

By: Fleming

To: Ways and Means

HOUSE BILL NO. 110

1 AN ACT TO AMEND SECTIONS 27-65-17 AND 27-65-111, MISSISSIPPI  
2 CODE OF 1972, TO PHASE OUT THE SALES TAX ON THE RETAIL SALES OF  
3 UNPREPARED FOOD FOR HUMAN CONSUMPTION NOT PURCHASED WITH FOOD  
4 STAMPS BUT WHICH WOULD BE EXEMPT FROM SALES TAX IF THE UNPREPARED  
5 FOOD ITEMS WERE PURCHASED WITH FOOD STAMPS; AND FOR RELATED  
6 PURPOSES.

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

8 SECTION 1. Section 27-65-17, Mississippi Code of 1972, is  
9 amended as follows:

10 27-65-17. (1) Upon every person engaging or continuing  
11 within this state in the business of selling any tangible personal  
12 property whatsoever there is hereby levied, assessed and shall be  
13 collected a tax equal to seven percent (7%) of the gross proceeds  
14 of the retail sales of the business, except as otherwise provided  
15 herein.

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

18 Retail sales of farm implements sold to farmers and used  
19 directly in the production of poultry, ratite, domesticated fish  
20 as defined in Section 69-7-501, livestock, livestock products,  
21 agricultural crops or ornamental plant crops or used for other  
22 agricultural purposes shall be taxed at the rate of three percent  
23 (3%) when used on the farm. The three percent (3%) rate shall

24 also apply to all equipment used in logging, pulpwood operations  
25 or tree farming which is either (a) self-propelled or which is (b)  
26 mounted so that it is (i) permanently attached to other equipment  
27 which is self-propelled or (ii) permanently attached to other  
28 equipment drawn by a vehicle which is self-propelled.

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

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

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

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

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

53       Wholesale sales of food and drink for human consumption to  
54 full service vending machine operators to be sold through vending

55 machines located apart from and not connected with other taxable  
56 businesses shall be taxed at the rate of eight percent (8%).

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

60 Any person exercising any privilege taxable under Section  
61 27-65-15 and selling his natural resource products at wholesale or  
62 to exempt persons shall pay the tax levied by said section in lieu  
63 of the tax levied by this section.

64 (2) From and after January 1, 1995, retail sales of private  
65 carriers of passengers and light carriers of property, as defined  
66 in Section 27-51-101, shall be taxed an additional two percent  
67 (2%).

68 (3) In lieu of the tax levied in subsection (1) of this  
69 section, there is levied on retail sales of truck-tractors and  
70 semitrailers used in interstate commerce and registered under the  
71 International Registration Plan (IRP) or any similar reciprocity  
72 agreement or compact relating to the proportional registration of  
73 commercial vehicles entered into as provided for in Section  
74 27-19-143, a tax at the rate of three percent (3%) of the portion  
75 of the sale that is attributable to the usage of such  
76 truck-tractor or semitrailer in Mississippi. The portion of the  
77 retail sale that is attributable to the usage of such  
78 truck-tractor or semitrailer in Mississippi is the retail sales  
79 price of the truck-tractor or semitrailer multiplied by the  
80 percentage of the total miles traveled by the vehicle that are  
81 traveled in Mississippi. The tax levied pursuant to this  
82 subsection (3) shall be collected by the State Tax Commission from

83 the purchaser of such truck-tractor or semitrailer at the time of  
84 registration of such truck-tractor or semitrailer.

85 (4) From and after July 1, 2001, retail sales of food for  
86 human consumption not purchased with food stamps issued by the  
87 United States Department of Agriculture, or other federal agency,  
88 but which would be exempt under Section 27-65-111(o) from the  
89 taxes imposed by this chapter if the food items were purchased  
90 with food stamps shall be taxed as follows:

91 (a) From and after July 1, 2001, through June 30, 2002,  
92 such sales shall be taxed at the rate of four percent (4%);

93 (b) From and after July 1, 2002, through June 30, 2003,  
94 such sales shall be taxed at the rate of two percent (2%);

95 (c) From and after July 1, 2003, such sales shall be  
96 exempt from sales tax as provided in Section 27-65-111.

97 SECTION 2. Section 27-65-111, Mississippi Code of 1972, is  
98 amended as follows:

99 27-65-111. The exemptions from the provisions of this  
100 chapter which are not industrial, agricultural or governmental, or  
101 which do not relate to utilities or taxes, or which are not  
102 properly classified as one of the exemption classifications of  
103 this chapter, shall be confined to persons or property exempted by  
104 this section or by the Constitution of the United States or the  
105 State of Mississippi. No exemptions as now provided by any other  
106 section, except the classified exemption sections of this chapter  
107 set forth herein, shall be valid as against the tax herein levied.  
108 Any subsequent exemption from the tax levied hereunder, except as  
109 indicated above, shall be provided by amendments to this section.

110 No exemption provided in this section shall apply to taxes

111 levied by Section 27-65-15 or 27-65-21.

