

By: Representative Snowden

To: Ways and Means

HOUSE BILL NO. 343

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

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

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

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

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

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



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

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

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

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

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

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

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

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



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

69 (2) From and after January 1, 1995, retail sales of private
70 carriers of passengers and light carriers of property, as defined
71 in Section 27-51-101, shall be taxed an additional two percent
72 (2%).

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

90 (4) From and after July 1, 2003, in lieu of the tax levied
91 in subsection (1) of this section, retail sales of food for human
92 consumption not purchased with food stamps issued by the United
93 States Department of Agriculture, or other federal agency, but
94 which would be exempt under Section 27-65-111(o) from the taxes
95 imposed by this chapter if the food were purchased with food
96 stamps, shall be taxed at the rate of one and three-tenths percent
97 (1.3%).



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

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

103 (1) On or before August 15, 1992, and each succeeding month
104 thereafter through July 15, 1993, eighteen percent (18%) of the
105 total sales tax revenue collected during the preceding month under
106 the provisions of this chapter, except that collected under the
107 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
108 business activities within a municipal corporation shall be
109 allocated for distribution to such municipality and paid to such
110 municipal corporation. On or before August 15, 1993, and each
111 succeeding month thereafter through July 15, 2003, eighteen and
112 one-half percent (18-1/2%) of the total sales tax revenue
113 collected during the preceding month under the provisions of this
114 chapter, except that collected under the provisions of Sections
115 27-65-15, 27-65-19(3) and 27-65-21, on business activities within
116 a municipal corporation shall be allocated for distribution to
117 such municipality and paid to such municipal corporation. On or
118 before August 15, 2002, and each succeeding month thereafter,
119 eighteen and one-half percent (18-1/2%) of the total sales tax
120 revenue collected during the preceding month under the provisions
121 of this chapter, except that collected under the provisions of
122 Sections 27-65-15, 27-65-19(3), 27-65-21 and 27-65-17(4), on
123 business activities within a municipal corporation, and all of the
124 sales tax revenue collected during the preceding month under the
125 provisions of Section 27-65-17(4) on business activities within a
126 municipal corporation shall be allocated for distribution to such
127 municipality and paid to such municipal corporation.

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



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

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

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



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

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

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



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

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

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

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

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

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



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

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

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

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

253 (7) On or before August 15, 1992, and each succeeding month
254 thereafter through July 15, 2000, two and two hundred sixty-six
255 one-thousandths percent (2.266%) of the total sales tax revenue
256 collected during the preceding month under the provisions of this
257 chapter, except that collected under the provisions of Section
258 27-65-17(2) shall be deposited by the commission into the School
259 Ad Valorem Tax Reduction Fund created pursuant to Section
260 37-61-35. On or before August 15, 2000, and each succeeding month
261 thereafter through July 15, 2003, two and two hundred sixty-six
262 one-thousandths percent (2.266%) of the total sales tax revenue



263 collected during the preceding month under the provisions of this
264 chapter, except that collected under the provisions of Section
265 27-65-17(2), shall be deposited into the School Ad Valorem Tax
266 Reduction Fund created under Section 37-61-35 until such time that
267 the total amount deposited into the fund during a fiscal year
268 equals Forty-two Million Dollars (\$42,000,000.00). Thereafter,
269 the amounts diverted under this subsection (7) during the fiscal
270 year in excess of Forty-two Million Dollars (\$42,000,000.00) shall
271 be deposited into the Education Enhancement Fund created under
272 Section 37-61-33 for appropriation by the Legislature as other
273 education needs and shall not be subject to the percentage
274 appropriation requirements set forth in Section 37-61-33. On or
275 before August 15, 2003, and each succeeding month thereafter, two
276 and five hundred ninety-eight one-thousandths percent (2.598%) of
277 the total sales tax revenue collected during the preceding month
278 under the provisions of this chapter, except that collected under
279 the provisions of Section 27-65-17(2), and that collected under
280 the provisions of Section 27-65-17(4) on business activities
281 within a municipal corporation, shall be deposited into the School
282 Ad Valorem Tax Reduction Fund created under Section 37-61-35 until
283 such time that the total amount deposited into the fund during a
284 fiscal year equals Forty-two Million Dollars (\$42,000,000.00).
285 Thereafter, the amounts diverted under this subsection (7) during
286 the fiscal year in excess of Forty-two Million Dollars
287 (\$42,000,000.00) shall be deposited into the Education Enhancement
288 Fund created under Section 37-61-33 for appropriation by the
289 Legislature as other education needs and shall not be subject to
290 the percentage appropriation requirements set forth in Section
291 37-61-33.

292 (8) On or before August 15, 1992, and each succeeding month
293 thereafter through July 15, 2003, nine and seventy-three
294 one-thousandths percent (9.073%) of the total sales tax revenue
295 collected during the preceding month under the provisions of this



296 chapter, except that collected under the provisions of Section
297 27-65-17(2) shall be deposited into the Education Enhancement Fund
298 created pursuant to Section 37-61-33. On or before August 15,
299 2003, and each succeeding month thereafter, ten and four hundred
300 twenty-six one-thousandths percent (10.426%) of the total sales
301 tax revenue collected during the preceding month under the
302 provisions of this chapter, except that collected under the
303 provisions of Section 27-65-17(2), and that collected under the
304 provisions of Section 27-65-17(4) on business activities within a
305 municipal corporation, shall be deposited into the Education
306 Enhancement Fund created pursuant to Section 37-61-33.

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

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

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

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



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

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

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

349 (15) Notwithstanding any other provision of this section to
350 the contrary, on or before September 15, 2000, and each succeeding
351 month thereafter, the sales tax revenue collected during the
352 preceding month under the provisions of Section 27-65-19(1)(f) and
353 (g)(i)2, shall be deposited, without diversion, into the
354 Telecommunications Ad Valorem Tax Reduction Fund established in
355 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) Notwithstanding any other provision of this section to
364 the contrary, on or before April 15, 2002, and each succeeding
365 month thereafter, the sales tax revenue collected during the
366 preceding month under Section 27-65-23 on sales of parking
367 services of parking garages and lots at airports shall be
368 deposited, without diversion, into the special fund created
369 pursuant to Section 27-5-101(d).

370 (18) The remainder of the amounts collected under the
371 provisions of this chapter shall be paid into the State Treasury
372 to the credit of the General Fund.

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

386 **SECTION 3.** Nothing in this act shall affect or defeat any
387 claim, assessment, appeal, suit, right or cause of action for
388 taxes due or accrued under the sales tax laws before the date on
389 which this act becomes effective, whether such claims,
390 assessments, appeals, suits or actions have been begun before the
391 date on which this act becomes effective or are begun thereafter;
392 and the provisions of the sales tax laws are expressly continued
393 in full force, effect and operation for the purpose of the



394 assessment, collection and enrollment of liens for any taxes due
395 or accrued and the execution of any warrant under such laws before
396 the date on which this act becomes effective, and for the
397 imposition of any penalties, forfeitures or claims for failure to
398 comply with such laws.

399 **SECTION 4.** This act shall take effect and be in force from
400 and after July 1, 2003.

