

By: Representative Snowden

To: Ways and Means

HOUSE BILL NO. 706

1 AN ACT TO AMEND SECTION 27-65-17, MISSISSIPPI CODE OF 1972,  
2 TO REDUCE THE SALES TAX RATE ON RETAIL SALES OF FOOD FOR HUMAN  
3 CONSUMPTION NOT PURCHASED WITH FOOD STAMPS BUT WHICH WOULD BE  
4 EXEMPT FROM SALES TAX IF SUCH FOOD WAS PURCHASED WITH FOOD STAMPS;  
5 TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972, TO REVISE THE  
6 DIVERSION OF THE SALES TAX COLLECTED ON SUCH RETAIL SALES OF FOOD  
7 WITHIN A MUNICIPALITY; AND FOR RELATED PURPOSES.

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

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

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

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

19 Retail sales of farm implements sold to farmers and used  
20 directly in the production of poultry, ratite, domesticated fish  
21 as defined in Section 69-7-501, livestock, livestock products,  
22 agricultural crops or ornamental plant crops or used for other  
23 agricultural purposes shall be taxed at the rate of three percent  
24 (3%) when used on the farm. The three percent (3%) rate shall  
25 also apply to all equipment used in logging, pulpwood operations  
26 or tree farming which is either (a) self-propelled or which is (b)  
27 mounted so that it is (i) permanently attached to other equipment  
28 which is self-propelled or (ii) permanently attached to other  
29 equipment drawn by a vehicle which is self-propelled.



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

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

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

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

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

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

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

61 Any person exercising any privilege taxable under Section  
62 27-65-15 and selling his natural resource products at wholesale or



63 to exempt persons shall pay the tax levied by said section in lieu  
64 of the tax levied by this section.

65 (2) From and after January 1, 1995, retail sales of private  
66 carriers of passengers and light carriers of property, as defined  
67 in Section 27-51-101, shall be taxed an additional two percent  
68 (2%).

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

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

93 (a) From and after July 1, 2000, through June 30, 2001,  
94 such sales shall be taxed at the rate of six percent (6%);



95           (b) From and after July 1, 2001, through June 30, 2002,  
96 such sales shall be taxed at the rate of five percent (5%);

97           (c) From and after July 1, 2002, through June 30, 2003,  
98 such sales shall be taxed at the rate of four percent (4%);

99           (d) From and after July 1, 2003, through June 30, 2004,  
100 such sales shall be taxed at the rate of three percent (3%);

101           (e) From and after July 1, 2004, such sales shall be  
102 taxed at the rate of one percent (1%).

103           SECTION 2. Section 27-65-75, Mississippi Code of 1972, is  
104 amended as follows:

105           27-65-75. On or before the fifteenth day of each month, the  
106 revenue collected under the provisions of this chapter during the  
107 preceding month shall be paid and distributed as follows:

108           (1) On or before August 15, 1992, and each succeeding month  
109 thereafter through July 15, 1993, eighteen percent (18%) of the  
110 total sales tax revenue collected during the preceding month under  
111 the provisions of this chapter, except that collected under the  
112 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on  
113 business activities within a municipal corporation shall be  
114 allocated for distribution to such municipality and paid to such  
115 municipal corporation. On or before August 15, 1993, and each  
116 succeeding month thereafter, through July 15, 2003, eighteen and  
117 one-half percent (18-1/2%) of the total sales tax revenue  
118 collected during the preceding month under the provisions of this  
119 chapter, except that collected under the provisions of Sections  
120 27-65-15, 27-65-19(3) and 27-65-21, on business activities within  
121 a municipal corporation shall be allocated for distribution to  
122 such municipality and paid to such municipal corporation. On or  
123 before August 15, 2003, and each succeeding month thereafter,  
124 through July 15, 2004, eighteen and one-half percent (18-1/2%) of  
125 the total sales tax revenue collected during the preceding month  
126 under the provisions of this chapter, except that collected under  
127 the provisions of Sections 27-65-15, 27-65-19(3), 27-65-21 and



