

By: Representative Snowden

To: Ways and Means

HOUSE BILL NO. 344

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 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; 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, 2003, 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 under Section 27-65-111(o) from the taxes  
92 imposed by this chapter if the food were purchased with food  
93 stamps, shall be taxed as follows:

94 (a) From and after July 1, 2003, through June 30, 2005,  
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, 2005, 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, 2003, 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, 2003, 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 highway program  
175 created under Section 65-3-97 shall, except as otherwise provided  
176 in Section 31-17-127, be deposited into the State Treasury to the  
177 credit of the State Highway Fund to be used to fund such Four-Lane  
178 Highway Program. The Mississippi Department of Transportation  
179 shall provide to the State Tax Commission such information as is  
180 necessary to determine the amount of proceeds to be distributed  
181 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) and  
329 (g)(i)2, shall be deposited, without diversion, into the  
330 Telecommunications Ad Valorem Tax Reduction Fund established in  
331 Section 27-38-7.

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

339 (17) Notwithstanding any other provision of this section to  
340 the contrary, on or before April 15, 2002, and each succeeding  
341 month thereafter, the sales tax revenue collected during the  
342 preceding month under Section 27-65-23 on sales of parking  
343 services of parking garages and lots at airports shall be  
344 deposited, without diversion, into the special fund created  
345 pursuant to Section 27-5-101(d).

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

349 (19) It shall be the duty of the municipal officials of any  
350 municipality which expands its limits, or of any community which  
351 incorporates as a municipality, to notify the commissioner of such  
352 action thirty (30) days before the effective date. Failure to so  
353 notify the commissioner shall cause such municipality to forfeit  
354 the revenue which it would have been entitled to receive during  
355 this period of time when the commissioner had no knowledge of the  
356 action. If any funds have been erroneously disbursed to any  
357 municipality or any overpayment of tax is recovered by the  
358 taxpayer, the commissioner may make correction and adjust the  
359 error or overpayment with such municipality by withholding the



360 necessary funds from any subsequent payment to be made to the  
361 municipality.

362         **SECTION 3.** Nothing in this act shall affect or defeat any  
363 claim, assessment, appeal, suit, right or cause of action for  
364 taxes due or accrued under the sales tax laws before the date on  
365 which this act becomes effective, whether such claims,  
366 assessments, appeals, suits or actions have been begun before the  
367 date on which this act becomes effective or are begun thereafter;  
368 and the provisions of the sales tax laws are expressly continued  
369 in full force, effect and operation for the purpose of the  
370 assessment, collection and enrollment of liens for any taxes due  
371 or accrued and the execution of any warrant under such laws before  
372 the date on which this act becomes effective, and for the  
373 imposition of any penalties, forfeitures or claims for failure to  
374 comply with such laws.

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

