

By: Representatives Williams, Clarke,  
McBride

To: Ways and Means

HOUSE BILL NO. 512

1 AN ACT TO AMEND SECTIONS 27-65-17 AND 27-65-111, MISSISSIPPI  
2 CODE OF 1972, TO PHASE OUT THE SALES TAX ON SALES OF CERTAIN HOME  
3 MEDICAL EQUIPMENT AND HOME MEDICAL SUPPLIES; TO PHASE OUT THE  
4 SALES TAX ON SALES OF PRESCRIPTION EYEGLASSES TO MEDICAID  
5 RECIPIENTS AND SALES OF HEARING AIDS OR HEARING DEVICES; AND FOR  
6 RELATED PURPOSES.

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

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

10 27-65-17. (1) Upon every person engaging or continuing  
11 within this state in the business of selling any tangible personal  
12 property whatsoever there is hereby levied, assessed and shall be  
13 collected a tax equal to seven percent (7%) of the gross proceeds  
14 of the retail sales of the business, except as otherwise provided  
15 herein.

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

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

29           Retail sales of aircraft, automobiles, trucks,  
30 truck-tractors, semitrailers and mobile homes shall be taxed at  
31 the rate of three percent (3%).

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

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

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

46           Retail sales of the following items when ordered or  
47 prescribed by a licensed physician for medical purposes of a  
48 patient shall be taxed at the rates specified herein: home  
49 medical equipment and home medical supplies listed as eligible for  
50 payment under Title XVIII of the Social Security Act or under the  
51 state plan for medical assistance under Title XIX of the Social  
52 Security Act, prosthetics and orthotics, hearing aids or hearing  
53 devices, prescription eyeglasses for Medicaid recipients only,  
54 oxygen and oxygen equipment. The rates at which such items shall  
55 be taxed are as follows: from July 1, 1999, through June 30,  
56 2000, at the rate of seven percent (7%); from July 1, 2000,  
57 through June 30, 2001, at the rate of six percent (6%); from July  
58 1, 2001, through June 30, 2002, at the rate of five percent (5%);  
59 from July 1, 2002 through June 30, 2003, at the rate of four  
60 percent (4%); from July 1, 2003, through June 30, 2004, at the  
61 rate of three percent (3%); from July 1, 2004, through June 30,

62 2005, at the rate of two percent (2%); from July 1, 2005, through  
63 June 30, 2006, at the rate of one percent (1%); and from July 1,  
64 2006, and each succeeding year thereafter, at the rate of zero  
65 percent (0%).

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

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

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

79 Any person exercising any privilege taxable under Section  
80 27-65-15 and selling his natural resource products at wholesale or  
81 to exempt persons shall pay the tax levied by said section in lieu  
82 of the tax levied by this section.

83 (2) From and after January 1, 1995, retail sales of private  
84 carriers of passengers and light carriers of property, as defined  
85 in Section 27-51-101, shall be taxed an additional two percent  
86 (2%).

87 SECTION 2. Section 27-65-111, Mississippi Code of 1972, is  
88 amended as follows:

89 **[Through June 30, 2006, this section shall read as follows:]**

90 27-65-111. The exemptions from the provisions of this  
91 chapter which are not industrial, agricultural or governmental, or  
92 which do not relate to utilities or taxes, or which are not  
93 properly classified as one of the exemption classifications of  
94 this chapter, shall be confined to persons or property exempted by

95 this section or by the Constitution of the United States or the  
96 State of Mississippi. No exemptions as now provided by any other  
97 section, except the classified exemption sections of this chapter  
98 set forth herein, shall be valid as against the tax herein levied.  
99 Any subsequent exemption from the tax levied hereunder, except as  
100 indicated above, shall be provided by amendments to this section.

101 No exemption provided in this section shall apply to taxes  
102 levied by Section 27-65-15 or 27-65-21.

103 The tax levied by this chapter shall not apply to the  
104 following:

105 (a) Sales of tangible personal property and services to  
106 hospitals or infirmaries owned and operated by a corporation or  
107 association in which no part of the net earnings inures to the  
108 benefit of any private shareholder, group or individual, and which  
109 are subject to and governed by Sections 41-7-123 through 41-7-127.

110 Only sales of tangible personal property or services which  
111 are ordinary and necessary to the operation of such hospitals and  
112 infirmaries are exempted from tax.

