

By: Representative Mims

To: Ways and Means

HOUSE BILL NO. 375

1 AN ACT TO AMEND SECTION 27-65-111, MISSISSIPPI CODE OF 1972,
 2 TO EXEMPT FROM SALES TAXATION THE RETAIL SALES OF CERTAIN ARTICLES
 3 OF CLOTHING AND OTHER SUPPLIES DURING THE FIRST WEEK IN AUGUST; TO
 4 PROVIDE THAT BEFORE SUCH EXEMPTION MAY TAKE EFFECT IT MUST FIRST
 5 BE AUTHORIZED BY THE GOVERNING AUTHORITIES OF A MUNICIPALITY FOR
 6 RETAIL SALES OCCURRING WITHIN THE CORPORATE LIMITS OF THE
 7 MUNICIPALITY, OR BOARD OF SUPERVISORS OF A COUNTY FOR RETAIL SALES
 8 OCCURRING IN THE COUNTY OUTSIDE THE CORPORATE LIMITS OF A
 9 MUNICIPALITY; TO PROVIDE THAT THE GOVERNING AUTHORITIES OF A
 10 MUNICIPALITY OR BOARD OF SUPERVISORS OF A COUNTY, AS THE CASE MAY
 11 BE, THAT HAS AUTHORIZED THE SALES TAX EXEMPTION PROVIDED IN THIS
 12 ACT MAY SUSPEND THE APPLICATION OF SUCH EXEMPTION; AND FOR RELATED
 13 PURPOSES.

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

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

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

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

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

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

37 Only sales of tangible personal property or services which
38 are ordinary and necessary to the operation of such hospitals and
39 infirmaries are exempted from tax.

40 (b) Sales of daily or weekly newspapers, and
41 periodicals or publications of scientific, literary or educational
42 organizations exempt from federal income taxation under Section
43 501(c)(3) of the Internal Revenue Code of 1954, as it exists as of
44 March 31, 1975, and subscription sales of all magazines.

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

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

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

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

59 (g) Sales to elementary and secondary grade schools,
60 junior and senior colleges owned and operated by a corporation or
61 association in which no part of the net earnings inures to the
62 benefit of any private shareholder, group or individual, and which
63 are exempt from state income taxation, provided that this
64 exemption does not apply to sales of property or services which

65 are not to be used in the ordinary operation of the school, or
66 which are to be resold to the students or the public.

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

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

73 (ii) Furnished by a licensed physician, surgeon,
74 dentist or podiatrist to his own patient for treatment of the
75 patient; or

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

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

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

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

98 contrivances, appliances, devices or other mechanical, electronic,
99 optical or physical equipment or article or the component parts
100 and accessories thereof, or any alcoholic beverage or any other
101 drug or medicine not commonly referred to as a prescription drug.

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

108 "Hospital," as used in this paragraph (h), shall have the
109 meaning ascribed to it in Section 41-9-3, Mississippi Code of
110 1972.

111 Insulin furnished by a registered pharmacist to a person for
112 treatment of diabetes as directed by a physician shall be deemed
113 to be dispensed on prescription within the meaning of this
114 paragraph (h).

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

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

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

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

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

- 131 (n) The gross proceeds of sales of motor fuel.
- 132 (o) Retail sales of food for human consumption
133 purchased with food stamps issued by the United States Department
134 of Agriculture, or other federal agency, from and after October 1,
135 1987, or from and after the expiration of any waiver granted
136 pursuant to federal law, the effect of which waiver is to permit
137 the collection by the state of tax on such retail sales of food
138 for human consumption purchased with food stamps.
- 139 (p) Sales of cookies for human consumption by the Girl
140 Scouts of America no part of the net earnings from which sales
141 inures to the benefit of any private group or individual.
- 142 (q) Gifts or sales of tangible personal property or
143 services to public or private nonprofit museums of art.
- 144 (r) Sales of tangible personal property or services to
145 alumni associations of state-supported colleges or universities.
- 146 (s) Sales of tangible personal property or services to
147 chapters of the National Association of Junior Auxiliaries, Inc.
- 148 (t) Sales of tangible personal property or services to
149 domestic violence shelters which qualify for state funding under
150 Sections 93-21-101 through 93-21-113.
- 151 (u) Sales of tangible personal property or services to
152 the National Multiple Sclerosis Society, Mississippi Chapter.
- 153 (v) Retail sales of food for human consumption
154 purchased with food instruments issued the Mississippi Band of
155 Choctaw Indians under the Women, Infants and Children Program
156 (WIC) funded by the United States Department of Agriculture.
- 157 (w) Sales of tangible personal property or services to
158 a private company, as defined in Section 57-61-5, which is making
159 such purchases with proceeds of bonds issued under Section 57-61-1
160 et seq., the Mississippi Business Investment Act.
- 161 (x) The gross collections from the operation of
162 self-service, coin-operated car washing equipment and sales of the

163 service of washing motor vehicles with portable high-pressure
164 washing equipment on the premises of the customer.

