

By: Representative Snowden

To: Ways and Means

HOUSE BILL NO. 1564

1 AN ACT TO AMEND SECTION 27-65-17, MISSISSIPPI CODE OF 1972,
2 TO REDUCE THE SALES TAX RATE ON RETAIL SALES OF FOOD FOR HUMAN
3 CONSUMPTION NOT PURCHASED WITH FOOD STAMPS BUT WHICH WOULD BE
4 EXEMPT FROM SALES TAX IF SUCH FOOD WERE PURCHASED WITH FOOD
5 STAMPS; TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF 1972, TO
6 PROVIDE THAT ALL OF THE SALES TAX COLLECTED ON SUCH RETAIL SALES
7 OF FOOD WITHIN A MUNICIPALITY SHALL BE ALLOCATED FOR DISTRIBUTION
8 AND PAID TO SUCH MUNICIPALITY; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

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

62 Any person exercising any privilege taxable under Section
63 27-65-15 and selling his natural resource products at wholesale or

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

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

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

87 (4) From and after July 1, 2005, in lieu of the tax levied
88 in subsection (1) of this section, retail sales of food for human
89 consumption not purchased with food stamps issued by the United
90 States Department of Agriculture, or other federal agency, but
91 which would be exempt under Section 27-65-111(o) from the taxes
92 imposed by this chapter if the food were purchased with food
93 stamps, shall be taxed as follows:

94 (a) From and after July 1, 2005, through June 30, 2007,
95 such sales shall be taxed at the rate of one and three-tenths
96 percent (1.3%);

97 (b) From and after July 1, 2007, such sales shall be
98 taxed at the rate of one percent (1%).

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

101 27-65-75. On or before the fifteenth day of each month, the
102 revenue collected under the provisions of this chapter during the
103 preceding month shall be paid and distributed as follows:

104 (1) On or before August 15, 1992, and each succeeding month
105 thereafter through July 15, 1993, eighteen percent (18%) of the
106 total sales tax revenue collected during the preceding month under
107 the provisions of this chapter, except that collected under the
108 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
109 business activities within a municipal corporation shall be
110 allocated for distribution to the municipality and paid to the
111 municipal corporation. On or before August 15, 1993, and each
112 succeeding month thereafter through July 15, eighteen and one-half
113 percent (18-1/2%) of the total sales tax revenue collected during
114 the preceding month under the provisions of this chapter, except
115 that collected under the provisions of Sections 27-65-15,
116 27-65-19(3) and 27-65-21, on business activities within a
117 municipal corporation shall be allocated for distribution to the
118 municipality and paid to the municipal corporation. On or before
119 August 15, 2005, and each succeeding month thereafter, eighteen
120 and one-half percent (18-1/2%) of the total sales tax revenue
121 collected during the preceding month under the provisions of this
122 chapter, except that collected under the provisions of Sections
123 27-65-15, 27-65-19(3), 27-65-21 and 27-65-17(4), on business
124 activities within a municipal corporation and all of the sales tax
125 revenue collected during the preceding month under the provisions
126 of Section 27-65-17(4) on business activities within a municipal
127 corporation shall be allocated for distribution to such
128 municipality and paid to such municipal corporation.

129 A municipal corporation, for the purpose of distributing the
130 tax under this subsection, shall mean and include all incorporated
131 cities, towns and villages.

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

138 In any county having a county seat that is not an
139 incorporated municipality, the distribution provided under this
140 subsection shall be made as though the county seat was an
141 incorporated municipality; however, the distribution to the
142 municipality shall be paid to the county treasury in which the
143 municipality is located, and those funds shall be used for road,
144 bridge and street construction or maintenance in the county.

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

162 gallons of gasoline and diesel fuel sold by distributors to
163 consumers and retailers in each municipality. In determining the
164 percentage allocation of funds under this subsection for the
165 fiscal year beginning July 1, 1987, and ending June 30, 1988, the
166 State Tax Commission may consider gallons of gasoline and diesel
167 fuel sold for a period of less than one (1) fiscal year. For the
168 purposes of this subsection, the term "fiscal year" means the
169 fiscal year beginning July 1 of a year.

