon
214 patrons of gaming establishments located in this state that are
215 not licensed under the provisions of the Mississippi Gaming
216 Control Act, a tax of four percent (4%) of the amounts that are
217 paid or credited to such patrons by the gaming establishment,
218 which tax is the same in kind and rate as has heretofore been
219 imposed pursuant to Section 27-7-901 upon the patrons of gaming
220 establishments which are licensed under the Mississippi Gaming
221 Control Act. The legal incidence and duty to pay such taxes shall
222 fall upon the patron. The assessment of such tax is subject to
223 any exemptions as may exist under federal or state law. The State
224 Tax Commission may enter into tax collection agreements regarding
225 this tax.

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

230 (3) No credit shall be allowed under the Income Tax Law of
231 1952 for the tax collected by gaming establishments pursuant to
232 this section.

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

235 27-13-5. (1) **Franchise tax levy.** Except as otherwise
236 provided in subsections (3), (4) and (5) of this section, there is
237 hereby imposed, to be paid and collected as hereinafter provided,
238 a franchise or excise tax upon every corporation, association or
239 joint-stock company or partnership treated as a corporation under
240 the income tax laws or regulations, organized or created for

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

256 (2) **Annual report of domestic corporations.** Each domestic
257 corporation shall file, within the time prescribed by Section
258 79-3-251, an annual report as required by the provisions of
259 Section 79-3-249.

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

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

270 (5) A business enterprise operating a project as defined in
271 Section 57-64-33, in a county that is a member of a regional
272 economic development alliance created under the Regional Economic
273 Development Act shall not be subject to the tax levied by this

274 section on the value of capital used, invested or employed by the
275 business enterprise in such a county as provided in Section
276 57-64-33.

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

279 27-13-7. (1) **Franchise tax levy.** Except as otherwise
280 provided in subsections (3), (4) and (5) of this section, there is
281 hereby imposed, levied and assessed upon every corporation,
282 association or joint-stock company, or partnership treated as a
283 corporation under the Income Tax Laws or regulations as
284 hereinbefore defined, organized and existing under and by virtue
285 of the laws of some other state, territory or country, or
286 organized and existing without any specific statutory authority,
287 now or hereafter doing business or exercising any power, privilege
288 or right within this state, as hereinbefore defined, a franchise
289 or excise tax equal to Five Dollars (\$5.00) of each One Thousand
290 Dollars (\$1,000.00), or fraction thereof, of the value of capital
291 used, invested or employed within this state, except as
292 hereinafter provided. In no case shall the franchise tax due for
293 the accounting period be less than Twenty-five Dollars (\$25.00).
294 It is the purpose of this section to require the payment of a tax
295 by all organizations not organized under the laws of this state,
296 measured by the amount of capital or its equivalent, for which
297 such organization receives the benefit and protection of the
298 government and laws of the state.

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

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

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

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

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

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

322 27-15-103. (1) Except as otherwise provided in Section
323 83-61-11, in addition to the license tax now or hereafter provided
324 by law, which tax shall be paid when the company enters or is
325 admitted to do business in this state, there is hereby levied and
326 imposed upon all foreign insurance companies and associations,
327 including life insurance companies and associations, health,
328 accident and industrial insurance companies and associations, fire
329 and casualty insurance companies and associations, and all other
330 foreign insurance companies and associations of every kind and
331 description, an additional annual license or privilege tax of four
332 percent (4%) of the gross amount of premium receipts received
333 from, and on insurance policies and contracts written in, or
334 covering risks located in this state, except for premiums received
335 on policies issued to fund a deferred compensation plan qualified
336 under Section 457 of the Federal Tax Code for federal tax
337 exemption. In determining the amount of premiums, there shall be
338 deducted therefrom premiums received for reinsurance from

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

355 * * *

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

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

367 27-15-109. (1) Except as otherwise provided in Section
368 83-61-11, there is hereby levied and imposed upon each domestic
369 company doing business in this state an annual tax of four percent
370 (4%) of the gross amount of premiums collected by such domestic
371 company on insurance policies and contracts written in, or

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

387 (2) Except as expressly provided by subsection (1) of this
388 section, all of the provisions of Sections 27-15-103 through
389 27-15-117 shall be applicable to such domestic insurance
390 companies. However, the statement filed with the State Tax
391 Commission by domestic insurance companies as provided in Section
392 27-15-107 shall include therein a sworn statement of all
393 additional retaliatory premium taxes paid by them to other states
394 as a result of the increase in premium taxes imposed by Sections
395 27-15-103 through 27-15-117, itemized by states to which paid.

396 * * *

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

399 27-19-43. (1) License tags, substitute tags and decals for
400 individual fleets and for private carriers of passengers, school
401 buses (excluding school buses owned by a school district in the
402 state), church buses, taxicabs, ambulances, hearses, motorcycles
403 and private carriers of property, and private commercial carriers
404 of property of a gross weight of ten thousand (10,000) pounds and

405 less, shall be sold and issued by the tax collectors of the
406 several counties.

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

418 (3) In addition to the privilege taxes levied herein, there
419 shall be collected the following registration or tag fee:

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

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

424 No tag or decal shall be issued either by a tax collector or
425 by the commission without the collection of such registration fee
426 except substitute tags and decals and license tags for vehicles
427 owned by the State of Mississippi.

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

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

437 section. Such additional registration fee shall be levied in the
438 same manner as the regular registration fee.

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

441 27-65-17. (1) Upon every person engaging or continuing
442 within this state in the business of selling any tangible personal
443 property whatsoever there is hereby levied, assessed and shall be
444 collected a tax equal to seven percent (7%) of the gross proceeds
445 of the retail sales of the business, except as otherwise provided
446 herein.

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

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

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

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

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

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

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

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

488 A manufacturer selling at retail in this state shall be
489 required to make returns of the gross proceeds of such sales and
490 pay the tax imposed in this section.

491 Any person exercising any privilege taxable under Section
492 27-65-15 and selling his natural resource products at wholesale or
493 to exempt persons shall pay the tax levied by said section in lieu
494 of the tax levied by this section.

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

499 (b) From and after July 1, 2005, 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 one
502 percent (1%).

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

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

522 27-65-19. (1) (a) Except as otherwise provided in this
523 subsection, upon every person selling to consumers, electricity,
524 current, power, potable water, steam, coal, natural gas, liquefied
525 petroleum gas or other fuel, there is hereby levied, assessed and
526 shall be collected a tax equal to seven percent (7%) of the gross
527 income of the business. Provided, gross income from sales to
528 consumers of electricity, current, power, natural gas, liquefied
529 petroleum gas or other fuel for residential heating, lighting or
530 other residential noncommercial or nonagricultural use, and sales
531 of potable water for residential, noncommercial or nonagricultural
532 use shall be taxed at the rate of three percent (3%). Provided
533 further, upon every such seller using electricity, current, power,
534 potable water, steam, coal, natural gas, liquefied petroleum gas
535 or other fuel for nonindustrial purposes, there is hereby levied,

536 assessed and shall be collected a tax equal to seven percent (7%)
537 of the cost or value of the product or service used.