112         The tax levied by this chapter shall not apply to the  
113 following:

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

119             Only sales of tangible personal property or services which  
120 are ordinary and necessary to the operation of such hospitals and  
121 infirmaries are exempted from tax.

122             (b) Sales of daily or weekly newspapers, and  
123 periodicals or publications of scientific, literary or educational  
124 organizations exempt from federal income taxation under Section  
125 501(c)(3) of the Internal Revenue Code of 1954, as it exists as of  
126 March 31, 1975, and subscription sales of all magazines.

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

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

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

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

139 inures to the benefit of any private shareholder, group or  
140 individual.

141 (g) Sales to elementary and secondary grade schools,  
142 junior and senior colleges owned and operated by a corporation or  
143 association in which no part of the net earnings inures to the  
144 benefit of any private shareholder, group or individual, and which  
145 are exempt from state income taxation, provided that this  
146 exemption does not apply to sales of property or services which  
147 are not to be used in the ordinary operation of the school, or  
148 which are to be resold to the students or the public.

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

151 (i) Prescribed for the treatment of a human being  
152 by a person authorized to prescribe the medicines, and dispensed  
153 or prescription filled by a registered pharmacist in accordance  
154 with law; or

155 (ii) Furnished by a licensed physician, surgeon,  
156 dentist or podiatrist to his own patient for treatment of the  
157 patient; or

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

161 (iv) Sold to a licensed physician, surgeon,  
162 podiatrist, dentist or hospital for the treatment of a human  
163 being; or

164 (v) Sold to this state or any political  
165 subdivision or municipal corporation thereof, for use in the  
166 treatment of a human being or furnished for the treatment of a

167 human being by a medical facility or clinic maintained by this  
168 state or any political subdivision or municipal corporation  
169 thereof.

170 "Medicines," as used in this paragraph, shall mean and  
171 include any substance or preparation intended for use by external  
172 or internal application to the human body in the diagnosis, cure,  
173 mitigation, treatment or prevention of disease and which is  
174 commonly recognized as a substance or preparation intended for  
175 such use; provided that "medicines" do not include any auditory,  
176 prosthetic, ophthalmic or ocular device or appliance, any dentures  
177 or parts thereof or any artificial limbs or their replacement  
178 parts, articles which are in the nature of splints, bandages,  
179 pads, compresses, supports, dressings, instruments, apparatus,  
180 contrivances, appliances, devices or other mechanical, electronic,  
181 optical or physical equipment or article or the component parts  
182 and accessories thereof, or any alcoholic beverage or any other  
183 drug or medicine not commonly referred to as a prescription drug.

184 Notwithstanding the preceding sentence of this subsection,  
185 "medicines" as used in this subsection, shall mean and include  
186 sutures, whether or not permanently implanted, bone screws, bone  
187 pins, pacemakers and other articles permanently implanted in the  
188 human body to assist the functioning of any natural organ, artery,  
189 vein or limb and which remain or dissolve in the body.

190 "Hospital," as used in this paragraph, shall have the meaning  
191 ascribed to it in Section 41-9-3.

192 Insulin furnished by a registered pharmacist to a person for  
193 treatment of diabetes as directed by a physician shall be deemed  
194 to be dispensed on prescription within the meaning of this

195 subsection.

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

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

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

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

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

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

213 (o) Retail sales of food for human consumption  
214 purchased with food stamps issued by the United States Department  
215 of Agriculture, or other federal agency, from and after October 1,  
216 1987, or from and after the expiration of any waiver granted  
217 pursuant to federal law, the effect of which waiver is to permit  
218 the collection by the state of tax on such retail sales of food  
219 for human consumption purchased with food stamps.

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



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

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

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

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

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

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

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

242 (x) The gross collections from the operation of  
243 self-service, coin-operated car washing equipment and sales of the  
244 service of washing motor vehicles with portable high pressure  
245 washing equipment on the premises of the customer.

246 (y) From and after July 1, 2003, retail sales of food  
247 for human consumption not purchased with food stamps issued by the  
248 United States Department of Agriculture, or other federal agency,  
249 but which would be exempt under paragraph (o) of this section from  
250 the taxes imposed by this chapter if the food items were purchased

251 with food stamps.

252           SECTION 3. Nothing in this act shall affect or defeat any  
253 claim, assessment, appeal, suit, right or cause of action for  
254 taxes due or accrued under the sales tax laws before the date on  
255 which this act becomes effective, whether such claims,  
256 assessments, appeals, suits or actions have been begun before the  
257 date on which this act becomes effective or are begun thereafter;  
258 and the provisions of the sales tax laws are expressly continued  
259 in full force, effect and operation for the purpose of the  
260 assessment, collection and enrollment of liens for any taxes due  
261 or accrued and the execution of any warrant under such laws before  
262 the date on which this act becomes effective, and for the  
263 imposition of any penalties, forfeitures or claims for failure to  
264 comply with such laws.

265           SECTION 4. This act shall take effect and be in force from  
266 and after July 1, 2000.