

By: Representative Snowden

To: Ways and Means

HOUSE BILL NO. 1694

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 PROVIDE
 6 THAT ALL OF THE SALES TAX COLLECTED ON SUCH RETAIL SALES OF FOOD
 7 WITHIN A MUNICIPALITY SHALL BE ALLOCATED FOR DISTRIBUTION AND PAID
 8 TO SUCH MUNICIPALITY; AND FOR RELATED PURPOSES.

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

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

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

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

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



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

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

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

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

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

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

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

62 Any person exercising any privilege taxable under Section
63 27-65-15 and selling his natural resource products at wholesale or



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

66 (2) From and after January 1, 1995, retail sales of private
67 carriers of passengers and light carriers of property, as defined
68 in Section 27-51-101, shall be taxed an additional two percent
69 (2%).

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

87 (4) From and after July 1, 2002, in lieu of the tax levied
88 in subsection (1) of this section, retail sales of food for human
89 consumption not purchased with food stamps issued by the United
90 States Department of Agriculture, or other federal agency, but
91 which would be exempt from the taxes imposed by this chapter under
92 Section 27-65-111(o) if the food items were purchased with food
93 stamps, shall be taxed as follows:

94 (a) From and after July 1, 2002, through June 30, 2004,
95 such sales shall be taxed at the rate of one and three-tenths
96 percent (1.3%);



97 (b) From and after July 1, 2004, such sales shall be
98 taxed at the rate of one percent (1%).

99 **SECTION 2.** Section 27-65-75, Mississippi Code of 1972, is
100 amended as follows:

101 27-65-75. On or before the fifteenth day of each month, the
102 revenue collected under the provisions of this chapter during the
103 preceding month shall be paid and distributed as follows:

104 (1) On or before August 15, 1992, and each succeeding month
105 thereafter through July 15, 1993, eighteen percent (18%) of the
106 total sales tax revenue collected during the preceding month under
107 the provisions of this chapter, except that collected under the
108 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
109 business activities within a municipal corporation shall be
110 allocated for distribution to such municipality and paid to such
111 municipal corporation. On or before August 15, 1993, and each
112 succeeding month thereafter through July 15, 2002, eighteen and
113 one-half percent (18-1/2%) of the total sales tax revenue
114 collected during the preceding month under the provisions of this
115 chapter, except that collected under the provisions of Sections
116 27-65-15, 27-65-19(3) and 27-65-21, on business activities within
117 a municipal corporation shall be allocated for distribution to
118 such municipality and paid to such municipal corporation. On or
119 before August 15, 2002, and each succeeding month thereafter,
120 eighteen and one-half percent (18-1/2%) of the total sales tax
121 revenue collected during the preceding month under the provisions
122 of this chapter, except that collected under the provisions of
123 Sections 27-65-15, 27-65-19(3), 27-65-21 and 27-65-17(4), on
124 business activities within a municipal corporation and all of the
125 sales tax revenue collected during the preceding month under the
126 provisions of Section 27-65-17(4) on business activities within a
127 municipal corporation shall be allocated for distribution to such
128 municipality and paid to such municipal corporation.



129 A municipal corporation, for the purpose of distributing the
130 tax under this subsection, shall mean and include all incorporated
131 cities, towns and villages.

132 Monies allocated for distribution and credited to a municipal
133 corporation under this subsection may be pledged as security for
134 any loan received by the municipal corporation for the purpose of
135 capital improvements as authorized under Section 57-1-303, or
136 loans as authorized under Section 57-44-7, or water systems
137 improvements as authorized under Section 41-3-16.

138 In any county having a county seat which is not an
139 incorporated municipality, the distribution provided hereunder
140 shall be made as though the county seat was an incorporated
141 municipality; however, the distribution to such municipality shall
142 be paid to the county treasury wherein the municipality is located
143 and such funds shall be used for road, bridge and street
144 construction or maintenance therein.