113 (b) Sales of daily or weekly newspapers, and  
114 periodicals or publications of scientific, literary or educational  
115 organizations exempt from federal income taxation under Section  
116 501(c)(3) of the Internal Revenue Code of 1954, as it exists as of  
117 March 31, 1975, and subscription sales of all magazines.

118 (c) Sales of coffins, caskets and other materials used  
119 in the preparation of human bodies for burial.

120 (d) Sales of tangible personal property for immediate  
121 export to a foreign country.

122 (e) Sales of tangible personal property to an  
123 orphanage, old men's or ladies' home, supported wholly or in part  
124 by a religious denomination, fraternal nonprofit organization or  
125 other nonprofit organization.

126 (f) Sales of tangible personal property, labor or  
127 services taxable under Sections 27-65-17, 27-65-19, and 27-65-23,

128 to a YMCA, YWCA, a Boys' or Girls' Club owned and operated by a  
129 corporation or association in which no part of the net earnings  
130 inures to the benefit of any private shareholder, group or  
131 individual.

132 (g) Sales to elementary and secondary grade schools,  
133 junior and senior colleges owned and operated by a corporation or  
134 association in which no part of the net earnings inures to the  
135 benefit of any private shareholder, group or individual, and which  
136 are exempt from state income taxation, provided that this  
137 exemption does not apply to sales of property or services which  
138 are not to be used in the ordinary operation of the school, or  
139 which are to be resold to the students or the public.

140 (h) The gross proceeds of retail sales and the use or  
141 consumption in this state of drugs and medicines:

142 (i) Prescribed for the treatment of a human being  
143 by a person authorized to prescribe the medicines, and dispensed  
144 or prescription filled by a registered pharmacist in accordance  
145 with law; or

146 (ii) Furnished by a licensed physician, surgeon,  
147 dentist or podiatrist to his own patient for treatment of the  
148 patient; or

149 (iii) Furnished by a hospital for treatment of any  
150 person pursuant to the order of a licensed physician, surgeon,  
151 dentist or podiatrist; or

152 (iv) Sold to a licensed physician, surgeon,  
153 podiatrist, dentist or hospital for the treatment of a human  
154 being; or

155 (v) Sold to this state or any political  
156 subdivision or municipal corporation thereof, for use in the  
157 treatment of a human being or furnished for the treatment of a  
158 human being by a medical facility or clinic maintained by this  
159 state or any political subdivision or municipal corporation  
160 thereof.

161 "Medicines," as used in this paragraph, shall mean and  
162 include any substance or preparation intended for use by external  
163 or internal application to the human body in the diagnosis, cure,  
164 mitigation, treatment or prevention of disease and which is  
165 commonly recognized as a substance or preparation intended for  
166 such use; provided that "medicines" do not include any auditory,  
167 prosthetic, ophthalmic or ocular device or appliance, any dentures  
168 or parts thereof or any artificial limbs or their replacement  
169 parts, articles which are in the nature of splints, bandages,  
170 pads, compresses, supports, dressings, instruments, apparatus,  
171 contrivances, appliances, devices or other mechanical, electronic,  
172 optical or physical equipment or article or the component parts  
173 and accessories thereof, or any alcoholic beverage or any other  
174 drug or medicine not commonly referred to as a prescription drug.

175 Notwithstanding the preceding sentence of this subsection,  
176 "medicines" as used in this subsection, shall mean and include  
177 sutures, whether or not permanently implanted, bone screws, bone  
178 pins, pacemakers and other articles permanently implanted in the  
179 human body to assist the functioning of any natural organ, artery,  
180 vein or limb and which remain or dissolve in the body.

181 "Hospital," as used in this paragraph, shall have the meaning  
182 ascribed to it in Section 41-9-3.

183 Insulin furnished by a registered pharmacist to a person for  
184 treatment of diabetes as directed by a physician shall be deemed  
185 to be dispensed on prescription within the meaning of this  
186 subsection.

187 (i) Retail sales of automobiles, trucks and  
188 truck-tractors if exported from this state within forty-eight (48)  
189 hours and registered and first used in another state.

190 (j) Sales of tangible personal property or services to  
191 the Salvation Army and the Muscular Dystrophy Association, Inc.

192 (k) From July 1, 1985, through December 31, 1992,  
193 retail sales of "alcohol blended fuel" as such term is defined in

194 Section 75-55-5. The gasoline-alcohol blend or the straight  
195 alcohol eligible for this exemption shall not contain alcohol  
196 distilled outside the State of Mississippi.

