HOUSE BILL NO. 899

AN ACT TO AMEND SECTION 27-3-31, MISSISSIPPI CODE OF 1972, TO REQUIRE THE STATE TAX COMMISSION TO DESIGN AND ISSUE IDENTIFICATION CARDS VERIFYING ELIGIBILITY FOR AN EXEMPTION FROM SALES TAX ON FOOD ITEMS TO CITIZENS OF THE STATE WHO ARE SIXTY-FIVE YEARS OF AGE OR OLDER OR WHO ARE TOTALLY DISABLED; TO AMEND SECTION 27-65-111, MISSISSIPPI CODE OF 1972, TO EXEMPT FROM SALES TAX FOOD ITEMS SOLD TO CITIZENS OF THE STATE WHO SHOW AN IDENTIFICATION CARD ISSUED BY THE STATE TAX COMMISSION VERIFYING THAT THEY ARE SIXTY-FIVE YEARS OF AGE OR OLDER OR ARE TOTALLY DISABLED; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 27-3-31, Mississippi Code of 1972, is amended as follows:

27-3-31. It shall specifically be the duty of the State Tax Commission, and it shall have power and authority:

(a) To adopt, amend or repeal those rules or regulations necessary to implement the duties assigned to the commission in this section.

(b) Each commissioner and authorized agent, and the secretary of the commission is empowered to administer and certify oaths.

(c) To confer with and advise assessing officers, boards of supervisors and other county officers as to their duties relative to taxation under the law; and to advise them in the collection, filing and preservation of data relative to matters of assessment.

(d) To prepare and have printed in pamphlet form full instructions governing the duties of and the application of the revenue laws of the state to county tax assessors, the clerk and members of the boards of supervisors, and to promptly advise such officers of all decisions of the Supreme Court relating to matters
of revenue and taxation when such decisions affect the duties of such officers.

(e) To become familiar with property values and general conditions in the counties of the state and to direct the collection and preservation of data and information pertaining to the quantity and value of property in each county in the state, subject to assessment, necessary to enable the commission to determine the assessed value of classes of property and whether assessments comply with acceptable performance standards as required by Section 27-35-113.

(f) To direct the collection, preparation and preservation of data and information pertaining to the quantity, value and location of property belonging to railroads, persons, corporations and associations which is required to be assessed by the State Tax Commission.

(g) To supervise and direct the preparation of forms for the assessment of property of railroads and public service corporations assessed by the commission, and the filing of their rolls or schedules of assessment.

(h) To determine the location of all property subject to assessment by the commission in the various counties of the state, the municipalities and taxing districts therein, and to ascertain and report as far as practicable the value and ownership of all such property.

(i) To keep informed of the work of the assessors and supervisors of the various counties of the state as required by Section 27-3-51, and to have charge of the details necessary to the equalization by the commission of assessments among the various counties pursuant to Section 27-35-113.

(j) To prepare all forms for tax lists, assessment rolls and perform other duties relating thereto.
(k) To prepare data and statistics relating to property assessments which are deemed advisable for publication or which may be required by the Legislature.

(l) To confer with assessors, supervisors and other local taxing officials who may have business with the commission.

(m) To consider and approve or disapprove all orders of boards of supervisors making increases and decreases in assessments and orders of boards of supervisors granting homestead exemptions.

(n) To have jurisdiction of all taxpayer appeals from decisions on the chairman of the commission to the entire commission, to arrange the time and place of hearing and appeals, and to provide for the preparation and presentation to the full commission of all evidence, documents and other matters necessary and proper for a decision on the matters and questions involved in the appeal.

(o) To direct and supervise the preparation of any record to be filed in any court of the state.

(p) To attend to all appeals from decisions of the State Tax Commission to the courts, and cooperate with the Attorney General and district attorneys to the end that the interests of the state shall be presented fairly and properly to the courts, without undue delay.

(q) To administer and enforce the "Local Option Alcoholic Beverage Control Law," being Section 67-1-1 et seq., except as provided in Section 67-1-23.

(r) To adopt and enforce rules and regulations prescribing the manner and method by which tax returns and documents may be filed with the commission as provided under Section 27-3-83.

(s) To design and issue identification cards verifying eligibility for an exemption from sales tax on food items under Section 27-65-111 to citizens of the state who are sixty-five (65)
years of age or older or who are totally disabled. The commission shall use the criteria established in Section 27-33-67(2) to determine whether a person is totally disabled.

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

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

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

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

(a) Sales of tangible personal property and services to hospitals or infirmaries owned and operated by a corporation or association in which no part of the net earnings inures to the benefit of any private shareholder, group or individual, and which are subject to and governed by Sections 41-7-123 through 41-7-127. Only sales of tangible personal property or services which are ordinary and necessary to the operation of such hospitals and infirmaries are exempted from tax.

(b) Sales of daily or weekly newspapers, and periodicals or publications of scientific, literary or educational organizations exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code of 1954, as it exists as of March 31, 1975, and subscription sales of all magazines.
(c) Sales of coffins, caskets and other materials used in the preparation of human bodies for burial.

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

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

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

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

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

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

   (ii) Furnished by a licensed physician, surgeon, dentist or podiatrist to his own patient for treatment of the patient; or
(iii) Furnished by a hospital for treatment of any person pursuant to the order of a licensed physician, surgeon, dentist or podiatrist; or

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

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

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

Notwithstanding the preceding sentence of this subsection, "medicines" as used in this subsection, shall mean and include sutures, whether or not permanently implanted, bone screws, bone pins, pacemakers and other articles permanently implanted in the human body to assist the functioning of any natural organ, artery, vein or limb and which remain or dissolve in the body.
"Hospital," as used in this paragraph, shall have the meaning ascribed to it in Section 41-9-3.

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

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

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

(k) From July 1, 1985, through December 31, 1992, retail sales of "alcohol blended fuel" as such term is defined in Section 75-55-5. The gasoline-alcohol blend or the straight alcohol eligible for this exemption shall not contain alcohol distilled outside the State of Mississippi.

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

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

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

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

(p) Sales of cookies for human consumption by the Girl Scouts of America no part of the net earnings from which sales inures to the benefit of any private group or individual.
(q) Gifts or sales of tangible personal property or services to public or private nonprofit museums of art.

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

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

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

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

(v) Retail sales of food for human consumption purchased with food instruments issued the Mississippi Band of Choctaw Indians under the Women, Infants and Children Program (WIC) funded by the United States Department of Agriculture.

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

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

(y) Sales of food items to citizens of the state who are sixty-five (65) years of age or older or who are totally disabled as determined by the State Tax Commission. In order to receive this sales tax exemption such persons must verify their eligibility by showing an identification card issued by the State Tax Commission.

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

SECTION 4. This act shall take effect and be in force from
and after July 1, 2001.