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

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

195 credit of the "State Aid Road Fund," created by Section 65-9-17.
196 Those funds shall be pledged to pay the principal of and interest
197 on state aid road bonds heretofore issued under Sections 19-9-51
198 through 19-9-77, in lieu of and in substitution for the funds
199 previously allocated to counties under this section. Those funds
200 may not be pledged for the payment of any state aid road bonds
201 issued after April 1, 1981; however, this prohibition against the
202 pledging of any such funds for the payment of bonds shall not
203 apply to any bonds for which intent to issue those bonds has been
204 published, for the first time, as provided by law before March 29,
205 1981. From the amount of taxes paid into the special fund under
206 this subsection and subsection (9) of this section, there shall be
207 first deducted and paid the amount necessary to pay the expenses
208 of the Office of State Aid Road Construction, as authorized by the
209 Legislature for all other general and special fund agencies. The
210 remainder of the fund shall be allocated monthly to the several
211 counties in accordance with the following formula:

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

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

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

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

225 The amount of funds allocated to any county under this
226 subsection for any fiscal year after fiscal year 1994 shall not be
227 less than the amount allocated to the county for fiscal year 1994.

228 Monies allocated to a county from the State Aid Road Fund for
229 fiscal year 1995 or any fiscal year thereafter that exceed the
230 amount of funds allocated to that county from the State Aid Road
231 Fund for fiscal year 1994, first must be expended by the county
232 for replacement or rehabilitation of bridges on the state aid road
233 system that have a sufficiency rating of less than twenty-five
234 (25), according to National Bridge Inspection standards before
235 the monies may be approved for expenditure by the State Aid Road
236 Engineer on other projects that qualify for the use of state aid
237 road funds.

238 Any reference in the general laws of this state or the
239 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
240 construed to refer and apply to subsection (4) of Section
241 27-65-75.

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

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

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

261 two and two hundred sixty-six one-thousandths percent (2.266%) of
262 the total sales tax revenue collected during the preceding month
263 under the provisions of this chapter, except that collected under
264 the provisions of Section 27-65-17(2), shall be deposited into the
265 School Ad Valorem Tax Reduction Fund created under Section
266 37-61-35 until such time that the total amount deposited into the
267 fund during a fiscal year equals Forty-two Million Dollars
268 (\$42,000,000.00). Thereafter, the amounts diverted under this
269 subsection (7) during the fiscal year in excess of Forty-two
270 Million Dollars (\$42,000,000.00) shall be deposited into the
271 Education Enhancement Fund created under Section 37-61-33 for
272 appropriation by the Legislature as other education needs and
273 shall not be subject to the percentage appropriation requirements
274 set forth in Section 37-61-33.

275 (8) On or before August 15, 1992, and each succeeding month
276 thereafter, nine and seventy-three one-thousandths percent
277 (9.073%) of the total sales tax revenue collected during the
278 preceding month under the provisions of this chapter, except that
279 collected under the provisions of Section 27-65-17(2), shall be
280 deposited into the Education Enhancement Fund created under
281 Section 37-61-33.

282 (9) On or before August 15, 1994, and each succeeding month
283 thereafter, from the revenue collected under this chapter during
284 the preceding month, Two Hundred Fifty Thousand Dollars
285 (\$250,000.00) shall be paid into the State Aid Road Fund.

286 (10) On or before August 15, 1994, and each succeeding month
287 thereafter through August 15, 1995, from the revenue collected
288 under this chapter during the preceding month, Two Million Dollars
289 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
290 Valorem Tax Reduction Fund established in Section 27-51-105.

291 (11) Notwithstanding any other provision of this section to
292 the contrary, on or before February 15, 1995, and each succeeding
293 month thereafter, the sales tax revenue collected during the

294 preceding month under the provisions of Section 27-65-17(2) and
295 the corresponding levy in Section 27-65-23 on the rental or lease
296 of private carriers of passengers and light carriers of property
297 as defined in Section 27-51-101 shall be deposited, without
298 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund
299 established in Section 27-51-105.

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

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

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

324 (15) Notwithstanding any other provision of this section to
325 the contrary, on or before September 15, 2000, and each succeeding
326 month thereafter, the sales tax revenue collected during the

327 preceding month under the provisions of Section 27-65-19(1)(f) and
328 (g)(i)2, shall be deposited, without diversion, into the
329 Telecommunications Ad Valorem Tax Reduction Fund established in
330 Section 27-38-7.

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

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

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

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

354 (20) It shall be the duty of the municipal officials of any
355 municipality that expands its limits, or of any community that
356 incorporates as a municipality, to notify the commissioner of
357 that action thirty (30) days before the effective date. Failure
358 to so notify the commissioner shall cause the municipality to
359 forfeit the revenue that it would have been entitled to receive

360 during this period of time when the commissioner had no knowledge
361 of the action. If any funds have been erroneously disbursed to
362 any municipality or any overpayment of tax is recovered by the
363 taxpayer, the commissioner may make correction and adjust the
364 error or overpayment with the municipality by withholding the
365 necessary funds from any later payment to be made to the
366 municipality.

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

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