145 (2) On or before September 15, 1987, and each succeeding
146 month thereafter, from the revenue collected under this chapter
147 during the preceding month One Million One Hundred Twenty-five
148 Thousand Dollars (\$1,125,000.00) shall be allocated for
149 distribution to municipal corporations as defined under subsection
150 (1) of this section in the proportion that the number of gallons
151 of gasoline and diesel fuel sold by distributors to consumers and
152 retailers in each such municipality during the preceding fiscal
153 year bears to the total gallons of gasoline and diesel fuel sold
154 by distributors to consumers and retailers in municipalities
155 statewide during the preceding fiscal year. The State Tax
156 Commission shall require all distributors of gasoline and diesel
157 fuel to report to the commission monthly the total number of
158 gallons of gasoline and diesel fuel sold by them to consumers and
159 retailers in each municipality during the preceding month. The
160 State Tax Commission shall have the authority to promulgate such
161 rules and regulations as is necessary to determine the number of



162 gallons of gasoline and diesel fuel sold by distributors to
163 consumers and retailers in each municipality. In determining the
164 percentage allocation of funds under this subsection for the
165 fiscal year beginning July 1, 1987, and ending June 30, 1988, the
166 State Tax Commission may consider gallons of gasoline and diesel
167 fuel sold for a period of less than one (1) fiscal year. For the
168 purposes of this subsection, the term "fiscal year" means the
169 fiscal year beginning July 1 of a year.

170 (3) On or before September 15, 1987, and on or before the
171 fifteenth day of each succeeding month, until the date specified
172 in Section 65-39-35, the proceeds derived from contractors' taxes
173 levied under Section 27-65-21 on contracts for the construction or
174 reconstruction of highways designated under the Four-Lane Highway
175 Program created under Section 65-3-97 shall, except as otherwise
176 provided in Section 31-17-127, be deposited into the State
177 Treasury to the credit of the State Highway Fund to be used to
178 fund such Four-Lane Highway Program. The Mississippi Department
179 of Transportation shall provide to the State Tax Commission such
180 information as is necessary to determine the amount of proceeds to
181 be distributed under this subsection.

182 (4) On or before August 15, 1994, and on or before the
183 fifteenth day of each succeeding month through July 15, 1999, from
184 the proceeds of gasoline, diesel fuel or kerosene taxes as
185 provided in Section 27-5-101(a)(ii)1, Four Million Dollars
186 (\$4,000,000.00) shall be deposited in the State Treasury to the
187 credit of a special fund designated as the "State Aid Road Fund,"
188 created by Section 65-9-17. On or before August 15, 1999, and on
189 or before the fifteenth day of each succeeding month, from the
190 total amount of the proceeds of gasoline, diesel fuel or kerosene
191 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million
192 Dollars (\$4,000,000.00) or an amount equal to twenty-three and
193 one-fourth percent (23.25%) of such funds, whichever is the
194 greater amount, shall be deposited in the State Treasury to the



195 credit of the "State Aid Road Fund," created by Section 65-9-17.
196 Such funds shall be pledged to pay the principal of and interest
197 on state aid road bonds heretofore issued under Sections 19-9-51
198 through 19-9-77, in lieu of and in substitution for the funds
199 heretofore allocated to counties under this section. Such funds
200 may not be pledged for the payment of any state aid road bonds
201 issued after April 1, 1981; however, this prohibition against the
202 pledging of any such funds for the payment of bonds shall not
203 apply to any bonds for which intent to issue such bonds has been
204 published, for the first time, as provided by law prior to March
205 29, 1981. From the amount of taxes paid into the special fund
206 pursuant to this subsection and subsection (9) of this section,
207 there shall be first deducted and paid the amount necessary to pay
208 the expenses of the Office of State Aid Road Construction, as
209 authorized by the Legislature for all other general and special
210 fund agencies. The remainder of the fund shall be allocated
211 monthly to the several counties in accordance with the following
212 formula:

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

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

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

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

226 The amount of funds allocated to any county under this
227 subsection for any fiscal year after fiscal year 1994 shall not be



228 less than the amount allocated to such county for fiscal year
229 1994. Monies allocated to a county from the State Aid Road Fund
230 for fiscal year 1995 or any fiscal year thereafter that exceed the
231 amount of funds allocated to that county from the State Aid Road
232 Fund for fiscal year 1994, first must be expended by the county
233 for replacement or rehabilitation of bridges on the state aid road
234 system that have a sufficiency rating of less than twenty-five
235 (25), according to National Bridge Inspection standards before
236 such monies may be approved for expenditure by the State Aid Road
237 Engineer on other projects that qualify for the use of state aid
238 road funds.

239 Any reference in the general laws of this state or the
240 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
241 construed to refer and apply to subsection (4) of Section
242 27-65-75.

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

249 (6) An amount each month beginning August 15, 1983, through
250 November 15, 1986, as specified in Section 6 of Chapter 542, Laws
251 of 1983, shall be paid into the special fund known as the
252 Correctional Facilities Construction Fund created in Section 6 of
253 Chapter 542, Laws of 1983.

