

By: Representative Snowden

To: Ways and Means

HOUSE BILL NO. 1561

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, 2006, 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, 2006, through June 30, 2007,
94 such sales shall be taxed at the rate of six percent (6%);

95 (b) From and after July 1, 2007, through June 30, 2008,
96 such sales shall be taxed at the rate of five percent (5%);

97 (c) From and after July 1, 2008, through June 30, 2009,
98 such sales shall be taxed at the rate of four percent (4%);

99 (d) From and after July 1, 2009, through June 30, 2010,
100 such sales shall be taxed at the rate of three percent (3%);

101 (e) From and after July 1, 2010, 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 the municipality and paid to the
115 municipal corporation. On or before August 15, 1993, and each
116 succeeding month thereafter through July 15, 2008, 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 the
122 municipality and paid to the municipal corporation. On or before
123 August 15, 2008, and each succeeding month thereafter, through
124 July 15, 2009, eighteen and one-half percent (18-1/2%) of the
125 total sales tax revenue collected during the preceding month under
126 the provisions of this chapter, except that collected under the
127 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, 2009, and
134 each succeeding month thereafter, through July 15, 2010, 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, 2010, 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 that is not an
165 incorporated municipality, the distribution provided under this
166 subsection shall be made as though the county seat was an
167 incorporated municipality; however, the distribution to the
168 municipality shall be paid to the county treasury in which the
169 municipality is located, and those funds shall be used for road,
170 bridge and street construction or maintenance in the county.

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 that highway
204 program. The Mississippi Department of Transportation shall
205 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 those 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 Those 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 previously allocated to counties under this section. Those 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 those bonds has been
230 published, for the first time, as provided by law before March 29,
231 1981. From the amount of taxes paid into the special fund under
232 this subsection and subsection (9) of this section, there shall be
233 first deducted and paid the amount necessary to pay the expenses
234 of the Office of State Aid Road Construction, as authorized by the
235 Legislature for all other general and special fund agencies. The
236 remainder of the fund shall be allocated monthly to the several
237 counties in accordance with the following formula:

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

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

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

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

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

260 (25), according to National Bridge Inspection standards before
261 the monies may be approved for expenditure by the State Aid Road
262 Engineer on other projects that qualify for the use of state aid
263 road funds.

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

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

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

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

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

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

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

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

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

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

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

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

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

357 (16) On or before August 15, 2000, and each succeeding month
358 thereafter, the sales tax revenue collected during the preceding

359 month under the provisions of this chapter on the gross proceeds
360 of sales of a project as defined in Section 57-30-1 shall be
361 deposited, after all diversions except the diversion provided for
362 in subsection (1) of this section, into the Sales Tax Incentive
363 Fund created in Section 57-30-3.

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

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

377 (19) The remainder of the amounts collected under the
378 provisions of this chapter shall be paid into the State Treasury
379 to the credit of the General Fund.

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

391 necessary funds from any later payment to be made to the
392 municipality.

393 **SECTION 3.** Nothing in this act shall affect or defeat any
394 claim, assessment, appeal, suit, right or cause of action for
395 taxes due or accrued under the sales tax laws before the date on
396 which this act becomes effective, whether such claims,
397 assessments, appeals, suits or actions have been begun before the
398 date on which this act becomes effective or are begun thereafter;
399 and the provisions of the sales tax laws are expressly continued
400 in full force, effect and operation for the purpose of the
401 assessment, collection and enrollment of liens for any taxes due
402 or accrued and the execution of any warrant under such laws before
403 the date on which this act becomes effective, and for the
404 imposition of any penalties, forfeitures or claims for failure to
405 comply with such laws.

406 **SECTION 4.** This act shall take effect and be in force from
407 and after July 1, 2005.