

By: Representative Snowden

To: Ways and Means

HOUSE BILL NO. 1565

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 ONE AND THREE-TENTHS PERCENT; TO AMEND SECTION
6 27-65-75, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ALL OF THE
7 SALES TAX COLLECTED ON SUCH RETAIL SALES OF FOOD WITHIN A
8 MUNICIPALITY SHALL BE ALLOCATED FOR DISTRIBUTION AND PAID TO SUCH
9 MUNICIPALITY; TO INCREASE THE AMOUNT OF THE SALES TAX DIVERSION TO
10 THE SCHOOL AD VALOREM TAX REDUCTION FUND AND THE EDUCATION
11 ENHANCEMENT FUND; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

69 (2) From and after January 1, 1995, retail sales of private
70 carriers of passengers and light carriers of property, as defined
71 in Section 27-51-101, shall be taxed an additional two percent
72 (2%).

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

90 (4) From and after July 1, 2005, in lieu of the tax levied
91 in subsection (1) of this section, retail sales of food for human
92 consumption not purchased with food stamps issued by the United
93 States Department of Agriculture, or other federal agency, but
94 which would be exempt under Section 27-65-111(o) from the taxes
95 imposed by this chapter if the food were purchased with food
96 stamps, shall be taxed at the rate of one and three-tenths percent
97 (1.3%).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

252 (7) On or before August 15, 1992, and each succeeding month
253 thereafter through July 15, 2000, two and two hundred sixty-six
254 one-thousandths percent (2.266%) of the total sales tax revenue
255 collected during the preceding month under the provisions of this
256 chapter, except that collected under the provisions of Section
257 27-65-17(2) shall be deposited by the commission into the School
258 Ad Valorem Tax Reduction Fund created under Section 37-61-35. On
259 or before August 15, 2000, and each succeeding month thereafter
260 through July 15, 2005, two and two hundred sixty-six
261 one-thousandths percent (2.266%) of the total sales tax revenue
262 collected during the preceding month under the provisions of this

263 chapter, except that collected under the provisions of Section
264 27-65-17(2), shall be deposited into the School Ad Valorem Tax
265 Reduction Fund created under Section 37-61-35 until such time that
266 the total amount deposited into the fund during a fiscal year
267 equals Forty-two Million Dollars (\$42,000,000.00). Thereafter,
268 the amounts diverted under this subsection (7) during the fiscal
269 year in excess of Forty-two Million Dollars (\$42,000,000.00) shall
270 be deposited into the Education Enhancement Fund created under
271 Section 37-61-33 for appropriation by the Legislature as other
272 education needs and shall not be subject to the percentage
273 appropriation requirements set forth in Section 37-61-33. On or
274 before August 15, 2005, and each succeeding month thereafter, two
275 and five hundred ninety-eight one-thousandths percent (2.598%) of
276 the total sales tax revenue collected during the preceding month
277 under the provisions of this chapter, except that collected under
278 the provisions of Section 27-65-17(2), and except that collected
279 under the provisions of Section 27-65-17(4) on business activities
280 within a municipal corporation, shall be deposited into the School
281 Ad Valorem Tax Reduction Fund created under Section 37-61-35 until
282 such time that the total amount deposited into the fund during a
283 fiscal year equals Forty-two Million Dollars (\$42,000,000.00).
284 Thereafter, the amounts diverted under this subsection (7) during
285 the fiscal year in excess of Forty-two Million Dollars
286 (\$42,000,000.00) shall be deposited into the Education Enhancement
287 Fund created under Section 37-61-33 for appropriation by the
288 Legislature as other education needs and shall not be subject to
289 the percentage appropriation requirements set forth in Section
290 37-61-33.

291 (8) On or before August 15, 1992, and each succeeding month
292 thereafter through July 15, 2005, nine and seventy-three
293 one-thousandths percent (9.073%) of the total sales tax revenue
294 collected during the preceding month under the provisions of this
295 chapter, except that collected under the provisions of Section

296 27-65-17(2), shall be deposited into the Education Enhancement
297 Fund created under Section 37-61-33. On or before August 15,
298 2005, and each succeeding month thereafter, ten and four hundred
299 twenty-six one-thousandths percent (10.426%) of the total sales
300 tax revenue collected during the preceding month under the
301 provisions of this chapter, except that collected under the
302 provisions of Section 27-65-17(2), and except that collected under
303 the provisions of Section 27-65-17(4) on business activities
304 within a municipal corporation, shall be deposited into the
305 Education Enhancement Fund created pursuant to Section 37-61-33.

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

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

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

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

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

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

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

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

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

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

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

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

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

391 **SECTION 3.** Nothing in this act shall affect or defeat any
392 claim, assessment, appeal, suit, right or cause of action for
393 taxes due or accrued under the sales tax laws before the date on
394 which this act becomes effective, whether such claims,

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

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