538 * * *

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

565 (c) Upon every person operating a telegraph or
566 telecommunications business for the transmission of messages or
567 conversations originating in this state or terminating in this
568 state via interstate telecommunications, which are charged to the

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

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

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

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

599 Charges by one telecommunications provider to another
600 telecommunications provider holding a permit issued under Section
601 27-65-27 for services that are resold by such other

602 telecommunications provider, including, but not limited to, access
603 charges, shall not be subject to the tax levied pursuant to this
604 paragraph (d).

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

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

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

635 prior to such notice of determination, to demonstrate that such
636 address satisfies such definition.

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

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

643 1. "Place of primary use" means the street
644 address representative of where the customer's use of mobile
645 telecommunications services primarily occurs, which shall be
646 either the residential street address of the customer or the
647 primary business street address of the customer.

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

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

661 (e) (i) For purposes of this paragraph (e), "bundled
662 transaction" means a transaction that consists of distinct and
663 identifiable properties or services which are sold for a single
664 nonitemized price but which are treated differently for tax
665 purposes.

666 (ii) In the case of a bundled transaction that
667 includes telecommunications services taxed under this section in

668 which the price of the bundled transaction is attributable to
669 properties or services that are taxable and nontaxable, the
670 portion of the price that is attributable to any nontaxable
671 property or service shall be subject to the tax unless the
672 provider can reasonably identify that portion from its books and
673 records kept in the regular course of business.

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

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

684 2. Based on a reasonable allocation
685 methodology approved by the commission.

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

700 (2) Persons making sales to consumers of electricity,
701 current, power, natural gas, liquefied petroleum gas or other fuel
702 for residential heating, lighting or other residential
703 noncommercial or nonagricultural use or sales of potable water for
704 residential, noncommercial or nonagricultural use shall indicate
705 on each statement rendered to customers that such charges are
706 exempt from sales taxes.

707 (3) There is hereby levied, assessed and shall be paid on
708 transportation charges on shipments moving between points within
709 this state when paid directly by the consumer, a tax equal to the
710 rate applicable to the sale of the property being transported.
711 Such tax shall be reported and paid directly to the State Tax
712 Commission by the consumer.

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

715 27-65-21. (1) (a) (i) Upon every person engaging or
716 continuing in this state in the business of contracting or
717 performing a contract or engaging in any of the activities, or
718 similar activities, listed below for a price, commission, fee or
719 wage, there is hereby levied, assessed and shall be collected a
720 tax equal to four and one-half percent (4-1/2%) of the total
721 contract price or compensation received, including all charges
722 related to the contract such as finance charges and late charges,
723 from constructing, building, erecting, repairing, grading,
724 excavating, drilling, exploring, testing or adding to any
725 building, highway, street, sidewalk, bridge, culvert, sewer,
726 irrigation or water system, drainage or dredging system, levee or
727 levee system or any part thereof, railway, reservoir, dam, power
728 plant, electrical system, air conditioning system, heating system,
729 transmission line, pipeline, tower, dock, storage tank, wharf,
730 excavation, grading, water well, any other improvement or
731 structure or any part thereof when the compensation received
732 exceeds Ten Thousand Dollars (\$10,000.00). Such activities shall

733 not include constructing, repairing or adding to property which
734 retains its identity as personal property. The tax imposed in
735 this section is levied upon the prime contractor and shall be paid
736 by him.

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

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

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

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

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

764 (c) Sales of materials and services for use in the
765 activities hereby excluded from taxes imposed by this section,

766 except services used in activities excluded pursuant to paragraph
767 (b)(iii) of this subsection, shall be subject to taxes imposed by
768 other sections in this chapter.

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

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

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

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

788 "Dry-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. Such contribution is payable
791 only in the event the well is found to be nonproductive.

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

797 "Total contract price or compensation received" -- As related
798 to oil and gas well contractors, shall include amounts received as

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

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

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

824 Any person entering into any contract over Seventy-five
825 Thousand Dollars (\$75,000.00) as defined in this section shall,
826 before beginning the performance of such contract or contracts,
827 either pay the contractors' tax in advance, together with any use
828 taxes due under Section 27-67-5, or execute and file with the
829 Chairman of the State Tax Commission a good and valid bond in a
830 surety company authorized to do business in this state, or with
831 sufficient sureties to be approved by the commissioner conditioned

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

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

860 Any person liable for a tax under this section may apply for
861 and obtain a material purchase certificate from the commissioner
862 which may entitle the holder to purchase materials and services
863 that are to become a component part of the structure to be erected
864 or repaired with no tax due. Provided, that the contractor

865 applying for the contractor's material purchase certificate shall
866 furnish the State Tax Commission a list of all work sublet to
867 others, indicating the amount of work to be performed, and the
868 names and addresses of each subcontractor.

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

871 27-65-33. (1) Except as otherwise provided in this section,
872 the taxes levied by this chapter shall be due and payable on or
873 before the twentieth day of the month next succeeding the month in
874 which the tax accrues, except as otherwise provided. Returns and
875 payments placed in the mail must be postmarked by the due date in
876 order to be considered timely filed, except when the due date
877 falls on a weekend or holiday, returns and payments placed in the
878 mail must be postmarked by the first working day following the due
879 date in order to be considered timely filed. The taxpayer shall
880 make a return showing the gross proceeds of sales or the gross
881 income of the business, and any and all allowable deductions, or
882 exempt sales, and compute the tax due for the period covered.

883 * * *

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

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

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

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

928 (5) The commissioner may require the execution and filing by
929 the taxpayer with the commissioner of a good and solvent bond with
930 some surety company authorized to do business in Mississippi as

931 surety thereon in an amount double the aggregate tax liability by
932 such taxpayer for any previous three (3) months' period within the
933 last calendar year or estimated three (3) months' tax liability.
934 Said bond is to be conditioned for the prompt payment of such
935 taxes as may be due for each such return.

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

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

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

960 (9) Any taxpayer reporting credit sales before collection
961 thereof has been made may take credit on subsequent returns or
962 reports for bad debts actually charged off, if such amounts
963 charged off have previously been included in taxable gross income

964 or taxable gross proceeds of sales, as the case may be, and the
965 tax paid thereon. However, any amounts subsequently collected on
966 accounts that have been charged off as bad debts shall be included
967 in subsequent reports and the tax shall be paid thereon.

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

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

991 27-65-75. On or before the fifteenth day of each month, the
992 revenue collected under the provisions of this chapter during the
993 preceding month shall be paid and distributed as follows:

994 (1) On or before August 15, 1992, and each succeeding month
995 thereafter through July 15, 1993, eighteen percent (18%) of the
996 total sales tax revenue collected during the preceding month under

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

1009 A municipal corporation, for the purpose of distributing the
1010 tax under this subsection, shall mean and include all incorporated
1011 cities, towns and villages.

