

By: Representative Fleming

To: Ways and Means

## HOUSE BILL NO. 377

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 2%; TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF  
6 1972, TO PROVIDE THAT ALL OF THE SALES TAX REVENUE COLLECTED ON  
7 SUCH RETAIL SALES OF FOOD WITHIN A MUNICIPALITY SHALL BE ALLOCATED  
8 FOR DISTRIBUTION AND PAID TO SUCH MUNICIPALITY; TO INCREASE THE  
9 AMOUNT OF THE SALES TAX DIVERSIONS TO THE SCHOOL AD VALOREM TAX  
10 REDUCTION FUND AND THE EDUCATION ENHANCEMENT FUND; TO PROVIDE FOR  
11 THE PAYMENT OF A PERCENTAGE OF SALES TAX REVENUES GENERATED FROM  
12 BUSINESS ACTIVITIES OUTSIDE MUNICIPALITIES TO THE COUNTIES IN  
13 WHICH SUCH BUSINESS ACTIVITIES OCCURRED; TO AMEND SECTION  
14 27-65-53, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR  
15 RELATED PURPOSES.

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

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

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

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

27 Retail sales of farm implements sold to farmers and used  
28 directly in the production of poultry, ratite, domesticated fish  
29 as defined in Section 69-7-501, livestock, livestock products,  
30 agricultural crops or ornamental plant crops or used for other  
31 agricultural purposes shall be taxed at the rate of three percent  
32 (3%) when used on the farm. The three percent (3%) rate shall  
33 also apply to all equipment used in logging, pulpwood operations

34 or tree farming which is either (a) self-propelled or which is (b)  
35 mounted so that it is (i) permanently attached to other equipment  
36 which is self-propelled or (ii) permanently attached to other  
37 equipment drawn by a vehicle which is self-propelled.

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

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

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

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

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

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

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

69           Any person exercising any privilege taxable under Section  
70 27-65-15 and selling his natural resource products at wholesale or  
71 to exempt persons shall pay the tax levied by said section in lieu  
72 of the tax levied by this section.

73           (2) From and after January 1, 1995, retail sales of private  
74 carriers of passengers and light carriers of property, as defined  
75 in Section 27-51-101, shall be taxed an additional two percent  
76 (2%).

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

94           (4) From and after July 1, 2007, through June 30, 2018, in  
95 lieu of the tax levied in subsection (1) of this section, retail  
96 sales of food for human consumption not purchased with food stamps  
97 issued by the United States Department of Agriculture, or other  
98 federal agency, but which would be exempt under Section

99 27-65-111(o) from the taxes imposed by this chapter if the food  
100 were purchased with food stamps, shall be taxed at the rate of two  
101 percent (2%).

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

104 27-65-75. On or before the fifteenth day of each month, the  
105 revenue collected under the provisions of this chapter during the  
106 preceding month shall be paid and distributed as follows:

107 (1) On or before August 15, 1992, and each succeeding month  
108 thereafter through July 15, 1993, eighteen percent (18%) of the  
109 total sales tax revenue collected during the preceding month under  
110 the provisions of this chapter, except that collected under the  
111 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on  
112 business activities within a municipal corporation shall be  
113 allocated for distribution to the municipality and paid to the  
114 municipal corporation. On or before August 15, 1993, and each  
115 succeeding month thereafter through July 15, 2007, eighteen and  
116 one-half percent (18-1/2%) of the total sales tax revenue  
117 collected during the preceding month under the provisions of this  
118 chapter, except that collected under the provisions of Sections  
119 27-65-15, 27-65-19(3) and 27-65-21, on business activities within  
120 a municipal corporation shall be allocated for distribution to the  
121 municipality and paid to the municipal corporation. On or before  
122 August 15, 2007, and each succeeding month thereafter through July  
123 15, 2018, eighteen and one-half percent (18-1/2%) of the total  
124 sales tax revenue collected during the preceding month under the  
125 provisions of this chapter, except that collected under the  
126 provisions of Sections 27-65-15, 27-65-17(4), 27-65-19(3) and  
127 27-65-21, on business activities within a municipal corporation  
128 and all of the sales tax revenue collected during the preceding  
129 month under the provisions of Section 27-65-17(4) on business  
130 activities within a municipal corporation shall be allocated for  
131 distribution to the municipality and paid to the municipal

132 corporation. On or before August 15, 2018, and each succeeding  
133 month thereafter, eighteen and one-half percent (18-1/2%) of the  
134 total sales tax revenue collected during the preceding month under  
135 the provisions of this chapter, except that collected under the  
136 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on  
137 business activities within a municipal corporation shall be  
138 allocated for distribution to the municipality and paid to the  
139 municipal corporation.