197 (l) Sales of tangible personal property or services to  
198 the Institute for Technology Development.

199 (m) The gross proceeds of retail sales of food and  
200 drink for human consumption made through vending machines serviced  
201 by full line vendors from and not connected with other taxable  
202 businesses.

203 (n) The gross proceeds of sales of motor fuel.

204 (o) Retail sales of food for human consumption  
205 purchased with food stamps issued by the United States Department  
206 of Agriculture, or other federal agency, from and after October 1,  
207 1987, or from and after the expiration of any waiver granted  
208 pursuant to federal law, the effect of which waiver is to permit  
209 the collection by the state of tax on such retail sales of food  
210 for human consumption purchased with food stamps.

211 (p) Sales of cookies for human consumption by the Girl  
212 Scouts of America no part of the net earnings from which sales  
213 inures to the benefit of any private group or individual.

214 (q) Gifts or sales of tangible personal property or  
215 services to public or private nonprofit museums of art.

216 (r) Sales of tangible personal property or services to  
217 alumni associations of state-supported colleges or universities.

218 (s) Sales of tangible personal property or services to  
219 chapters of the National Association of Junior Auxiliaries, Inc.

220 (t) Sales of tangible personal property or services to  
221 domestic violence shelters which qualify for state funding under  
222 Sections 93-21-101 through 93-21-113.

223 (u) Sales of tangible personal property or services to  
224 the National Multiple Sclerosis Society, Mississippi Chapter.

225 (v) Retail sales of food for human consumption  
226 purchased with food instruments issued the Mississippi Band of

227 Choctaw Indians under the Women, Infants and Children Program  
228 (WIC) funded by the United States Department of Agriculture.

229 (w) Sales of tangible personal property or services to  
230 a private company, as defined in Section 57-61-5, which is making  
231 such purchases with proceeds of bonds issued under Section 57-61-1  
232 et seq., the Mississippi Business Investment Act.

233 (x) The gross collections from the operation of  
234 self-service, coin-operated car washing equipment and sales of the  
235 service of washing motor vehicles with portable high pressure  
236 washing equipment on the premises of the customer.

237 **[From and after July 1, 2006, this section shall read as**  
238 **follows:]**

239 27-65-111. The exemptions from the provisions of this  
240 chapter which are not industrial, agricultural or governmental, or  
241 which do not relate to utilities or taxes, or which are not  
242 properly classified as one of the exemption classifications of  
243 this chapter, shall be confined to persons or property exempted by  
244 this section or by the Constitution of the United States or the  
245 State of Mississippi. No exemptions as now provided by any other  
246 section, except the classified exemption sections of this chapter  
247 set forth herein, shall be valid as against the tax herein levied.  
248 Any subsequent exemption from the tax levied hereunder, except as  
249 indicated above, shall be provided by amendments to this section.

250 No exemption provided in this section shall apply to taxes  
251 levied by Section 27-65-15 or 27-65-21.

252 The tax levied by this chapter shall not apply to the  
253 following:

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255 hospitals or infirmaries owned and operated by a corporation or  
256 association in which no part of the net earnings inures to the  
257 benefit of any private shareholder, group or individual, and which  
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259 Only sales of tangible personal property or services which



260 are ordinary and necessary to the operation of such hospitals and  
261 infirmaries are exempted from tax.

262 (b) Sales of daily or weekly newspapers, and  
263 periodicals or publications of scientific, literary or educational  
264 organizations exempt from federal income taxation under Section  
265 501(c)(3) of the Internal Revenue Code of 1954, as it exists as of  
266 March 31, 1975, and subscription sales of all magazines.

267 (c) Sales of coffins, caskets and other materials used  
268 in the preparation of human bodies for burial.

269 (d) Sales of tangible personal property for immediate  
270 export to a foreign country.

271 (e) Sales of tangible personal property to an  
272 orphanage, old men's or ladies' home, supported wholly or in part  
273 by a religious denomination, fraternal nonprofit organization or  
274 other nonprofit organization.

275 (f) Sales of tangible personal property, labor or  
276 services taxable under Sections 27-65-17, 27-65-19, and 27-65-23,  
277 to a YMCA, YWCA, a Boys' or Girls' Club owned and operated by a  
278 corporation or association in which no part of the net earnings  
279 inures to the benefit of any private shareholder, group or  
280 individual.