1012 Monies allocated for distribution and credited to a municipal
1013 corporation under this subsection may be pledged as security for
1014 any loan received by the municipal corporation for the purpose of
1015 capital improvements as authorized under Section 57-1-303, or
1016 loans as authorized under Section 57-44-7, or water systems
1017 improvements as authorized under Section 41-3-16.

1018 In any county having a county seat that is not an
1019 incorporated municipality, the distribution provided under this
1020 subsection shall be made as though the county seat was an
1021 incorporated municipality; however, the distribution to the
1022 municipality shall be paid to the county treasury in which the
1023 municipality is located, and those funds shall be used for road,
1024 bridge and street construction or maintenance in the county.

1025 (2) On or before September 15, 1987, and each succeeding
1026 month thereafter, from the revenue collected under this chapter
1027 during the preceding month One Million One Hundred Twenty-five
1028 Thousand Dollars (\$1,125,000.00) shall be allocated for
1029 distribution to municipal corporations as defined under subsection

1030 (1) of this section in the proportion that the number of gallons
1031 of gasoline and diesel fuel sold by distributors to consumers and
1032 retailers in each such municipality during the preceding fiscal
1033 year bears to the total gallons of gasoline and diesel fuel sold
1034 by distributors to consumers and retailers in municipalities
1035 statewide during the preceding fiscal year. The State Tax
1036 Commission shall require all distributors of gasoline and diesel
1037 fuel to report to the commission monthly the total number of
1038 gallons of gasoline and diesel fuel sold by them to consumers and
1039 retailers in each municipality during the preceding month. The
1040 State Tax Commission shall have the authority to promulgate such
1041 rules and regulations as is necessary to determine the number of
1042 gallons of gasoline and diesel fuel sold by distributors to
1043 consumers and retailers in each municipality. In determining the
1044 percentage allocation of funds under this subsection for the
1045 fiscal year beginning July 1, 1987, and ending June 30, 1988, the
1046 State Tax Commission may consider gallons of gasoline and diesel
1047 fuel sold for a period of less than one (1) fiscal year. For the
1048 purposes of this subsection, the term "fiscal year" means the
1049 fiscal year beginning July 1 of a year.

1050 (3) On or before September 15, 1987, and on or before the
1051 fifteenth day of each succeeding month, until the date specified
1052 in Section 65-39-35, the proceeds derived from contractors' taxes
1053 levied under Section 27-65-21 on contracts for the construction or
1054 reconstruction of highways designated under the highway program
1055 created under Section 65-3-97 shall, except as otherwise provided
1056 in Section 31-17-127, be deposited into the State Treasury to the
1057 credit of the State Highway Fund to be used to fund that highway
1058 program. The Mississippi Department of Transportation shall
1059 provide to the State Tax Commission such information as is
1060 necessary to determine the amount of proceeds to be distributed
1061 under this subsection.

1062 (4) On or before August 15, 1994, and on or before the
1063 fifteenth day of each succeeding month through July 15, 1999, from
1064 the proceeds of gasoline, diesel fuel or kerosene taxes as
1065 provided in Section 27-5-101(a)(ii)1, Four Million Dollars
1066 (\$4,000,000.00) shall be deposited in the State Treasury to the
1067 credit of a special fund designated as the "State Aid Road Fund,"
1068 created by Section 65-9-17. On or before August 15, 1999, and on
1069 or before the fifteenth day of each succeeding month, from the
1070 total amount of the proceeds of gasoline, diesel fuel or kerosene
1071 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million
1072 Dollars (\$4,000,000.00) or an amount equal to twenty-three and
1073 one-fourth percent (23.25%) of those funds, whichever is the
1074 greater amount, shall be deposited in the State Treasury to the
1075 credit of the "State Aid Road Fund," created by Section 65-9-17.
1076 Those funds shall be pledged to pay the principal of and interest
1077 on state aid road bonds heretofore issued under Sections 19-9-51
1078 through 19-9-77, in lieu of and in substitution for the funds
1079 previously allocated to counties under this section. Those funds
1080 may not be pledged for the payment of any state aid road bonds
1081 issued after April 1, 1981; however, this prohibition against the
1082 pledging of any such funds for the payment of bonds shall not
1083 apply to any bonds for which intent to issue those bonds has been
1084 published, for the first time, as provided by law before March 29,
1085 1981. From the amount of taxes paid into the special fund under
1086 this subsection and subsection (9) of this section, there shall be
1087 first deducted and paid the amount necessary to pay the expenses
1088 of the Office of State Aid Road Construction, as authorized by the
1089 Legislature for all other general and special fund agencies. The
1090 remainder of the fund shall be allocated monthly to the several
1091 counties in accordance with the following formula:

1092 (a) One-third (1/3) shall be allocated to all counties
1093 in equal shares;

1094 (b) One-third (1/3) shall be allocated to counties
1095 based on the proportion that the total number of rural road miles
1096 in a county bears to the total number of rural road miles in all
1097 counties of the state; and

1098 (c) One-third (1/3) shall be allocated to counties
1099 based on the proportion that the rural population of the county
1100 bears to the total rural population in all counties of the state,
1101 according to the latest federal decennial census.

1102 For the purposes of this subsection, the term "gasoline,
1103 diesel fuel or kerosene taxes" means such taxes as defined in
1104 paragraph (f) of Section 27-5-101.

1105 The amount of funds allocated to any county under this
1106 subsection for any fiscal year after fiscal year 1994 shall not be
1107 less than the amount allocated to the county for fiscal year 1994.
1108 Monies allocated to a county from the State Aid Road Fund for
1109 fiscal year 1995 or any fiscal year thereafter that exceed the
1110 amount of funds allocated to that county from the State Aid Road
1111 Fund for fiscal year 1994, first must be expended by the county
1112 for replacement or rehabilitation of bridges on the state aid road
1113 system that have a sufficiency rating of less than twenty-five
1114 (25), according to National Bridge Inspection standards before
1115 the monies may be approved for expenditure by the State Aid Road
1116 Engineer on other projects that qualify for the use of state aid
1117 road funds.

1118 Any reference in the general laws of this state or the
1119 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
1120 construed to refer and apply to subsection (4) of Section
1121 27-65-75.

1122 (5) One Million Six Hundred Sixty-six Thousand Six Hundred
1123 Sixty-six Dollars (\$1,666,666.00) each month shall be paid into
1124 the special fund known as the "State Public School Building Fund"
1125 created and existing under the provisions of Sections 37-47-1

1126 through 37-47-67. Those payments into that fund are to be made on
1127 the last day of each succeeding month hereafter.

1128 (6) An amount each month beginning August 15, 1983, through
1129 November 15, 1986, as specified in Section 6 of Chapter 542, Laws
1130 of 1983, shall be paid into the special fund known as the
1131 Correctional Facilities Construction Fund created in Section 6 of
1132 Chapter 542, Laws of 1983.