140 A municipal corporation, for the purpose of distributing the  
141 tax under this subsection, shall mean and include all incorporated  
142 cities, towns and villages.

143 Monies allocated for distribution and credited to a municipal  
144 corporation under this subsection may be pledged as security for  
145 any loan received by the municipal corporation for the purpose of  
146 capital improvements as authorized under Section 57-1-303, or  
147 loans as authorized under Section 57-44-7, or water systems  
148 improvements as authorized under Section 41-3-16.

149 In any county having a county seat that is not an  
150 incorporated municipality, the distribution provided under this  
151 subsection shall be made as though the county seat was an  
152 incorporated municipality; however, the distribution to the  
153 municipality shall be paid to the county treasury in which the  
154 municipality is located, and those funds shall be used for road,  
155 bridge and street construction or maintenance in the county.

156 (2) On or before September 15, 1987, and each succeeding  
157 month thereafter, from the revenue collected under this chapter  
158 during the preceding month One Million One Hundred Twenty-five  
159 Thousand Dollars (\$1,125,000.00) shall be allocated for  
160 distribution to municipal corporations as defined under subsection  
161 (1) of this section in the proportion that the number of gallons  
162 of gasoline and diesel fuel sold by distributors to consumers and  
163 retailers in each such municipality during the preceding fiscal  
164 year bears to the total gallons of gasoline and diesel fuel sold

165 by distributors to consumers and retailers in municipalities  
166 statewide during the preceding fiscal year. The State Tax  
167 Commission shall require all distributors of gasoline and diesel  
168 fuel to report to the commission monthly the total number of  
169 gallons of gasoline and diesel fuel sold by them to consumers and  
170 retailers in each municipality during the preceding month. The  
171 State Tax Commission shall have the authority to promulgate such  
172 rules and regulations as is necessary to determine the number of  
173 gallons of gasoline and diesel fuel sold by distributors to  
174 consumers and retailers in each municipality. In determining the  
175 percentage allocation of funds under this subsection for the  
176 fiscal year beginning July 1, 1987, and ending June 30, 1988, the  
177 State Tax Commission may consider gallons of gasoline and diesel  
178 fuel sold for a period of less than one (1) fiscal year. For the  
179 purposes of this subsection, the term "fiscal year" means the  
180 fiscal year beginning July 1 of a year.

181 (3) On or before September 15, 1987, and on or before the  
182 fifteenth day of each succeeding month, until the date specified  
183 in Section 65-39-35, the proceeds derived from contractors' taxes  
184 levied under Section 27-65-21 on contracts for the construction or  
185 reconstruction of highways designated under the highway program  
186 created under Section 65-3-97 shall, except as otherwise provided  
187 in Section 31-17-127, be deposited into the State Treasury to the  
188 credit of the State Highway Fund to be used to fund that highway  
189 program. The Mississippi Department of Transportation shall  
190 provide to the State Tax Commission such information as is  
191 necessary to determine the amount of proceeds to be distributed  
192 under this subsection.

193 (4) On or before August 15, 1994, and on or before the  
194 fifteenth day of each succeeding month through July 15, 1999, from  
195 the proceeds of gasoline, diesel fuel or kerosene taxes as  
196 provided in Section 27-5-101(a)(ii)1, Four Million Dollars  
197 (\$4,000,000.00) shall be deposited in the State Treasury to the

198 credit of a special fund designated as the "State Aid Road Fund,"  
199 created by Section 65-9-17. On or before August 15, 1999, and on  
200 or before the fifteenth day of each succeeding month, from the  
201 total amount of the proceeds of gasoline, diesel fuel or kerosene  
202 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million  
203 Dollars (\$4,000,000.00) or an amount equal to twenty-three and  
204 one-fourth percent (23.25%) of those funds, whichever is the  
205 greater amount, shall be deposited in the State Treasury to the  
206 credit of the "State Aid Road Fund," created by Section 65-9-17.  
207 Those funds shall be pledged to pay the principal of and interest  
208 on state aid road bonds heretofore issued under Sections 19-9-51  
209 through 19-9-77, in lieu of and in substitution for the funds  
210 previously allocated to counties under this section. Those funds  
211 may not be pledged for the payment of any state aid road bonds  
212 issued after April 1, 1981; however, this prohibition against the  
213 pledging of any such funds for the payment of bonds shall not  
214 apply to any bonds for which intent to issue those bonds has been  
215 published, for the first time, as provided by law before March 29,  
216 1981. From the amount of taxes paid into the special fund under  
217 this subsection and subsection (9) of this section, there shall be  
218 first deducted and paid the amount necessary to pay the expenses  
219 of the Office of State Aid Road Construction, as authorized by the  
220 Legislature for all other general and special fund agencies. The  
221 remainder of the fund shall be allocated monthly to the several  
222 counties in accordance with the following formula:

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

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

229 (c) One-third (1/3) shall be allocated to counties  
230 based on the proportion that the rural population of the county

231 bears to the total rural population in all counties of the state,  
232 according to the latest federal decennial census.

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

236 The amount of funds allocated to any county under this  
237 subsection for any fiscal year after fiscal year 1994 shall not be  
238 less than the amount allocated to the county for fiscal year 1994.  
239 Monies allocated to a county from the State Aid Road Fund for  
240 fiscal year 1995 or any fiscal year thereafter that exceed the  
241 amount of funds allocated to that county from the State Aid Road  
242 Fund for fiscal year 1994, first must be expended by the county  
243 for replacement or rehabilitation of bridges on the state aid road  
244 system that have a sufficiency rating of less than twenty-five  
245 (25), according to National Bridge Inspection standards before  
246 the monies may be approved for expenditure by the State Aid Road  
247 Engineer on other projects that qualify for the use of state aid  
248 road funds.

249 Any reference in the general laws of this state or the  
250 Mississippi Code of 1972 to Section 27-5-105 shall mean and be  
251 construed to refer and apply to subsection (4) of Section  
252 27-65-75.

253 (5) One Million Six Hundred Sixty-six Thousand Six Hundred  
254 Sixty-six Dollars (\$1,666,666.00) each month shall be paid into  
255 the special fund known as the "State Public School Building Fund"  
256 created and existing under the provisions of Sections 37-47-1  
257 through 37-47-67. Those payments into that fund are to be made on  
258 the last day of each succeeding month hereafter.

259 (6) An amount each month beginning August 15, 1983, through  
260 November 15, 1986, as specified in Section 6 of Chapter 542, Laws  
261 of 1983, shall be paid into the special fund known as the  
262 Correctional Facilities Construction Fund created in Section 6 of  
263 Chapter 542, Laws of 1983.

264 (7) On or before August 15, 1992, and each succeeding month  
265 thereafter through July 15, 2000, two and two hundred sixty-six  
266 one-thousandths percent (2.266%) of the total sales tax revenue  
267 collected during the preceding month under the provisions of this  
268 chapter, except that collected under the provisions of Section  
269 27-65-17(2) shall be deposited by the commission into the School  
270 Ad Valorem Tax Reduction Fund created under Section 37-61-35. On  
271 or before August 15, 2000, and each succeeding month thereafter  
272 through July 15, 2007, two and two hundred sixty-six  
273 one-thousandths percent (2.266%) of the total sales tax revenue  
274 collected during the preceding month under the provisions of this  
275 chapter, except that collected under the provisions of Section  
276 27-65-17(2), shall be deposited into the School Ad Valorem Tax  
277 Reduction Fund created under Section 37-61-35 until such time that  
278 the total amount deposited into the fund during a fiscal year  
279 equals Forty-two Million Dollars (\$42,000,000.00). Thereafter,  
280 the amounts diverted under this subsection (7) during the fiscal  
281 year in excess of Forty-two Million Dollars (\$42,000,000.00) shall  
282 be deposited into the Education Enhancement Fund created under  
283 Section 37-61-33 for appropriation by the Legislature as other  
284 education needs and shall not be subject to the percentage  
285 appropriation requirements set forth in Section 37-61-33. On or  
286 before August 15, 2007, and each succeeding month thereafter  
287 through July 15, 2018, two and six-tenths percent (2.6%) of the  
288 total sales tax revenue collected during the preceding month under  
289 the provisions of this chapter, except that collected under the  
290 provisions of Section 27-65-17(2) and 27-65-17(4), shall be  
291 deposited into the School Ad Valorem Tax Reduction Fund created  
292 under Section 37-61-35 until such time that the total amount  
293 deposited into the fund during a fiscal year equals Forty-two  
294 Million Dollars (\$42,000,000.00). Thereafter, the amounts  
295 diverted under this subsection (7) during the fiscal year in  
296 excess of Forty-two Million Dollars (\$42,000,000.00) shall be