165 (y) Sales of tangible personal property or services to
166 the Mississippi Technology Alliance.

167 (z) Subject to the provisions of this paragraph (z),
168 retail sales of an article of clothing or footwear designed to be
169 worn on or about the human body with a sales price of One Hundred
170 Dollars (\$100.00) or less per item and the sale takes place during
171 a period beginning at 12:01 a.m. on the first Friday in August and
172 ending at 12:00 midnight the following Sunday. This paragraph (z)
173 shall not apply to:

174 (i) Accessories including jewelry, handbags,
175 luggage, umbrellas, wallets, watches, backpacks, briefcases,
176 garment bags and similar items carried on or about the human body,
177 without regard to whether worn on the body in a manner
178 characteristic of clothing;

179 (ii) The rental of clothing or footwear; and

180 (iii) Skis, swim fins, roller blades, skates and
181 similar items worn on the foot.

182 (aa) Subject to the provisions of this paragraph (aa),
183 retail sales of computers, printers and printer supplies, and
184 educational software, with a sales price of Three Thousand Five
185 Hundred Dollars (\$3,500.00) or less per item and the sale takes
186 place during a period beginning at 12:01 a.m. on the first Friday
187 in August and ending at 12:00 midnight the following Sunday. For
188 purposes of this paragraph (aa), "computer" means a central
189 processing unit for personal use and any peripherals sold with it
190 and any computer software installed at the time of purchase.

191 (bb) Subject to the provisions of this paragraph (bb),
192 retail sales of school supplies such as pens, pencils, paper,
193 binders, notebooks, textbooks, reference books, book bags, lunch
194 boxes and calculators with a sales price of One Hundred Dollars
195 (\$100.00) or less per item and takes place during a period

196 beginning at 12:01 a.m. on the first Friday in August and ending
197 at 12:00 midnight the following Sunday.

198 (cc) Subject to the provisions of this paragraph (cc),
199 retail sales of hunting equipment and supplies which takes place
200 during a period beginning at 12:01 a.m. on the first Friday in
201 August and ending at 12:00 midnight the following Sunday. The
202 State Tax Commission shall develop a list of items to which the
203 exemption provided in this paragraph (cc) may apply.

204 Before the exemptions provided in paragraphs (z), (aa), (bb)
205 and (cc) may take effect for retail sales occurring within the
206 corporate limits of a municipality or retail sales occurring in a
207 county outside the corporate limits of a municipality, the
208 governing authorities of the municipality or board of supervisors
209 of the county, as the case may be, must first adopt a resolution
210 to that effect stating the date upon which any such exemption
211 shall take effect. A certified copy of such resolution shall be
212 furnished to the State Tax Commission at least thirty (30) days
213 before the date upon which the municipality or county desires such
214 exemption to take effect. The governing authorities of a
215 municipality or board of supervisors of a county, as the case may
216 be, that has authorized the exemptions provided in paragraphs (z),
217 (aa), (bb) and/or (cc) may suspend the application of such
218 exemption by adoption of a resolution to that effect stating the
219 date upon which the suspension shall take effect. A certified
220 copy of such resolution shall be furnished to the State Tax
221 Commission at least thirty (30) days before the date upon which
222 the municipality or county desires such suspension to take effect.

223 **SECTION 2.** Nothing in this act shall affect or defeat any
224 claim, assessment, appeal, suit, right or cause of action for
225 taxes due or accrued under the sales tax laws before the date on
226 which this act becomes effective, whether such claims,
227 assessments, appeals, suits or actions have been begun before the
228 date on which this act becomes effective or are begun thereafter;

229 and the provisions of the sales tax laws are expressly continued
230 in full force, effect and operation for the purpose of the
231 assessment, collection and enrollment of liens for any taxes due
232 or accrued and the execution of any warrant under such laws before
233 the date on which this act becomes effective, and for the
234 imposition of any penalties, forfeitures or claims for failure to
235 comply with such laws.

236 **SECTION 3.** This act shall take effect and be in force from
237 and after July 1, 2006.