1133 (7) On or before August 15, 1992, and each succeeding month
1134 thereafter through July 15, 2000, two and two hundred sixty-six
1135 one-thousandths percent (2.266%) of the total sales tax revenue
1136 collected during the preceding month under the provisions of this
1137 chapter, except that collected under the provisions of Section
1138 27-65-17(2) shall be deposited by the commission into the School
1139 Ad Valorem Tax Reduction Fund created under Section 37-61-35. On
1140 or before August 15, 2000, and each succeeding month thereafter,
1141 two and two hundred sixty-six one-thousandths percent (2.266%) of
1142 the total sales tax revenue collected during the preceding month
1143 under the provisions of this chapter, except that collected under
1144 the provisions of Section 27-65-17(2), shall be deposited into the
1145 School Ad Valorem Tax Reduction Fund created under Section
1146 37-61-35 until such time that the total amount deposited into the
1147 fund during a fiscal year equals Forty-two Million Dollars
1148 (\$42,000,000.00). Thereafter, the amounts diverted under this
1149 subsection (7) during the fiscal year in excess of Forty-two
1150 Million Dollars (\$42,000,000.00) shall be deposited into the
1151 Education Enhancement Fund created under Section 37-61-33 for
1152 appropriation by the Legislature as other education needs and
1153 shall not be subject to the percentage appropriation requirements
1154 set forth in Section 37-61-33.

1155 (8) On or before August 15, 1992, and each succeeding month
1156 thereafter, nine and seventy-three one-thousandths percent
1157 (9.073%) of the total sales tax revenue collected during the
1158 preceding month under the provisions of this chapter, except that

1159 collected under the provisions of Section 27-65-17(2), shall be
1160 deposited into the Education Enhancement Fund created under
1161 Section 37-61-33.

1162 (9) On or before August 15, 1994, and each succeeding month
1163 thereafter, from the revenue collected under this chapter during
1164 the preceding month, Two Hundred Fifty Thousand Dollars
1165 (\$250,000.00) shall be paid into the State Aid Road Fund.

1166 (10) On or before August 15, 1994, and each succeeding month
1167 thereafter through August 15, 1995, from the revenue collected
1168 under this chapter during the preceding month, Two Million Dollars
1169 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
1170 Valorem Tax Reduction Fund established in Section 27-51-105.

1171 (11) Notwithstanding any other provision of this section to
1172 the contrary, on or before February 15, 1995, and each succeeding
1173 month thereafter, the sales tax revenue collected during the
1174 preceding month under the provisions of Section 27-65-17(2)(a) and
1175 the corresponding levy in Section 27-65-23 on the rental or lease
1176 of private carriers of passengers and light carriers of property
1177 as defined in Section 27-51-101 shall be deposited, without
1178 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund
1179 established in Section 27-51-105.

1180 (12) Notwithstanding any other provision of this section to
1181 the contrary, on or before August 15, 1995, and each succeeding
1182 month thereafter, the sales tax revenue collected during the
1183 preceding month under the provisions of Section 27-65-17(1) on
1184 retail sales of private carriers of passengers and light carriers
1185 of property, as defined in Section 27-51-101 and the corresponding
1186 levy in Section 27-65-23 on the rental or lease of these vehicles,
1187 shall be deposited, after diversion, into the Motor Vehicle Ad
1188 Valorem Tax Reduction Fund established in Section 27-51-105.

1189 (13) On or before July 15, 1994, and on or before the
1190 fifteenth day of each succeeding month thereafter, that portion of
1191 the avails of the tax imposed in Section 27-65-22 that is derived

1192 from activities held on the Mississippi state fairgrounds complex,
1193 shall be paid into a special fund that is created in the State
1194 Treasury and shall be expended upon legislative appropriation
1195 solely to defray the costs of repairs and renovation at the Trade
1196 Mart and Coliseum.

1197 (14) On or before August 15, 1998, and each succeeding month
1198 thereafter through July 15, 2005, that portion of the avails of
1199 the tax imposed in Section 27-65-23 that is derived from sales by
1200 cotton compresses or cotton warehouses and that would otherwise be
1201 paid into the General Fund, shall be deposited in an amount not to
1202 exceed Two Million Dollars (\$2,000,000.00) into the special fund
1203 created under Section 69-37-39.

1204 (15) Notwithstanding any other provision of this section to
1205 the contrary, on or before September 15, 2000, and each succeeding
1206 month thereafter, the sales tax revenue collected during the
1207 preceding month under the provisions of Section 27-65-19(1)(f) and
1208 (g)(i)2, shall be deposited, without diversion, into the
1209 Telecommunications Ad Valorem Tax Reduction Fund established in
1210 Section 27-38-7.

1211 (16) On or before August 15, 2000, and each succeeding month
1212 thereafter, the sales tax revenue collected during the preceding
1213 month under the provisions of this chapter on the gross proceeds
1214 of sales of a project as defined in Section 57-30-1 shall be
1215 deposited, after all diversions except the diversion provided for
1216 in subsection (1) of this section, into the Sales Tax Incentive
1217 Fund created in Section 57-30-3.

1218 (17) Notwithstanding any other provision of this section to
1219 the contrary, on or before April 15, 2002, and each succeeding
1220 month thereafter, the sales tax revenue collected during the
1221 preceding month under Section 27-65-23 on sales of parking
1222 services of parking garages and lots at airports shall be
1223 deposited, without diversion, into the special fund created under
1224 Section 27-5-101(d).

1225 (18) On or before August 15, 2005, and each succeeding month
1226 thereafter through July 15, 2006, from the sales tax revenue
1227 collected during the preceding month under the provisions of this
1228 chapter, Two Million Five Hundred Thousand Dollars (\$2,500,000.00)
1229 shall be deposited into the Special Funds Transfer Fund created in
1230 Section 4 of Chapter 556, Laws of 2003.

1231 (19) The remainder of the amounts collected under the
1232 provisions of this chapter shall be paid into the State Treasury
1233 to the credit of the General Fund.

1234 (20) It shall be the duty of the municipal officials of any
1235 municipality that expands its limits, or of any community that
1236 incorporates as a municipality, to notify the commissioner of
1237 that action thirty (30) days before the effective date. Failure
1238 to so notify the commissioner shall cause the municipality to
1239 forfeit the revenue that it would have been entitled to receive
1240 during this period of time when the commissioner had no knowledge
1241 of the action. If any funds have been erroneously disbursed to
1242 any municipality or any overpayment of tax is recovered by the
1243 taxpayer, the commissioner may make correction and adjust the
1244 error or overpayment with the municipality by withholding the
1245 necessary funds from any later payment to be made to the
1246 municipality.