297 deposited into the Education Enhancement Fund created under  
298 Section 37-61-33 for appropriation by the Legislature as other  
299 education needs and shall not be subject to the percentage  
300 appropriation requirements set forth in Section 37-61-33. On or  
301 before August 15, 2018, and each succeeding month thereafter, two  
302 and two hundred sixty-six one-thousandths percent (2.266%) of the  
303 total sales tax revenue collected during the preceding month under  
304 the provisions of this chapter, except that collected under the  
305 provisions of Section 27-65-17(2), shall be deposited into the  
306 School Ad Valorem Tax Reduction Fund created under Section  
307 37-61-35 until such time that the total amount deposited into the  
308 fund during a fiscal year equals Forty-two Million Dollars  
309 (\$42,000,000.00). Thereafter, the amounts diverted under this  
310 subsection (7) during the fiscal year in excess of Forty-two  
311 Million Dollars (\$42,000,000.00) shall be deposited into the  
312 Education Enhancement Fund created under Section 37-61-33 for  
313 appropriation by the Legislature as other education needs and  
314 shall not be subject to the percentage appropriation requirements  
315 set forth in Section 37-61-33.

316 (8) On or before August 15, 1992, and each succeeding month  
317 thereafter through July 15, 2007, nine and seventy-three  
318 one-thousandths percent (9.073%) of the total sales tax revenue  
319 collected during the preceding month under the provisions of this  
320 chapter, except that collected under the provisions of Section  
321 27-65-17(2), shall be deposited into the Education Enhancement  
322 Fund created under Section 37-61-33. On or before August 15,  
323 2007, and each succeeding month thereafter through July 15, 2018,  
324 ten and one-half percent (10.5%) of the total sales tax revenue  
325 collected during the preceding month under the provisions of this  
326 chapter, except that collected under the provisions of Sections  
327 27-65-17(2) and 27-65-17(4), shall be deposited into the Education  
328 Enhancement Fund created under Section 37-61-33. On or before  
329 August 15, 2018, and each succeeding month thereafter, nine and

330 seventy-three one-thousandths percent (9.073%) of the total sales  
331 tax revenue collected during the preceding month under the  
332 provisions of this chapter, except that collected under the  
333 provisions of Section 27-65-17(2), shall be deposited into the  
334 Education Enhancement Fund created under Section 37-61-33.

335 (9) On or before August 15, 1994, and each succeeding month  
336 thereafter, from the revenue collected under this chapter during  
337 the preceding month, Two Hundred Fifty Thousand Dollars  
338 (\$250,000.00) shall be paid into the State Aid Road Fund.

339 (10) On or before August 15, 1994, and each succeeding month  
340 thereafter through August 15, 1995, from the revenue collected  
341 under this chapter during the preceding month, Two Million Dollars  
342 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad  
343 Valorem Tax Reduction Fund established in Section 27-51-105.

344 (11) Notwithstanding any other provision of this section to  
345 the contrary, on or before February 15, 1995, and each succeeding  
346 month thereafter, the sales tax revenue collected during the  
347 preceding month under the provisions of Section 27-65-17(2) and  
348 the corresponding levy in Section 27-65-23 on the rental or lease  
349 of private carriers of passengers and light carriers of property  
350 as defined in Section 27-51-101 shall be deposited, without  
351 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund  
352 established in Section 27-51-105.

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

362           (13) On or before July 15, 1994, and on or before the  
363 fifteenth day of each succeeding month thereafter, that portion of  
364 the avails of the tax imposed in Section 27-65-22 that is derived  
365 from activities held on the Mississippi state fairgrounds complex,  
366 shall be paid into a special fund that is created in the State  
367 Treasury and shall be expended upon legislative appropriation  
368 solely to defray the costs of repairs and renovation at the Trade  
369 Mart and Coliseum.

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

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

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

391           (17) Notwithstanding any other provision of this section to  
392 the contrary, on or before April 15, 2002, and each succeeding  
393 month thereafter, the sales tax revenue collected during the  
394 preceding month under Section 27-65-23 on sales of parking

395 services of parking garages and lots at airports shall be  
396 deposited, without diversion, into the special fund created under  
397 Section 27-5-101(d).

398 (18) On or before August 15, 2005, and each succeeding month  
399 thereafter through July 15, 2006, from the sales tax revenue  
400 collected during the preceding month under the provisions of this  
401 chapter, Two Million Five Hundred Thousand Dollars (\$2,500,000.00)  
402 shall be deposited into the Special Funds Transfer Fund created in  
403 Section 4 of Chapter 556, Laws of 2003.