254 (7) On or before August 15, 1992, and each succeeding month
255 thereafter through July 15, 2000, two and two hundred sixty-six
256 one-thousandths percent (2.266%) of the total sales tax revenue
257 collected during the preceding month under the provisions of this
258 chapter, except that collected under the provisions of Section
259 27-65-17(2) shall be deposited by the commission into the School
260 Ad Valorem Tax Reduction Fund created pursuant to Section



261 37-61-35. On or before August 15, 2000, and each succeeding month
262 thereafter, two and two hundred sixty-six one-thousandths percent
263 (2.266%) of the total sales tax revenue collected during the
264 preceding month under the provisions of this chapter, except that
265 collected under the provisions of Section 27-65-17(2), shall be
266 deposited into the School Ad Valorem Tax Reduction Fund created
267 under Section 37-61-35 until such time that the total amount
268 deposited into the fund during a fiscal year equals Forty-two
269 Million Dollars (\$42,000,000.00). Thereafter, the amounts
270 diverted under this subsection (7) during the fiscal year in
271 excess of Forty-two Million Dollars (\$42,000,000.00) shall be
272 deposited into the Education Enhancement Fund created under
273 Section 37-61-33 for appropriation by the Legislature as other
274 education needs and shall not be subject to the percentage
275 appropriation requirements set forth in Section 37-61-33.

276 (8) On or before August 15, 1992, and each succeeding month
277 thereafter, nine and seventy-three one-thousandths percent
278 (9.073%) of the total sales tax revenue collected during the
279 preceding month under the provisions of this chapter, except that
280 collected under the provisions of Section 27-65-17(2) shall be
281 deposited into the Education Enhancement Fund created pursuant to
282 Section 37-61-33.

283 (9) On or before August 15, 1994, and each succeeding month
284 thereafter, from the revenue collected under this chapter during
285 the preceding month, Two Hundred Fifty Thousand Dollars
286 (\$250,000.00) shall be paid into the State Aid Road Fund.

287 (10) On or before August 15, 1994, and each succeeding month
288 thereafter through August 15, 1995, from the revenue collected
289 under this chapter during the preceding month, Two Million Dollars
290 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
291 Valorem Tax Reduction Fund established in Section 27-51-105.

292 (11) Notwithstanding any other provision of this section to
293 the contrary, on or before February 15, 1995, and each succeeding



294 month thereafter, the sales tax revenue collected during the
295 preceding month under the provisions of Section 27-65-17(2) and
296 the corresponding levy in Section 27-65-23 on the rental or lease
297 of private carriers of passengers and light carriers of property
298 as defined in Section 27-51-101 shall be deposited, without
299 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund
300 established in Section 27-51-105.

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

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

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

325 (15) Notwithstanding any other provision of this section to
326 the contrary, on or before September 15, 2000, and each succeeding



327 month thereafter, the sales tax revenue collected during the
328 preceding month under the provisions of Section 27-65-19(1)(f),
329 shall be deposited, without diversion, into the Telecommunications
330 Ad Valorem Tax Reduction Fund established in Section 27-38-7.

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

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

341 (18) It shall be the duty of the municipal officials of any
342 municipality which expands its limits, or of any community which
343 incorporates as a municipality, to notify the commissioner of such
344 action thirty (30) days before the effective date. Failure to so
345 notify the commissioner shall cause such municipality to forfeit
346 the revenue which it would have been entitled to receive during
347 this period of time when the commissioner had no knowledge of the
348 action. If any funds have been erroneously disbursed to any
349 municipality or any overpayment of tax is recovered by the
350 taxpayer, the commissioner may make correction and adjust the
351 error or overpayment with such municipality by withholding the
352 necessary funds from any subsequent payment to be made to the
353 municipality.

354 **SECTION 3.** Nothing in this act shall affect or defeat any
355 claim, assessment, appeal, suit, right or cause of action for
356 taxes due or accrued under the sales tax laws before the date on
357 which this act becomes effective, whether such claims,
358 assessments, appeals, suits or actions have been begun before the
359 date on which this act becomes effective or are begun thereafter;



360 and the provisions of the sales tax laws are expressly continued
361 in full force, effect and operation for the purpose of the
362 assessment, collection and enrollment of liens for any taxes due
363 or accrued and the execution of any warrant under such laws before
364 the date on which this act becomes effective, and for the
365 imposition of any penalties, forfeitures or claims for failure to
366 comply with such laws.

367 **SECTION 4.** This act shall take effect and be in force from
368 and after July 1, 2002.