1247 **SECTION 17.** Section 27-65-111, Mississippi Code of 1972, is
1248 amended as follows:

1249 **[Through June 30, 2006, this section shall read as follows:]**

1250 27-65-111. The exemptions from the provisions of this
1251 chapter which are not industrial, agricultural or governmental, or
1252 which do not relate to utilities or taxes, or which are not
1253 properly classified as one of the exemption classifications of
1254 this chapter, shall be confined to persons or property exempted by
1255 this section or by the Constitution of the United States or the
1256 State of Mississippi. No exemptions as now provided by any other
1257 section, except the classified exemption sections of this chapter

1258 set forth herein, shall be valid as against the tax herein levied.
1259 Any subsequent exemption from the tax levied hereunder, except as
1260 indicated above, shall be provided by amendments to this section.

1261 No exemption provided in this section shall apply to taxes
1262 levied by Section 27-65-15 or 27-65-21, Mississippi Code of 1972.

1263 The tax levied by this chapter shall not apply to the
1264 following:

1265 (a) Sales of tangible personal property and services to
1266 hospitals or infirmaries owned and operated by a corporation or
1267 association in which no part of the net earnings inures to the
1268 benefit of any private shareholder, group or individual, and which
1269 are subject to and governed by Sections 41-7-123 through 41-7-127.

1270 Only sales of tangible personal property or services which
1271 are ordinary and necessary to the operation of such hospitals and
1272 infirmaries are exempted from tax.

1273 (b) Sales of daily or weekly newspapers, and
1274 periodicals or publications of scientific, literary or educational
1275 organizations exempt from federal income taxation under Section
1276 501(c)(3) of the Internal Revenue Code of 1954, as it exists as of
1277 March 31, 1975, and subscription sales of all magazines.

1278 (c) Sales of coffins, caskets and other materials used
1279 in the preparation of human bodies for burial.

1280 (d) Sales of tangible personal property for immediate
1281 export to a foreign country.

1282 (e) Sales of tangible personal property to an
1283 orphanage, old men's or ladies' home, supported wholly or in part
1284 by a religious denomination, fraternal nonprofit organization or
1285 other nonprofit organization.

1286 (f) Sales of tangible personal property, labor or
1287 services taxable under Sections 27-65-17, 27-65-19 and 27-65-23,
1288 to a YMCA, YWCA, a Boys' or Girls' Club owned and operated by a
1289 corporation or association in which no part of the net earnings

1290 inures to the benefit of any private shareholder, group or
1291 individual.

1292 (g) Sales to elementary and secondary grade schools,
1293 junior and senior colleges owned and operated by a corporation or
1294 association in which no part of the net earnings inures to the
1295 benefit of any private shareholder, group or individual, and which
1296 are exempt from state income taxation, provided that this
1297 exemption does not apply to sales of property or services which
1298 are not to be used in the ordinary operation of the school, or
1299 which are to be resold to the students or the public.

1300 (h) The gross proceeds of retail sales and the use or
1301 consumption in this state of drugs and medicines:

1302 (i) Prescribed for the treatment of a human being
1303 by a person authorized to prescribe the medicines, and dispensed
1304 or prescription filled by a registered pharmacist in accordance
1305 with law; or

1306 (ii) Furnished by a licensed physician, surgeon,
1307 dentist or podiatrist to his own patient for treatment of the
1308 patient; or

1309 (iii) Furnished by a hospital for treatment of any
1310 person pursuant to the order of a licensed physician, surgeon,
1311 dentist or podiatrist; or

1312 (iv) Sold to a licensed physician, surgeon,
1313 podiatrist, dentist or hospital for the treatment of a human
1314 being; or

1315 (v) Sold to this state or any political
1316 subdivision or municipal corporation thereof, for use in the
1317 treatment of a human being or furnished for the treatment of a
1318 human being by a medical facility or clinic maintained by this
1319 state or any political subdivision or municipal corporation
1320 thereof.

1321 "Medicines," as used in this paragraph (h), shall mean and
1322 include any substance or preparation intended for use by external

1323 or internal application to the human body in the diagnosis, cure,
1324 mitigation, treatment or prevention of disease and which is
1325 commonly recognized as a substance or preparation intended for
1326 such use; provided that "medicines" do not include any auditory,
1327 prosthetic, ophthalmic or ocular device or appliance, any dentures
1328 or parts thereof or any artificial limbs or their replacement
1329 parts, articles which are in the nature of splints, bandages,
1330 pads, compresses, supports, dressings, instruments, apparatus,
1331 contrivances, appliances, devices or other mechanical, electronic,
1332 optical or physical equipment or article or the component parts
1333 and accessories thereof, or any alcoholic beverage or any other
1334 drug or medicine not commonly referred to as a prescription drug.

1335 Notwithstanding the preceding sentence of this paragraph (h),
1336 "medicines" as used in this paragraph (h), shall mean and include
1337 sutures, whether or not permanently implanted, bone screws, bone
1338 pins, pacemakers and other articles permanently implanted in the
1339 human body to assist the functioning of any natural organ, artery,
1340 vein or limb and which remain or dissolve in the body.

1341 "Hospital," as used in this paragraph (h), shall have the
1342 meaning ascribed to it in Section 41-9-3, Mississippi Code of
1343 1972.

1344 Insulin furnished by a registered pharmacist to a person for
1345 treatment of diabetes as directed by a physician shall be deemed
1346 to be dispensed on prescription within the meaning of this
1347 paragraph (h).

1348 (i) Retail sales of automobiles, trucks and
1349 truck-tractors if exported from this state within forty-eight (48)
1350 hours and registered and first used in another state.

1351 (j) Sales of tangible personal property or services to
1352 the Salvation Army and the Muscular Dystrophy Association, Inc.

1353 (k) From July 1, 1985, through December 31, 1992,
1354 retail sales of "alcohol blended fuel" as such term is defined in
1355 Section 75-55-5. The gasoline-alcohol blend or the straight

1356 alcohol eligible for this exemption shall not contain alcohol
1357 distilled outside the State of Mississippi.

1358 (l) Sales of tangible personal property or services to
1359 the Institute for Technology Development.

1360 (m) The gross proceeds of retail sales of food and
1361 drink for human consumption made through vending machines serviced
1362 by full line vendors from and not connected with other taxable
1363 businesses.

1364 * * *

1365 (n) Retail sales of food for human consumption
1366 purchased with food stamps issued by the United States Department
1367 of Agriculture, or other federal agency, from and after October 1,
1368 1987, or from and after the expiration of any waiver granted
1369 pursuant to federal law, the effect of which waiver is to permit
1370 the collection by the state of tax on such retail sales of food
1371 for human consumption purchased with food stamps.

1372 (o) Sales of cookies for human consumption by the Girl
1373 Scouts of America no part of the net earnings from which sales
1374 inures to the benefit of any private group or individual.

1375 (p) Gifts or sales of tangible personal property or
1376 services to public or private nonprofit museums of art.