404 (19) On or before August 15, 2007, and each succeeding month  
405 thereafter through July 15, 2018, six and two-tenths percent  
406 (6.2%) of the total sales tax revenue collected during the  
407 preceding month under the provisions of this chapter, except that  
408 collected under the provisions of Sections 27-65-15, 27-65-17(4),  
409 27-65-19(3) and 27-65-21, on business activities within a county  
410 but outside any municipal corporation, as defined in subsection  
411 (1) of this section, shall be allocated for distribution to and  
412 paid to the county in which the business activity occurred. The  
413 amount paid to each county under this subsection (19) shall be in  
414 addition to any other funds allocated for distribution to the  
415 various counties under this section.

416 (20) The remainder of the amounts collected under the  
417 provisions of this chapter shall be paid into the State Treasury  
418 to the credit of the General Fund.

419 (21) It shall be the duty of the municipal officials of any  
420 municipality that expands its limits, or of any community that  
421 incorporates as a municipality, to notify the commissioner of  
422 that action thirty (30) days before the effective date. Failure  
423 to so notify the commissioner shall cause the municipality to  
424 forfeit the revenue that it would have been entitled to receive  
425 during this period of time when the commissioner had no knowledge  
426 of the action. If any funds have been erroneously disbursed to  
427 any municipality or county or any overpayment of tax is recovered

428 by the taxpayer, the commissioner may make correction and adjust  
429 the error or overpayment with the municipality or county by  
430 withholding the necessary funds from any later payment to be made  
431 to the municipality or county.

432 **SECTION 3.** Section 27-65-53, Mississippi Code of 1972, is  
433 amended as follows:

434 27-65-53. If the commissioner finds that the taxpayer has  
435 overpaid his tax for any reason and the taxpayer has discontinued  
436 business and there is no subsequent liability upon which the  
437 excess may be credited, or if the amount of the excess so paid  
438 shall exceed the estimated liability for the next twelve (12)  
439 months, the excess shall be refunded to the taxpayer. Such amount  
440 shall be certified to the State Auditor of Public Accounts by the  
441 commission. The \* \* \* auditor is hereby authorized to make such  
442 investigation and audit of the claim as he finds necessary. If he  
443 finds that the commissioner is correct in his determination, the  
444 auditor may issue his warrant to the State Treasurer in favor of  
445 the taxpayer for the amount of tax erroneously paid into the State  
446 Treasury, such refunds to be made from current sales tax  
447 collections. If part of the overpayment has been disbursed to any  
448 municipality or county, under authority of Section 27-65-75, the  
449 municipality or county, having erroneously received the money,  
450 shall adjust the amount with the commissioner, or the overpayment  
451 may be withheld by the state from any funds due by the state to  
452 the municipality or county.

453 Provided, that where the taxpayer has overpaid his tax, the  
454 commissioner may give credit for same and allow the taxpayer to  
455 take credit on a subsequent return or, if necessary, in his  
456 discretion, have the taxpayer file for a refund as provided  
457 herein.

458 If any overpayment of tax as reflected in an application or  
459 amended return, or both, filed by the taxpayer, and verified by  
460 the commissioner or otherwise determined to be due by the

461 commissioner or commission, is not refunded or credited to a  
462 taxpayer's account within ninety (90) days after the application  
463 or amended return is filed or the date the commission or  
464 commissioner determines a refund is due, whichever is later,  
465 interest at the rate of one percent (1%) per month shall be  
466 allowed on such overpayment computed for the period after  
467 expiration of the ninety-day period provided herein to the date of  
468 payment.

469       **SECTION 4.** Nothing in this act shall affect or defeat any  
470 claim, assessment, appeal, suit, right or cause of action for  
471 taxes due or accrued under the sales tax laws before the date on  
472 which this act becomes effective, whether such claims,  
473 assessments, appeals, suits or actions have been begun before the  
474 date on which this act becomes effective or are begun thereafter;  
475 and the provisions of the sales tax laws are expressly continued  
476 in full force, effect and operation for the purpose of the  
477 assessment, collection and enrollment of liens for any taxes due  
478 or accrued and the execution of any warrant under such laws before  
479 the date on which this act becomes effective, and for the  
480 imposition of any penalties, forfeitures or claims for failure to  
481 comply with such laws.

482       **SECTION 5.** This act shall take effect and be in force from  
483 and after July 1, 2005.