

By: Representative Snowden

To: Ways and Means

HOUSE BILL NO. 352

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 REVISE THE DIVERSION OF THE SALES TAX COLLECTED ON SUCH RETAIL
7 SALES OF FOOD WITHIN A MUNICIPALITY; AND FOR RELATED PURPOSES.

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

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

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

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

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



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

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

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

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

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

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

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

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



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

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

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

86 (4) From and after July 1, 2004, in lieu of the tax levied
87 in subsection (1) of this section, retail sales of food for human
88 consumption not purchased with food stamps issued by the United
89 States Department of Agriculture, or other federal agency, but
90 which would be exempt under Section 27-65-111(o) from the taxes
91 imposed by this chapter if the food were purchased with food
92 stamps, shall be taxed as follows:

93 (a) From and after July 1, 2004, through June 30, 2005,
94 such sales shall be taxed at the rate of six percent (6%);



95 (b) From and after July 1, 2005, through June 30, 2006,
96 such sales shall be taxed at the rate of five percent (5%);

97 (c) From and after July 1, 2006, through June 30, 2007,
98 such sales shall be taxed at the rate of four percent (4%);

99 (d) From and after July 1, 2007, through June 30, 2008,
100 such sales shall be taxed at the rate of three percent (3%);

101 (e) From and after July 1, 2008, such sales shall be
102 taxed at the rate of one percent (1%).

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

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

108 (1) On or before August 15, 1992, and each succeeding month
109 thereafter through July 15, 1993, eighteen percent (18%) of the
110 total sales tax revenue collected during the preceding month under
111 the provisions of this chapter, except that collected under the
112 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
113 business activities within a municipal corporation shall be
114 allocated for distribution to such municipality and paid to such
115 municipal corporation. On or before August 15, 1993, and each
116 succeeding month thereafter through July 15, 2006, eighteen and
117 one-half percent (18-1/2%) of the total sales tax revenue
118 collected during the preceding month under the provisions of this
119 chapter, except that collected under the provisions of Sections
120 27-65-15, 27-65-19(3) and 27-65-21, on business activities within
121 a municipal corporation shall be allocated for distribution to
122 such municipality and paid to such municipal corporation. On or
123 before August 15, 2006, and each succeeding month thereafter,
124 through July 15, 2007, eighteen and one-half percent (18-1/2%) of
125 the total sales tax revenue collected during the preceding month
126 under the provisions of this chapter, except that collected under
127 the provisions of Sections 27-65-15, 27-65-19(3), 27-65-21 and



128 27-65-17(4), on business activities within a municipal corporation
129 and twenty-five percent (25%) of the sales tax revenue collected
130 during the preceding month under the provisions of Section
131 27-65-17(4) on business activities within a municipal corporation
132 shall be allocated for distribution to such municipality and paid
133 to such municipal corporation. On or before August 15, 2007, and
134 each succeeding month thereafter, through July 15, 2008, eighteen
135 and one-half percent (18-1/2%) of the total sales tax revenue
136 collected during the preceding month under the provisions of this
137 chapter, except that collected under the provisions of Sections
138 27-65-15, 27-65-19(3), 27-65-21 and 27-65-17(4), on business
139 activities within a municipal corporation and thirty-three and
140 three hundred thirty-three one-thousandths percent (33.333%) of
141 the sales tax revenue collected during the preceding month under
142 the provisions of Section 27-65-17(4) on business activities
143 within a municipal corporation shall be allocated for distribution
144 to such municipality and paid to such municipal corporation. On
145 or before August 15, 2008, and each succeeding month thereafter,
146 eighteen and one-half percent (18-1/2%) of the total sales tax
147 revenue collected during the preceding month under the provisions
148 of this chapter, except that collected under the provisions of
149 Sections 27-65-15, 27-65-19(3), 27-65-21 and 27-65-17(4), on
150 business activities within a municipal corporation and all of the
151 sales tax revenue collected during the preceding month under the
152 provisions of Section 27-65-17(4) on business activities within a
153 municipal corporation shall be allocated for distribution to such
154 municipality and paid to such municipal corporation.

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

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



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

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

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



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

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

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



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

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

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

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

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

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



260 system that have a sufficiency rating of less than twenty-five
261 (25), according to National Bridge Inspection standards before
262 such monies may be approved for expenditure by the State Aid Road
263 Engineer on other projects that qualify for the use of state aid
264 road funds.

265 Any reference in the general laws of this state or the
266 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
267 construed to refer and apply to subsection (4) of Section
268 27-65-75.

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

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

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



293 under Section 37-61-35 until such time that the total amount
294 deposited into the fund during a fiscal year equals Forty-two
295 Million Dollars (\$42,000,000.00). Thereafter, the amounts
296 diverted under this subsection (7) during the fiscal year in
297 excess of Forty-two Million Dollars (\$42,000,000.00) shall be
298 deposited into the Education Enhancement Fund created under
299 Section 37-61-33 for appropriation by the Legislature as other
300 education needs and shall not be subject to the percentage
301 appropriation requirements set forth in Section 37-61-33.

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

309 (9) On or before August 15, 1994, and each succeeding month
310 thereafter, from the revenue collected under this chapter during
311 the preceding month, Two Hundred Fifty Thousand Dollars
312 (\$250,000.00) shall be paid into the State Aid Road Fund.

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

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



325 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund
326 established in Section 27-51-105.

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

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

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

351 (15) Notwithstanding any other provision of this section to
352 the contrary, on or before September 15, 2000, and each succeeding
353 month thereafter, the sales tax revenue collected during the
354 preceding month under the provisions of Section 27-65-19(1)(f) and
355 (g)(i)2, shall be deposited, without diversion, into the
356 Telecommunications Ad Valorem Tax Reduction Fund established in
357 Section 27-38-7.



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

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

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

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

388 **SECTION 3.** Nothing in this act shall affect or defeat any
389 claim, assessment, appeal, suit, right or cause of action for
390 taxes due or accrued under the sales tax laws before the date on



391 which this act becomes effective, whether such claims,
392 assessments, appeals, suits or actions have been begun before the
393 date on which this act becomes effective or are begun thereafter;
394 and the provisions of the sales tax laws are expressly continued
395 in full force, effect and operation for the purpose of the
396 assessment, collection and enrollment of liens for any taxes due
397 or accrued and the execution of any warrant under such laws before
398 the date on which this act becomes effective, and for the
399 imposition of any penalties, forfeitures or claims for failure to
400 comply with such laws.

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