1377 (q) Sales of tangible personal property or services to
1378 alumni associations of state-supported colleges or universities.

1379 (r) Sales of tangible personal property or services to
1380 chapters of the National Association of Junior Auxiliaries, Inc.

1381 (s) Sales of tangible personal property or services to
1382 domestic violence shelters which qualify for state funding under
1383 Sections 93-21-101 through 93-21-113.

1384 (t) Sales of tangible personal property or services to
1385 the National Multiple Sclerosis Society, Mississippi Chapter.

1386 (u) Retail sales of food for human consumption
1387 purchased with food instruments issued the Mississippi Band of

1388 Choctaw Indians under the Women, Infants and Children Program
1389 (WIC) funded by the United States Department of Agriculture.

1390 (v) Sales of tangible personal property or services to
1391 a private company, as defined in Section 57-61-5, which is making
1392 such purchases with proceeds of bonds issued under Section 57-61-1
1393 et seq., the Mississippi Business Investment Act.

1394 (w) The gross collections from the operation of
1395 self-service, coin-operated car washing equipment and sales of the
1396 service of washing motor vehicles with portable high-pressure
1397 washing equipment on the premises of the customer.

1398 (x) Sales of tangible personal property or services to
1399 the Mississippi Technology Alliance.

1400 (y) Retail sales of food for human consumption not
1401 purchased with food stamps issued by the United States Department
1402 of Agriculture, or other federal agency, but which would be exempt
1403 under paragraph (n) of this section from the taxes imposed by this
1404 chapter if the food items were purchased with food stamps.

1405 **[From and after July 1, 2006, this section shall read as**
1406 **follows:]**

1407 27-65-111. The exemptions from the provisions of this
1408 chapter which are not industrial, agricultural or governmental, or
1409 which do not relate to utilities or taxes, or which are not
1410 properly classified as one of the exemption classifications of
1411 this chapter, shall be confined to persons or property exempted by
1412 this section or by the Constitution of the United States or the
1413 State of Mississippi. No exemptions as now provided by any other
1414 section, except the classified exemption sections of this chapter
1415 set forth herein, shall be valid as against the tax herein levied.
1416 Any subsequent exemption from the tax levied hereunder, except as
1417 indicated above, shall be provided by amendments to this section.

1418 No exemption provided in this section shall apply to taxes
1419 levied by Section 27-65-15 or 27-65-21, Mississippi Code of 1972.

1420 The tax levied by this chapter shall not apply to the
1421 following:

1422 (a) Sales of tangible personal property and services to
1423 hospitals or infirmaries owned and operated by a corporation or
1424 association in which no part of the net earnings inures to the
1425 benefit of any private shareholder, group or individual, and which
1426 are subject to and governed by Sections 41-7-123 through 41-7-127.

1427 Only sales of tangible personal property or services which
1428 are ordinary and necessary to the operation of such hospitals and
1429 infirmaries are exempted from tax.

1430 (b) Sales of daily or weekly newspapers, and
1431 periodicals or publications of scientific, literary or educational
1432 organizations exempt from federal income taxation under Section
1433 501(c)(3) of the Internal Revenue Code of 1954, as it exists as of
1434 March 31, 1975, and subscription sales of all magazines.

1435 (c) Sales of coffins, caskets and other materials used
1436 in the preparation of human bodies for burial.

1437 (d) Sales of tangible personal property for immediate
1438 export to a foreign country.

1439 (e) Sales of tangible personal property to an
1440 orphanage, old men's or ladies' home, supported wholly or in part
1441 by a religious denomination, fraternal nonprofit organization or
1442 other nonprofit organization.

1443 (f) Sales of tangible personal property, labor or
1444 services taxable under Sections 27-65-17, 27-65-19 and 27-65-23,
1445 to a YMCA, YWCA, a Boys' or Girls' Club owned and operated by a
1446 corporation or association in which no part of the net earnings
1447 inures to the benefit of any private shareholder, group or
1448 individual.

1449 (g) Sales to elementary and secondary grade schools,
1450 junior and senior colleges owned and operated by a corporation or
1451 association in which no part of the net earnings inures to the
1452 benefit of any private shareholder, group or individual, and which

1453 are exempt from state income taxation, provided that this
1454 exemption does not apply to sales of property or services which
1455 are not to be used in the ordinary operation of the school, or
1456 which are to be resold to the students or the public.

1457 (h) The gross proceeds of retail sales and the use or
1458 consumption in this state of drugs and medicines:

1459 (i) Prescribed for the treatment of a human being
1460 by a person authorized to prescribe the medicines, and dispensed
1461 or prescription filled by a registered pharmacist in accordance
1462 with law; or

1463 (ii) Furnished by a licensed physician, surgeon,
1464 dentist or podiatrist to his own patient for treatment of the
1465 patient; or

1466 (iii) Furnished by a hospital for treatment of any
1467 person pursuant to the order of a licensed physician, surgeon,
1468 dentist or podiatrist; or

1469 (iv) Sold to a licensed physician, surgeon,
1470 podiatrist, dentist or hospital for the treatment of a human
1471 being; or

1472 (v) Sold to this state or any political
1473 subdivision or municipal corporation thereof, for use in the
1474 treatment of a human being or furnished for the treatment of a
1475 human being by a medical facility or clinic maintained by this
1476 state or any political subdivision or municipal corporation
1477 thereof.

1478 "Medicines," as used in this paragraph (h), shall mean and
1479 include any substance or preparation intended for use by external
1480 or internal application to the human body in the diagnosis, cure,
1481 mitigation, treatment or prevention of disease and which is
1482 commonly recognized as a substance or preparation intended for
1483 such use; provided that "medicines" do not include any auditory,
1484 prosthetic, ophthalmic or ocular device or appliance, any dentures
1485 or parts thereof or any artificial limbs or their replacement

1486 parts, articles which are in the nature of splints, bandages,
1487 pads, compresses, supports, dressings, instruments, apparatus,
1488 contrivances, appliances, devices or other mechanical, electronic,
1489 optical or physical equipment or article or the component parts
1490 and accessories thereof, or any alcoholic beverage or any other
1491 drug or medicine not commonly referred to as a prescription drug.

1492 Notwithstanding the preceding sentence of this paragraph (h),
1493 "medicines" as used in this paragraph (h), shall mean and include
1494 sutures, whether or not permanently implanted, bone screws, bone
1495 pins, pacemakers and other articles permanently implanted in the
1496 human body to assist the functioning of any natural organ, artery,
1497 vein or limb and which remain or dissolve in the body.

1498 "Hospital," as used in this paragraph (h), shall have the
1499 meaning ascribed to it in Section 41-9-3, Mississippi Code of
1500 1972.

1501 Insulin furnished by a registered pharmacist to a person for
1502 treatment of diabetes as directed by a physician shall be deemed
1503 to be dispensed on prescription within the meaning of this
1504 paragraph (h).