128 27-65-17(4), on business activities within a municipal corporation  
129 and twenty-five percent (25%) of the sales tax revenue collected  
130 during the preceding month under the provisions of Section  
131 27-65-17(4) on business activities within a municipal corporation  
132 shall be allocated for distribution to such municipality and paid  
133 to such municipal corporation. On or before August 15, 2004, and  
134 each succeeding month thereafter, through July 15, 2005, eighteen  
135 and one-half percent (18-1/2%) of the total sales tax revenue  
136 collected during the preceding month under the provisions of this  
137 chapter, except that collected under the provisions of Sections  
138 27-65-15, 27-65-19(3), 27-65-21 and 27-65-17(4), on business  
139 activities within a municipal corporation and thirty-three and  
140 three hundred thirty-three one-thousandths percent (33.333%) of  
141 the sales tax revenue collected during the preceding month under  
142 the provisions of Section 27-65-17(4) on business activities  
143 within a municipal corporation shall be allocated for distribution  
144 to such municipality and paid to such municipal corporation. On  
145 or before August 15, 2005, and each succeeding month thereafter,  
146 eighteen and one-half percent (18-1/2%) of the total sales tax  
147 revenue collected during the preceding month under the provisions  
148 of this chapter, except that collected under the provisions of  
149 Sections 27-65-15, 27-65-19(3), 27-65-21 and 27-65-17(4), on  
150 business activities within a municipal corporation and all of the  
151 sales tax revenue collected during the preceding month under the  
152 provisions of Section 27-65-17(4) on business activities within a  
153 municipal corporation shall be allocated for distribution to such  
154 municipality and paid to such municipal corporation.

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

158       Monies allocated for distribution and credited to a municipal  
159 corporation under this subsection may be pledged as security for  
160 any loan received by the municipal corporation for the purpose of



161 capital improvements as authorized under Section 57-1-303, or  
162 loans as authorized under Section 57-44-7, or water systems  
163 improvements as authorized under Section 41-3-16.

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

171 (2) On or before September 15, 1987, and each succeeding  
172 month thereafter, from the revenue collected under this chapter  
173 during the preceding month One Million One Hundred Twenty-five  
174 Thousand Dollars (\$1,125,000.00) shall be allocated for  
175 distribution to municipal corporations as defined under subsection  
176 (1) of this section in the proportion that the number of gallons  
177 of gasoline and diesel fuel sold by distributors to consumers and  
178 retailers in each such municipality during the preceding fiscal  
179 year bears to the total gallons of gasoline and diesel fuel sold  
180 by distributors to consumers and retailers in municipalities  
181 statewide during the preceding fiscal year. The State Tax  
182 Commission shall require all distributors of gasoline and diesel  
183 fuel to report to the commission monthly the total number of  
184 gallons of gasoline and diesel fuel sold by them to consumers and  
185 retailers in each municipality during the preceding month. The  
186 State Tax Commission shall have the authority to promulgate such  
187 rules and regulations as is necessary to determine the number of  
188 gallons of gasoline and diesel fuel sold by distributors to  
189 consumers and retailers in each municipality. In determining the  
190 percentage allocation of funds under this subsection for the  
191 fiscal year beginning July 1, 1987, and ending June 30, 1988, the  
192 State Tax Commission may consider gallons of gasoline and diesel  
193 fuel sold for a period of less than one (1) fiscal year. For the



194 purposes of this subsection, the term "fiscal year" means the  
195 fiscal year beginning July 1 of a year.

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

208 (4) On or before August 15, 1994, and on or before the  
209 fifteenth day of each succeeding month through July 15, 1999, from  
210 the proceeds of gasoline, diesel fuel or kerosene taxes as  
211 provided in Section 27-5-101(a)(ii)1, Four Million Dollars  
212 (\$4,000,000.00) shall be deposited in the State Treasury to the  
213 credit of a special fund designated as the "State Aid Road Fund,"  
214 created by Section 65-9-17. On or before August 15, 1999, and on  
215 or before the fifteenth day of each succeeding month, from the  
216 total amount of the proceeds of gasoline, diesel fuel or kerosene  
217 taxes apportioned by Section 27-5-101(a)(ii), Four Million Dollars  
218 (\$4,000,000.00) or an amount equal to twenty-three and one-fourth  
219 percent (23.25%) of such funds, whichever is the greater amount,  
220 shall be deposited in the State Treasury to the credit of the  
221 "State Aid Road Fund," created by Section 65-9-17. Such funds  
222 shall be pledged to pay the principal of and interest on state aid  
223 road bonds heretofore issued under Sections 19-9-51 through  
224 19-9-77, in lieu of and in substitution for the funds heretofore  
225 allocated to counties under this section. Such funds may not be  
226 pledged for the payment of any state aid road bonds issued after



227 April 1, 1981; however, this prohibition against the pledging of  
228 any such funds for the payment of bonds shall not apply to any  
229 bonds for which intent to issue such bonds has been published, for  
230 the first time, as provided by law prior to March 29, 1981. From  
231 the amount of taxes paid into the special fund pursuant to this  
232 subsection and subsection (9) of this section, there shall be  
233 first deducted and paid the amount necessary to pay the expenses  
234 of the Office of State Aid Road Construction, as authorized by the  
235 Legislature for all other general and special fund agencies. The  
236 remainder of the fund shall be allocated monthly to the several  
237 counties in accordance with the following formula:

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

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

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

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

251           The amount of funds allocated to any county under this  
252 subsection for any fiscal year after fiscal year 1994 shall not be  
253 less than the amount allocated to such county for fiscal year  
254 1994. Monies allocated to a county from the State Aid Road Fund  
255 for fiscal year 1995 or any fiscal year thereafter that exceed the  
256 amount of funds allocated to that county from the State Aid Road  
257 Fund for fiscal year 1994, first must be expended by the county  
258 for replacement or rehabilitation of bridges on the state aid road  
259 system that have a sufficiency rating of less than twenty-five





260 (25), according to National Bridge Inspection standards before  
261 such monies may be approved for expenditure by the State Aid Road  
262 Engineer on other projects that qualify for the use of state aid  
263 road funds.

264 Any reference in the general laws of this state or the  
265 Mississippi Code of 1972 to Section 27-5-105 shall mean and be  
266 construed to refer and apply to subsection (4) of Section  
267 27-65-75.

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

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

279 (7) On or before August 15, 1992, and each succeeding month  
280 thereafter through July 15, 2000, two and two hundred sixty-six  
281 one-thousandths percent (2.266%) of the total sales tax revenue  
282 collected during the preceding month under the provisions of this  
283 chapter, except that collected under the provisions of Section  
284 27-65-17(2) shall be deposited by the commission into the School  
285 Ad Valorem Tax Reduction Fund created pursuant to Section  
286 37-61-35. On or before August 15, 2000, and each succeeding month  
287 thereafter, two and two hundred sixty-six one-thousandths percent  
288 (2.266%) of the total sales tax revenue collected during the  
289 preceding month under the provisions of this chapter, except that  
290 collected under the provisions of Section 27-65-17(2), shall be  
291 deposited into the School Ad Valorem Tax Reduction Fund created  
292 under Section 37-61-35 until such time that the total amount



293 deposited into the fund during a fiscal year equals Forty-two  
294 Million Dollars (\$42,000,000.00). Thereafter, the amounts  
295 diverted under this subsection (7) during the fiscal year in  
296 excess of Forty-two Million Dollars (\$42,000,000.00) shall be  
297 deposited into the Education Enhancement Fund created under  
298 Section 37-61-33 for appropriation by the Legislature as other  
299 education needs and shall not be subject to the percentage  
300 appropriation requirements set forth in Section 37-61-33.

301 (8) On or before August 15, 1992, and each succeeding month  
302 thereafter, nine and seventy-three one-thousandths percent  
303 (9.073%) of the total sales tax revenue collected during the  
304 preceding month under the provisions of this chapter, except that  
305 collected under the provisions of Section 27-65-17(2) shall be  
306 deposited into the Education Enhancement Fund created pursuant to  
307 Section 37-61-33.

308 (9) On or before August 15, 1994, and each succeeding month  
309 thereafter, from the revenue collected under this chapter during  
310 the preceding month, Two Hundred Fifty Thousand Dollars  
311 (\$250,000.00) shall be paid into the State Aid Road Fund.

312 (10) On or before August 15, 1994, and each succeeding month  
313 thereafter through August 15, 1995, from the revenue collected  
314 under this chapter during the preceding month, Two Million Dollars  
315 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad  
316 Valorem Tax Reduction Fund established in Section 27-51-105.

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



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

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

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

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

356           (16) On or before August 15, 2000, and each succeeding month  
357 thereafter, the sales tax revenue collected during the preceding  
358 month under the provisions of this chapter on the gross proceeds



359 of sales of a project as defined in Section 57-30-1 shall be  
360 deposited, after all diversions except the diversion provided for  
361 in subsection (1) of this section, into the Sales Tax Incentive  
362 Fund created in Section 57-30-3.

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

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

379 SECTION 3. Nothing in this act shall affect or defeat any  
380 claim, assessment, appeal, suit, right or cause of action for  
381 taxes due or accrued under the sales tax laws before the date on  
382 which this act becomes effective, whether such claims,  
383 assessments, appeals, suits or actions have been begun before the  
384 date on which this act becomes effective or are begun thereafter;  
385 and the provisions of the sales tax laws are expressly continued  
386 in full force, effect and operation for the purpose of the  
387 assessment, collection and enrollment of liens for any taxes due  
388 or accrued and the execution of any warrant under such laws before  
389 the date on which this act becomes effective, and for the  
390 imposition of any penalties, forfeitures or claims for failure to  
391 comply with such laws.



392 SECTION 4. This act shall take effect and be in force from  
393 and after July 1, 2001.

