

By: Representative Snowden

To: Ways and Means

HOUSE BILL NO. 1695

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 1.3%; TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972, TO
6 PROVIDE THAT ALL OF THE SALES TAX COLLECTED ON SUCH RETAIL SALES
7 OF FOOD WITHIN A MUNICIPALITY SHALL BE ALLOCATED FOR DISTRIBUTION
8 AND PAID TO SUCH MUNICIPALITY; TO INCREASE THE AMOUNT OF THE SALES
9 TAX DIVERSION TO THE SCHOOL AD VALOREM TAX REDUCTION FUND AND THE
10 EDUCATION ENHANCEMENT FUND; AND FOR RELATED PURPOSES.

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

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

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

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

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



31 which is self-propelled or (ii) permanently attached to other
32 equipment drawn by a vehicle which is self-propelled.

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

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

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

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

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

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

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



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

68 (2) From and after January 1, 1995, retail sales of private
69 carriers of passengers and light carriers of property, as defined
70 in Section 27-51-101, shall be taxed an additional two percent
71 (2%).

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

89 (4) From and after July 1, 2002, in lieu of the tax levied
90 in subsection (1) of this section, retail sales of food for human
91 consumption not purchased with food stamps issued by the United
92 States Department of Agriculture, or other federal agency, but
93 which would be exempt from the taxes imposed by this chapter under
94 Section 27-65-111(o) if the food items were purchased with food
95 stamps, shall be taxed at the rate of one and three-tenths percent
96 (1.3%).



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

99 27-65-75. On or before the fifteenth day of each month, the
100 revenue collected under the provisions of this chapter during the
101 preceding month shall be paid and distributed as follows:

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

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



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

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

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



163 fiscal year beginning July 1, 1987, and ending June 30, 1988, the
164 State Tax Commission may consider gallons of gasoline and diesel
165 fuel sold for a period of less than one (1) fiscal year. For the
166 purposes of this subsection, the term "fiscal year" means the
167 fiscal year beginning July 1 of a year.

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

180 (4) On or before August 15, 1994, and on or before the
181 fifteenth day of each succeeding month through July 15, 1999, from
182 the proceeds of gasoline, diesel fuel or kerosene taxes as
183 provided in Section 27-5-101(a)(ii)1, Four Million Dollars
184 (\$4,000,000.00) shall be deposited in the State Treasury to the
185 credit of a special fund designated as the "State Aid Road Fund,"
186 created by Section 65-9-17. On or before August 15, 1999, and on
187 or before the fifteenth day of each succeeding month, from the
188 total amount of the proceeds of gasoline, diesel fuel or kerosene
189 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million
190 Dollars (\$4,000,000.00) or an amount equal to twenty-three and
191 one-fourth percent (23.25%) of such funds, whichever is the
192 greater amount, shall be deposited in the State Treasury to the
193 credit of the "State Aid Road Fund," created by Section 65-9-17.
194 Such funds shall be pledged to pay the principal of and interest
195 on state aid road bonds heretofore issued under Sections 19-9-51



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

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

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

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

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

224 The amount of funds allocated to any county under this
225 subsection for any fiscal year after fiscal year 1994 shall not be
226 less than the amount allocated to such county for fiscal year
227 1994. Monies allocated to a county from the State Aid Road Fund
228 for fiscal year 1995 or any fiscal year thereafter that exceed the



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

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

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

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

252 (7) On or before August 15, 1992, and each succeeding month
253 thereafter through July 15, 2000, two and two hundred sixty-six
254 one-thousandths percent (2.266%) of the total sales tax revenue
255 collected during the preceding month under the provisions of this
256 chapter, except that collected under the provisions of Section
257 27-65-17(2) shall be deposited by the commission into the School
258 Ad Valorem Tax Reduction Fund created pursuant to Section
259 37-61-35. On or before August 15, 2000, and each succeeding month
260 thereafter through July 15, 2002, two and two hundred sixty-six
261 one-thousandths percent (2.266%) of the total sales tax revenue



262 collected during the preceding month under the provisions of this
263 chapter, except that collected under the provisions of Section
264 27-65-17(2), shall be deposited into the School Ad Valorem Tax
265 Reduction Fund created under Section 37-61-35 until such time that
266 the total amount deposited into the fund during a fiscal year
267 equals Forty-two Million Dollars (\$42,000,000.00). Thereafter,
268 the amounts diverted under this subsection (7) during the fiscal
269 year in excess of Forty-two Million Dollars (\$42,000,000.00) shall
270 be deposited into the Education Enhancement Fund created under
271 Section 37-61-33 for appropriation by the Legislature as other
272 education needs and shall not be subject to the percentage
273 appropriation requirements set forth in Section 37-61-33. On or
274 before August 15, 2002, and each succeeding month thereafter, two
275 and five hundred ninety-eight one-thousandths percent (2.598%) of
276 the total sales tax revenue collected during the preceding month
277 under the provisions of this chapter, except that collected under
278 the provisions of Section 27-65-17(2), and that collected under
279 the provisions of Section 27-65-17(4) on business activities
280 within a municipal corporation, shall be deposited into the School
281 Ad Valorem Tax Reduction Fund created under Section 37-61-35 until
282 such time that the total amount deposited into the fund during a
283 fiscal year equals Forty-two Million Dollars (\$42,000,000.00).
284 Thereafter, the amounts diverted under this subsection (7) during
285 the fiscal year in excess of Forty-two Million Dollars
286 (\$42,000,000.00) shall be deposited into the Education Enhancement
287 Fund created under Section 37-61-33 for appropriation by the
288 Legislature as other education needs and shall not be subject to
289 the percentage appropriation requirements set forth in Section
290 37-61-33.

291 (8) On or before August 15, 1992, and each succeeding month
292 thereafter through July 15, 2002, nine and seventy-three
293 one-thousandths percent (9.073%) of the total sales tax revenue
294 collected during the preceding month under the provisions of this



295 chapter, except that collected under the provisions of Section
296 27-65-17(2) shall be deposited into the Education Enhancement Fund
297 created pursuant to Section 37-61-33. On or before August 15,
298 2002, and each succeeding month thereafter, ten and four hundred
299 twenty-six one-thousandths percent (10.426%) of the total sales
300 tax revenue collected during the preceding month under the
301 provisions of this chapter, except that collected under the
302 provisions of Section 27-65-17(2), and that collected under the
303 provisions of Section 27-65-17(4) on business activities within a
304 municipal corporation, shall be deposited into the Education
305 Enhancement Fund created pursuant to Section 37-61-33.

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

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

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

324 (12) Notwithstanding any other provision of this section to
325 the contrary, on or before August 15, 1995, and each succeeding
326 month thereafter, the sales tax revenue collected during the
327 preceding month under the provisions of Section 27-65-17(1) on



328 retail sales of private carriers of passengers and light carriers
329 of property, as defined in Section 27-51-101 and the corresponding
330 levy in Section 27-65-23 on the rental or lease of these vehicles,
331 shall be deposited, after diversion, into the Motor Vehicle Ad
332 Valorem Tax Reduction Fund established in Section 27-51-105.

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

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

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

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



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

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

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

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