1505 (i) Retail sales of automobiles, trucks and
1506 truck-tractors if exported from this state within forty-eight (48)
1507 hours and registered and first used in another state.

1508 (j) Sales of tangible personal property or services to
1509 the Salvation Army and the Muscular Dystrophy Association, Inc.

1510 (k) From July 1, 1985, through December 31, 1992,
1511 retail sales of "alcohol blended fuel" as such term is defined in
1512 Section 75-55-5. The gasoline-alcohol blend or the straight
1513 alcohol eligible for this exemption shall not contain alcohol
1514 distilled outside the State of Mississippi.

1515 (l) Sales of tangible personal property or services to
1516 the Institute for Technology Development.

1517 (m) The gross proceeds of retail sales of food and
1518 drink for human consumption made through vending machines serviced

1519 by full line vendors from and not connected with other taxable
1520 businesses.

1521 (n) The gross proceeds of sales of motor fuel.

1522 (o) Retail sales of food for human consumption
1523 purchased with food stamps issued by the United States Department
1524 of Agriculture, or other federal agency, from and after October 1,
1525 1987, or from and after the expiration of any waiver granted
1526 pursuant to federal law, the effect of which waiver is to permit
1527 the collection by the state of tax on such retail sales of food
1528 for human consumption purchased with food stamps.

1529 (p) Sales of cookies for human consumption by the Girl
1530 Scouts of America no part of the net earnings from which sales
1531 inures to the benefit of any private group or individual.

1532 (q) Gifts or sales of tangible personal property or
1533 services to public or private nonprofit museums of art.

1534 (r) Sales of tangible personal property or services to
1535 alumni associations of state-supported colleges or universities.

1536 (s) Sales of tangible personal property or services to
1537 chapters of the National Association of Junior Auxiliaries, Inc.

1538 (t) Sales of tangible personal property or services to
1539 domestic violence shelters which qualify for state funding under
1540 Sections 93-21-101 through 93-21-113.

1541 (u) Sales of tangible personal property or services to
1542 the National Multiple Sclerosis Society, Mississippi Chapter.

1543 (v) Retail sales of food for human consumption
1544 purchased with food instruments issued the Mississippi Band of
1545 Choctaw Indians under the Women, Infants and Children Program
1546 (WIC) funded by the United States Department of Agriculture.

1547 (w) Sales of tangible personal property or services to
1548 a private company, as defined in Section 57-61-5, which is making
1549 such purchases with proceeds of bonds issued under Section 57-61-1
1550 et seq., the Mississippi Business Investment Act.

1551 (x) The gross collections from the operation of
1552 self-service, coin-operated car washing equipment and sales of the
1553 service of washing motor vehicles with portable high-pressure
1554 washing equipment on the premises of the customer.

1555 (y) Sales of tangible personal property or services to
1556 the Mississippi Technology Alliance.

1557 (z) Retail sales of food for human consumption not
1558 purchased with food stamps issued by the United States Department
1559 of Agriculture, or other federal agency, but which would be exempt
1560 under paragraph (o) of this section from the taxes imposed by this
1561 chapter if the food items were purchased with food stamps.

1562 **SECTION 18.** Section 27-67-5, Mississippi Code of 1972, is
1563 amended as follows:

1564 27-67-5. There is hereby levied, assessed and shall be
1565 collected from every person a tax for the privilege of using,
1566 storing or consuming, within this state, any tangible personal
1567 property possession of which is acquired in any manner.

1568 (a) The use tax hereby imposed and levied shall be
1569 collected at the same rates as imposed under Section 27-65-24, and
1570 Sections 27-65-17, 27-65-18, 27-65-19 and 27-65-25 computed on the
1571 purchase or sales price, or value, as defined in this article.

1572 (b) From and after July 1, 2005, items taxed in
1573 paragraph (a) of this section shall be taxed an additional one
1574 percent (1%); however, this additional tax shall not apply to
1575 private carriers of passengers and light carriers of property, as
1576 defined in Section 27-51-101.

1577 (c) It shall be the duty of the tax collectors of the
1578 several counties, or the State Tax Commissioner, as the case may
1579 be, to collect, remit and account for the tax on the use of all
1580 vehicles licensed or registered by the State of Mississippi for
1581 the first time, except when the Mississippi use tax was collected
1582 by an authorized out-of-state dealer at the time of purchase, or
1583 when the use thereof was exempt by Section 27-67-7. The tax

1584 collector or the State Tax Commissioner shall give to the person
1585 registering the vehicle a receipt in a form prescribed and
1586 furnished by the State Tax Commission for the amount of tax
1587 collected.

1588 The tax collector or State Tax Commissioner is expressly
1589 prohibited from issuing a license tag to any applicant without
1590 collecting the tax levied by this article, unless positive proof
1591 is filed, together with the application for the license tag, that
1592 the Mississippi tax has been paid, or that the sale was exempt by
1593 Section 27-67-7.

1594 Persons not engaging and continuing in business so as to be
1595 registered for payment of sales and/or use tax may pay use tax due
1596 on the first use of boats, airplanes, equipment or other tangible
1597 personal property to county tax collectors who are hereby
1598 authorized to accept such payments on behalf of the commissioner.
1599 Receipts for all such payments shall be given to taxpayers in a
1600 form prescribed and furnished by the State Tax Commission.

1601 County tax collectors and the State Tax Commissioner shall be
1602 liable for the tax they are required hereby to collect, and taxes
1603 which are in fact collected under authority of this section; and
1604 failure to properly collect or maintain proper records shall not
1605 relieve them of liability for payment to the commissioner.
1606 Deficiencies in collection or payment shall be assessed against
1607 the tax collector or State Tax Commissioner in the same manner and
1608 subject to the same penalties and provisions for appeal as are
1609 deficiencies assessed against taxpayers.

1610 A dealer authorized to collect and remit the tax to the State
1611 Tax Commission shall give to the purchaser a receipt for the
1612 payment of the tax, in a form prescribed and furnished by the
1613 commissioner, which shall serve as proof of payment to the tax
1614 collector of the county in which the license is to be issued.

1615 Each tax collector of the several counties shall, on or
1616 before the twentieth day of each month, file a report with and pay

1617 to the commissioner all funds collected under the provisions of
1618 this article, less a commission of five percent (5%) which shall
1619 be retained by the tax collector as a commission for collecting
1620 such tax and be deposited in the county general fund. The report
1621 required to be filed shall cover all collections made during the
1622 calendar month next preceding the date on which the report is due
1623 and filed.

1624 Any error in the report and remittance to the commissioner
1625 may be adjusted on a subsequent report. If the error was in the
1626 collection by the tax collector, it shall be adjusted through the
1627 tax collector with the taxpayer before credit is allowed by the
1628 commissioner.

1629 All information relating to the collection of use tax by tax
1630 collectors and such records as the commissioner may require shall
1631 be preserved in the tax collector's office for a period of three
1632 (3) years for audit by the commissioner.

