

By: Representative Fleming

To: Ways and Means

HOUSE BILL NO. 192

1 AN ACT TO AMEND SECTION 27-65-111, MISSISSIPPI CODE OF 1972,
 2 TO AUTHORIZE A SALES TAX EXEMPTION ON SALES OF CLOTHING AND SCHOOL
 3 SUPPLIES AND EQUIPMENT FOR CHILDREN IN KINDERGARTEN THROUGH THE
 4 TWELFTH GRADE AND SOLD DURING THE PERIOD OF THE YEAR DESIGNATED BY
 5 THE STATE TAX COMMISSION AS THE PERIOD FOR SUCH EXEMPTION; TO
 6 REQUIRE THE STATE TAX COMMISSION TO DEVELOP A LIST OF ITEMS TO
 7 WHICH THE EXEMPTION APPLIES AND GUIDELINES FOR ADMINISTERING THE
 8 EXEMPTION; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 27-65-111, Mississippi Code of 1972, is
 11 amended as follows:

12 27-65-111. The exemptions from the provisions of this
 13 chapter which are not industrial, agricultural or governmental, or
 14 which do not relate to utilities or taxes, or which are not
 15 properly classified as one of the exemption classifications of
 16 this chapter, shall be confined to persons or property exempted by
 17 this section or by the Constitution of the United States or the
 18 State of Mississippi. No exemptions as now provided by any other
 19 section, except the classified exemption sections of this chapter
 20 set forth herein, shall be valid as against the tax herein levied.
 21 Any subsequent exemption from the tax levied hereunder, except as
 22 indicated above, shall be provided by amendments to this section.

23 No exemption provided in this section shall apply to taxes
 24 levied by Section 27-65-15 or 27-65-21, Mississippi Code of 1972.

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

- 27 (a) Sales of tangible personal property and services to
- 28 hospitals or infirmaries owned and operated by a corporation or
- 29 association in which no part of the net earnings inures to the

30 benefit of any private shareholder, group or individual, and which
31 are subject to and governed by Sections 41-7-123 through 41-7-127.

32 Only sales of tangible personal property or services which
33 are ordinary and necessary to the operation of such hospitals and
34 infirmaries are exempted from tax.

35 (b) Sales of daily or weekly newspapers, and
36 periodicals or publications of scientific, literary or educational
37 organizations exempt from federal income taxation under Section
38 501(c)(3) of the Internal Revenue Code of 1954, as it exists as of
39 March 31, 1975, and subscription sales of all magazines.

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

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

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

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

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

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

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

68 (ii) Furnished by a licensed physician, surgeon,
69 dentist or podiatrist to his own patient for treatment of the
70 patient; or

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

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

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

83 "Medicines," as used in this paragraph (h), shall mean and
84 include any substance or preparation intended for use by external
85 or internal application to the human body in the diagnosis, cure,
86 mitigation, treatment or prevention of disease and which is
87 commonly recognized as a substance or preparation intended for
88 such use; provided that "medicines" do not include any auditory,
89 prosthetic, ophthalmic or ocular device or appliance, any dentures
90 or parts thereof or any artificial limbs or their replacement
91 parts, articles which are in the nature of splints, bandages,
92 pads, compresses, supports, dressings, instruments, apparatus,
93 contrivances, appliances, devices or other mechanical, electronic,
94 optical or physical equipment or article or the component parts

95 and accessories thereof, or any alcoholic beverage or any other
96 drug or medicine not commonly referred to as a prescription drug.

97 Notwithstanding the preceding sentence of this paragraph (h),
98 "medicines" as used in this paragraph (h), shall mean and include
99 sutures, whether or not permanently implanted, bone screws, bone
100 pins, pacemakers and other articles permanently implanted in the
101 human body to assist the functioning of any natural organ, artery,
102 vein or limb and which remain or dissolve in the body.

103 "Hospital," as used in this paragraph (h), shall have the
104 meaning ascribed to it in Section 41-9-3, Mississippi Code of
105 1972.

106 Insulin furnished by a registered pharmacist to a person for
107 treatment of diabetes as directed by a physician shall be deemed
108 to be dispensed on prescription within the meaning of this
109 paragraph (h).

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

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

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

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

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

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

127 (o) Retail sales of food for human consumption
128 purchased with food stamps issued by the United States Department
129 of Agriculture, or other federal agency, from and after October 1,
130 1987, or from and after the expiration of any waiver granted
131 pursuant to federal law, the effect of which waiver is to permit
132 the collection by the state of tax on such retail sales of food
133 for human consumption purchased with food stamps.

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

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

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

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

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

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

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

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

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

160 (y) During the period designated by the commission,
161 sales of clothing and school supplies and equipment for children
162 in kindergarten through the twelfth grade. The period designated
163 by the commission for the exemption shall be seven (7) consecutive
164 days between July 1 and August 15 of each calendar year. The
165 commission shall designate such period no less than sixty (60)
166 days before the beginning of the period. The commission shall
167 develop a list of items to which the exemption may apply and shall
168 develop guidelines for administering the exemption.

169 **SECTION 2.** Nothing in this act shall affect or defeat any
170 claim, assessment, appeal, suit, right or cause of action for
171 taxes due or accrued under the sales tax laws before the date on
172 which this act becomes effective, whether such claims,
173 assessments, appeals, suits or actions have been begun before the
174 date on which this act becomes effective or are begun thereafter;
175 and the provisions of the sales tax laws are expressly continued
176 in full force, effect and operation for the purpose of the
177 assessment, collection and enrollment of liens for any taxes due
178 or accrued and the execution of any warrant under such laws before
179 the date on which this act becomes effective, and for the
180 imposition of any penalties, forfeitures or claims for failure to
181 comply with such laws.

182 **SECTION 3.** This act shall take effect and be in force from
183 and after its passage.