

By: Representative Mims

To: Ways and Means

## HOUSE BILL NO. 484

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 WEEKEND IN AUGUST;  
4 TO PROVIDE THAT BEFORE SUCH EXEMPTION MAY TAKE EFFECT IT MUST  
5 FIRST BE AUTHORIZED BY THE GOVERNING AUTHORITIES OF A MUNICIPALITY  
6 FOR 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) Sales of tangible personal property to nonprofit  
168 organizations that provide foster care, adoption services and  
169 temporary housing for unwed mothers and their children if the  
170 organization is exempt from federal income taxation under Section  
171 501(c)(3) of the Internal Revenue Code.

172 (aa) Sales of tangible personal property to nonprofit  
173 organizations that provide residential rehabilitation for persons  
174 with alcohol and drug dependencies if the organization is exempt  
175 from federal income taxation under Section 501(c)(3) of the  
176 Internal Revenue Code.

177 (bb) Subject to the provisions of this paragraph (bb),  
178 retail sales of an article of clothing or footwear designed to be  
179 worn on or about the human body with a sales price of One Hundred  
180 Dollars (\$100.00) or less per item and the sale takes place during  
181 a period beginning at 12:01 a.m. on the first Friday in August and  
182 ending at 12:00 midnight the following Sunday. This paragraph  
183 (bb) shall not apply to:

184 (i) Accessories including jewelry, handbags,  
185 luggage, umbrellas, wallets, watches, backpacks, briefcases,  
186 garment bags and similar items carried on or about the human body,  
187 without regard to whether worn on the body in a manner  
188 characteristic of clothing;

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

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

192 (cc) Subject to the provisions of this paragraph (cc),  
193 retail sales of computers, printers and printer supplies, and  
194 educational software, with a sales price of Three Thousand Five  
195 Hundred Dollars (\$3,500.00) or less per item and the sale takes

196 place during a period beginning at 12:01 a.m. on the first Friday  
197 in August and ending at 12:00 midnight the following Sunday. For  
198 purposes of this paragraph (cc), "computer" means a central  
199 processing unit for personal use and any peripherals sold with it  
200 and any computer software installed at the time of purchase.

201 (dd) Subject to the provisions of this paragraph (dd),  
202 retail sales of school supplies such as pens, pencils, paper,  
203 binders, notebooks, textbooks, reference books, book bags, lunch  
204 boxes and calculators with a sales price of One Hundred Dollars  
205 (\$100.00) or less per item and takes place during a period  
206 beginning at 12:01 a.m. on the first Friday in August and ending  
207 at 12:00 midnight the following Sunday.

208 (ee) Subject to the provisions of this paragraph (ee),  
209 retail sales of hunting equipment and supplies which takes place  
210 during a period beginning at 12:01 a.m. on the first Friday in  
211 August and ending at 12:00 midnight the following Sunday. The  
212 State Tax Commission shall develop a list of items to which the  
213 exemption provided in this paragraph (ee) may apply.

214 Before the exemptions provided in paragraphs (bb), (cc), (dd)  
215 and (ee) may take effect for retail sales occurring within the  
216 corporate limits of a municipality or retail sales occurring in a  
217 county outside the corporate limits of a municipality, the  
218 governing authorities of the municipality or board of supervisors  
219 of the county, as the case may be, must first adopt a resolution  
220 to that effect stating the date upon which any such exemption  
221 shall take effect. A certified copy of such resolution shall be  
222 furnished to the State Tax Commission at least thirty (30) days  
223 before the date upon which the municipality or county desires such  
224 exemption to take effect. The governing authorities of a  
225 municipality or board of supervisors of a county, as the case may  
226 be, that has authorized the exemptions provided in paragraphs  
227 (bb), (cc), (dd) and/or (ee) may suspend the application of such  
228 exemption by adoption of a resolution to that effect stating the

229 date upon which the suspension shall take effect. A certified  
230 copy of such resolution shall be furnished to the State Tax  
231 Commission at least thirty (30) days before the date upon which  
232 the municipality or county desires such suspension to take effect.

233       **SECTION 2.** Nothing in this act shall affect or defeat any  
234 claim, assessment, appeal, suit, right or cause of action for  
235 taxes due or accrued under the sales tax laws before the date on  
236 which this act becomes effective, whether such claims,  
237 assessments, appeals, suits or actions have been begun before the  
238 date on which this act becomes effective or are begun thereafter;  
239 and the provisions of the sales tax laws are expressly continued  
240 in full force, effect and operation for the purpose of the  
241 assessment, collection and enrollment of liens for any taxes due  
242 or accrued and the execution of any warrant under such laws before  
243 the date on which this act becomes effective, and for the  
244 imposition of any penalties, forfeitures or claims for failure to  
245 comply with such laws.

246       **SECTION 3.** This act shall take effect and be in force from  
247 and after July 1, 2007.