1633 **SECTION 19.** Section 27-67-31, Mississippi Code of 1972, is
1634 amended as follows:

1635 27-67-31. All administrative provisions of the sales tax
1636 law, and amendments thereto, including those which fix damages,
1637 penalties and interest for failure to comply with the provisions
1638 of said sales tax law, and all other requirements and duties
1639 imposed upon taxpayer, shall apply to all persons liable for use
1640 taxes under the provisions of this article. The commissioner
1641 shall exercise all power and authority and perform all duties with
1642 respect to taxpayers under this article as are provided in said
1643 sales tax law, except where there is conflict, then the provisions
1644 of this article shall control.

1645 The commissioner may require transportation companies to
1646 permit the examination of waybills, freight bills, or other
1647 documents covering shipments of tangible personal property into
1648 this state.

1649 On or before the fifteenth day of each month, the amount
1650 received from taxes, damages and interest under the provisions of
1651 this article during the preceding month shall be paid and
1652 distributed as follows:

1653 (a) On or before July 15, 1994, through July 15, 2000,
1654 and each succeeding month thereafter, two and two hundred
1655 sixty-six one-thousandths percent (2.266%) of the total use tax
1656 revenue collected during the preceding month under the provisions
1657 of this article shall be deposited in the School Ad Valorem Tax
1658 Reduction Fund created pursuant to Section 37-61-35. On or before
1659 August 15, 2000, and each succeeding month thereafter, two and two
1660 hundred sixty-six one-thousandths percent (2.266%) of the total
1661 use tax revenue collected during the preceding month under the
1662 provisions of this chapter shall be deposited into the School Ad
1663 Valorem Tax Reduction Fund created under Section 37-61-35 until
1664 such time that the total amount deposited into the fund during a
1665 fiscal year equals Four Million Dollars (\$4,000,000.00).
1666 Thereafter, the amounts diverted under this paragraph (a) during
1667 the fiscal year in excess of Four Million Dollars (\$4,000,000.00)
1668 shall be deposited into the Education Enhancement Fund created
1669 under Section 37-61-33 for appropriation by the Legislature as
1670 other education needs and shall not be subject to the percentage
1671 appropriation requirements set forth in Section 37-61-33.

1672 (b) On or before July 15, 1994, and each succeeding
1673 month thereafter, nine and seventy-three one-thousandths percent
1674 (9.073%) of the total use tax revenue collected during the
1675 preceding month under the provisions of this article shall be
1676 deposited into the Education Enhancement Fund created pursuant to
1677 Section 37-61-33.

1678 (c) On or before July 15, 1997, and on or before the
1679 fifteenth day of each succeeding month thereafter, the revenue
1680 collected under the provisions of this article imposed and levied
1681 as a result of Section 27-65-17(2)(a) and the corresponding levy

1682 in Section 27-65-23 on the rental or lease of private carriers of
1683 passengers and light carriers of property as defined in Section
1684 27-51-101 shall be deposited into the Motor Vehicle Ad Valorem Tax
1685 Reduction Fund created pursuant to Section 27-51-105.

1686 (d) On or before July 15, 1997, and on or before the
1687 fifteenth day of each succeeding month thereafter and after the
1688 deposits required by paragraphs (a) and (b) of this section are
1689 made, the remaining revenue collected under the provisions of this
1690 article imposed and levied as a result of Section 27-65-17(1) and
1691 the corresponding levy in Section 27-65-23 on the rental or lease
1692 of private carriers of passengers and light carriers of property
1693 as defined in Section 27-51-101 shall be deposited into the Motor
1694 Vehicle Ad Valorem Tax Reduction Fund created pursuant to Section
1695 27-51-105.

1696 (e) The remainder of the amount received from taxes,
1697 damages and interest under the provisions of this article shall be
1698 paid into the General Fund of the State Treasury by the
1699 commissioner.

1700 **SECTION 20.** Section 27-69-13, Mississippi Code of 1972, is
1701 amended as follows:

1702 27-69-13. There is hereby imposed, levied and assessed, to
1703 be collected and paid as hereinafter provided in this chapter, an
1704 excise tax on each person or dealer in cigarettes, cigars,
1705 stogies, snuff, chewing tobacco, and smoking tobacco, or
1706 substitutes therefor, upon the sale, use, consumption, handling or
1707 distribution in the State of Mississippi, as follows:

1708 (a) (i) On cigarettes, the rate of tax shall be
1709 Eighteen-twentieths of One Cent (18/20 of 1¢) on each cigarette
1710 sold with a maximum length of one hundred twenty (120)
1711 millimeters; any cigarette in excess of this length shall be taxed
1712 as if it were two (2) or more cigarettes. Provided, however, if
1713 the federal tax rate on cigarettes in effect on June 1, 1985, is
1714 reduced, then the rate as provided herein shall be increased by

1715 the amount of the federal tax reduction. Such tax increase shall
1716 take effect on the first day of the month following the effective
1717 date of such reduction in the federal tax rate.

1718 (ii) In addition to the excise tax levied by
1719 paragraph (a)(i) of this subsection, there is levied, imposed and
1720 assessed an excise tax of Eighteen-twentieths of One Cent (18/20
1721 of 1¢) on each cigarette sold with a maximum length of one hundred
1722 twenty (120) millimeters; any cigarette in excess of this length
1723 shall be taxed as if it were two (2) or more cigarettes.

1724 (b) On cigars, cheroots, stogies, snuff, chewing and
1725 smoking tobacco and all other tobacco products except cigarettes,
1726 the rate of tax shall be fifteen percent (15%) of the
1727 manufacturer's list price.

1728 No stamp evidencing the tax herein levied on cigarettes shall
1729 be of a denomination of less than One Cent (1¢), and whenever the
1730 tax computed at the rates herein prescribed on cigarettes shall be
1731 a specified amount, plus a fractional part of One Cent (1¢), the
1732 package shall be stamped for the next full cent; however, the
1733 additional face value of stamps purchased to comply with taxes
1734 imposed by this section after June 1, 1985, shall be subject to a
1735 four percent (4%) discount or compensation to dealers for their
1736 services rather than the eight percent (8%) discount or
1737 compensation allowed by Section 27-69-31.

1738 Every wholesaler shall purchase stamps as provided in this
1739 chapter, and affix the same to all packages of cigarettes handled
1740 by him as herein provided.

1741 The above tax is levied upon the sale, use, gift, possession,
1742 or consumption of tobacco within the State of Mississippi, and the
1743 impact of the tax levied by this chapter is hereby declared to be
1744 on the vendee, user, consumer, or possessor of tobacco in this
1745 state; and when said tax is paid by any other person, such payment
1746 shall be considered as an advance payment and shall thereafter be

1747 added to the price of the tobacco and recovered from the ultimate
1748 consumer or user.

1749 **SECTION 21.** This act shall take effect and be in force from
1750 and after July 1, 2005.