281 (g) Sales to elementary and secondary grade schools,  
282 junior and senior colleges owned and operated by a corporation or  
283 association in which no part of the net earnings inures to the  
284 benefit of any private shareholder, group or individual, and which  
285 are exempt from state income taxation, provided that this  
286 exemption does not apply to sales of property or services which  
287 are not to be used in the ordinary operation of the school, or  
288 which are to be resold to the students or the public.

289 (h) The gross proceeds of retail sales and the use or  
290 consumption in this state of drugs and medicines:

291 (i) Prescribed for the treatment of a human being  
292 by a person authorized to prescribe the medicines, and dispensed

293 or prescription filled by a registered pharmacist in accordance  
294 with law; or

295 (ii) Furnished by a licensed physician, surgeon,  
296 dentist or podiatrist to his own patient for treatment of the  
297 patient; or

298 (iii) Furnished by a hospital for treatment of any  
299 person pursuant to the order of a licensed physician, surgeon,  
300 dentist or podiatrist; or

301 (iv) Sold to a licensed physician, surgeon,  
302 podiatrist, dentist or hospital for the treatment of a human  
303 being; or

304 (v) Sold to this state or any political  
305 subdivision or municipal corporation thereof, for use in the  
306 treatment of a human being or furnished for the treatment of a  
307 human being by a medical facility or clinic maintained by this  
308 state or any political subdivision or municipal corporation  
309 thereof.

310 "Medicines," as used in this paragraph, shall mean and  
311 include any substance or preparation intended for use by external  
312 or internal application to the human body in the diagnosis, cure,  
313 mitigation, treatment or prevention of disease and which is  
314 commonly recognized as a substance or preparation intended for  
315 such use, home medical equipment and home medical supplies listed  
316 as eligible for payment under Title XVIII of the Social Security  
317 Act or under the state plan for medical assistance under Title XIX  
318 of the Social Security Act, prosthetics and orthotics, hearing  
319 aids or hearing devices, oxygen and oxygen equipment; provided  
320 that "medicines" do not include any \* \* \* ophthalmic or ocular  
321 device or appliance, any dentures or parts thereof \* \* \*, articles  
322 which are in the nature of splints, bandages, pads, compresses,  
323 supports, dressings, instruments, apparatus, contrivances,  
324 appliances, devices or other mechanical, electronic, optical or  
325 physical equipment or article or the component parts and

326 accessories thereof, or any alcoholic beverage or any other drug  
327 or medicine not commonly referred to as a prescription drug.

328 Notwithstanding the preceding sentence of this subsection,  
329 "medicines" as used in this subsection, shall mean and include  
330 sutures, whether or not permanently implanted, bone screws, bone  
331 pins, pacemakers and other articles permanently implanted in the  
332 human body to assist the functioning of any natural organ, artery,  
333 vein or limb and which remain or dissolve in the body, and  
334 prescription eyeglasses for Medicaid recipients only.

335 "Hospital," as used in this paragraph, shall have the meaning  
336 ascribed to it in Section 41-9-3.

337 Insulin furnished by a registered pharmacist to a person for  
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348 Section 75-55-5. The gasoline-alcohol blend or the straight  
349 alcohol eligible for this exemption shall not contain alcohol  
350 distilled outside the State of Mississippi.

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354 drink for human consumption made through vending machines serviced  
355 by full line vendors from and not connected with other taxable  
356 businesses.

357 (n) The gross proceeds of sales of motor fuel.

358 (o) Retail sales of food for human consumption

359 purchased with food stamps issued by the United States Department  
360 of Agriculture, or other federal agency, from and after October 1,  
361 1987, or from and after the expiration of any waiver granted  
362 pursuant to federal law, the effect of which waiver is to permit  
363 the collection by the state of tax on such retail sales of food  
364 for human consumption purchased with food stamps.

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366 Scouts of America no part of the net earnings from which sales  
367 inures to the benefit of any private group or individual.

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382 (WIC) funded by the United States Department of Agriculture.

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384 a private company, as defined in Section 57-61-5, which is making  
385 such purchases with proceeds of bonds issued under Section 57-61-1  
386 et seq., the Mississippi Business Investment Act.

387 (x) The gross collections from the operation of  
388 self-service, coin-operated car washing equipment and sales of the  
389 service of washing motor vehicles with portable high pressure  
390 washing equipment on the premises of the customer.

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, 1999.