

By: Senator(s) Carmichael

To: Finance

SENATE BILL NO. 2138

1 AN ACT TO AMEND SECTION 27-65-17, MISSISSIPPI CODE OF 1972,  
 2 TO REDUCE THE SALES TAX RATE ON RETAIL SALES OF UNPREPARED FOOD  
 3 FOR HUMAN CONSUMPTION TO 1.3%; TO AMEND SECTION 27-65-75,  
 4 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ALL OF THE SALES TAX  
 5 COLLECTED ON RETAIL SALES OF PREPARED FOOD WITHIN A MUNICIPALITY  
 6 SHALL BE ALLOCATED FOR DISTRIBUTION AND PAID TO SUCH MUNICIPALITY;  
 7 TO INCREASE THE AMOUNT OF THE SALES TAX DIVERSION TO THE SCHOOL AD  
 8 VALOREM TAX REDUCTION FUND AND THE EDUCATION ENHANCEMENT FUND; AND  
 9 FOR RELATED PURPOSES.

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

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

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

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

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



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

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

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

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

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

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

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

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



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

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

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

88 (4) From and after July 1, 2001, in lieu of the tax levied  
89 in subsection (1) of this section, retail sales of food for human  
90 consumption not purchased with food stamps issued by the United  
91 States Department of Agriculture, or other federal agency, but  
92 which would be exempt under Section 27-65-111(o) from the taxes  
93 imposed by this chapter if the food items were purchased with food  
94 stamps, shall be taxed at the rate of one and three-tenths percent  
95 (1.3%).



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

98 27-65-75. On or before the fifteenth day of each month, the  
99 revenue collected under the provisions of this chapter during the  
100 preceding month shall be paid and distributed as follows:

101 (1) On or before August 15, 1992, and each succeeding month  
102 thereafter through July 15, 1993, eighteen percent (18%) of the  
103 total sales tax revenue collected during the preceding month under  
104 the provisions of this chapter, except that collected under the  
105 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on  
106 business activities within a municipal corporation shall be  
107 allocated for distribution to such municipality and paid to such  
108 municipal corporation. On or before August 15, 1993, and each  
109 succeeding month thereafter through July 15, 2001, eighteen and  
110 one-half percent (18-1/2%) of the total sales tax revenue  
111 collected during the preceding month under the provisions of this  
112 chapter, except that collected under the provisions of Sections  
113 27-65-15, 27-65-19(3) and 27-65-21, on business activities within  
114 a municipal corporation shall be allocated for distribution to  
115 such municipality and paid to such municipal corporation. On or  
116 before August 15, 2001, and each succeeding month thereafter,  
117 eighteen and one-half percent (18-1/2%) of the total sales tax  
118 revenue collected during the preceding month under the provisions  
119 of this chapter, except that collected under the provisions of  
120 Sections 27-65-15, 27-65-19(3), 27-65-21 and 27-65-17(4), on  
121 business activities within a municipal corporation, and all of the  
122 sales tax revenue collected under the provisions of Section  
123 27-65-17(4) on business activities within a municipal corporation,  
124 shall be allocated for distribution to such municipality and paid  
125 to such municipal corporation.

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



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

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

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



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

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

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



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

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

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

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

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

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



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

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

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

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

251 (7) On or before August 15, 1992, and each succeeding month  
252 thereafter through July 15, 2000, two and two hundred sixty-six  
253 one-thousandths percent (2.266%) of the total sales tax revenue  
254 collected during the preceding month under the provisions of this  
255 chapter, except that collected under the provisions of Section  
256 27-65-17(2) shall be deposited by the commission into the School  
257 Ad Valorem Tax Reduction Fund created pursuant to Section  
258 37-61-35. On or before August 15, 2000, and each succeeding month  
259 thereafter through July 15, 2001, two and two hundred sixty-six  
260 one-thousandths percent (2.266%) of the total sales tax revenue





261 collected during the preceding month under the provisions of this  
262 chapter, except that collected under the provisions of Section  
263 27-65-17(2), shall be deposited into the School Ad Valorem Tax  
264 Reduction Fund created under Section 37-61-35 until such time that  
265 the total amount deposited into the fund during a fiscal year  
266 equals Forty-two Million Dollars (\$42,000,000.00). Thereafter,  
267 the amounts diverted under this subsection (7) during the fiscal  
268 year in excess of Forty-two Million Dollars (\$42,000,000.00) shall  
269 be deposited into the Education Enhancement Fund created under  
270 Section 37-61-33 for appropriation by the Legislature as other  
271 education needs and shall not be subject to the percentage  
272 appropriation requirements set forth in Section 37-61-33. On or  
273 before August 15, 2001, and each succeeding month thereafter, two  
274 and five hundred ninety-eight one-thousandths percent (2.598%) of  
275 the total sales tax revenue collected during the preceding month  
276 under the provisions of this chapter, except that collected under  
277 the provisions of Section 27-65-17(2), and except that collected  
278 under the provisions of Section 27-65-17(4) on business activities  
279 within a municipal corporation, shall be deposited into the School  
280 Ad Valorem Tax Reduction Fund created under Section 37-61-35 until  
281 such time that the total amount deposited into the fund during a  
282 fiscal year equals Forty-two Million Dollars (\$42,000,000.00).  
283 Thereafter, the amounts diverted under this subsection (7) during  
284 the fiscal year in excess of Forty-two Million Dollars  
285 (\$42,000,000.00) shall be deposited into the Education Enhancement  
286 Fund created under Section 37-61-33 for appropriation by the  
287 Legislature as other education needs and shall not be subject to  
288 the percentage appropriation requirements set forth in Section  
289 37-61-33.

290 (8) On or before August 15, 1992, and each succeeding month  
291 thereafter through July 15, 2001, nine and seventy-three  
292 one-thousandths percent (9.073%) of the total sales tax revenue  
293 collected during the preceding month under the provisions of this



294 chapter, except that collected under the provisions of Section  
295 27-65-17(2) shall be deposited into the Education Enhancement Fund  
296 created pursuant to Section 37-61-33. On or before August 15,  
297 2001, and each succeeding month thereafter, ten and four hundred  
298 twenty-six one-thousandths percent (10.426%) of the total sales  
299 tax revenue collected during the preceding month under the  
300 provisions of this chapter, except that collected under the  
301 provisions of Section 27-65-17(2), and except that collected under  
302 the provisions of Section 27-65-17(4) on business activities  
303 within a municipal corporation, shall be deposited into the  
304 Education Enhancement Fund created pursuant to Section 37-61-33.

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

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

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

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



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

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

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

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

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



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

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

376           SECTION 3. This act shall take effect and be in force from  
377 and after July 1, 2001.

