

By: Representative Cameron

To: Ways and Means

HOUSE BILL NO. 1655

1 AN ACT TO PROVIDE THAT IF A BUSINESS ENTERPRISE THAT WAS
 2 DOING BUSINESS IN THIS STATE FOR AT LEAST TWO YEARS BEFORE JANUARY
 3 1, 2001, AND IS LOCATED IN A GROWTH AND PROSPERITY COUNTY OR
 4 ELIGIBLE SUPERVISORS DISTRICT DETERMINES IT IS AT A COMPETITIVE
 5 DISADVANTAGE BECAUSE OF TAX EXEMPTIONS PROVIDED TO OTHER BUSINESS
 6 ENTERPRISES UNDER THE GROWTH AND PROSPERITY ACT, THE BUSINESS
 7 ENTERPRISE MAY REQUEST THE MISSISSIPPI DEVELOPMENT AUTHORITY TO
 8 DESIGNATE IT AS ELIGIBLE FOR SUCH TAX EXEMPTIONS; TO PROVIDE THAT
 9 A BUSINESS ENTERPRISE WILL BE ELIGIBLE TO RECEIVE SUCH TAX
 10 EXEMPTIONS IF THE MISSISSIPPI DEVELOPMENT AUTHORITY DETERMINES THE
 11 BUSINESS ENTERPRISE IS AT SUCH A COMPETITIVE DISADVANTAGE; TO
 12 PROVIDE THAT SUCH A BUSINESS ENTERPRISE SHALL NOT BE REQUIRED TO
 13 SATISFY THE MINIMUM NUMBER OF JOBS REQUIREMENT PROVIDED IN THE
 14 GROWTH AND PROSPERITY ACT; TO AMEND SECTIONS 27-7-21, 27-13-5,
 15 27-13-7 AND 27-65-101, MISSISSIPPI CODE OF 1972, IN CONFORMITY
 16 THERETO; AND FOR RELATED PURPOSES.

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

18 SECTION 1. (1) As used in this section, the following words
 19 and phrases shall have the meanings ascribed in this section
 20 unless the context clearly indicates otherwise:

21 (a) "Approved business enterprise" means, and has the
 22 same definition as that term has in Section 57-80-5.

23 (b) "Eligible supervisors district" means, and has the
 24 same definition as that term has in Section 57-80-5.

25 (c) "Growth and prosperity counties" means, and has the
 26 same definition as that term has in Section 57-80-5.

27 (d) "MDA" means the Mississippi Development Authority.

28 (2) If a business enterprise that was doing business in this
 29 state for at least two (2) years before January 1, 2001, and is
 30 located in a growth and prosperity county or eligible supervisors
 31 district determines it is at a competitive disadvantage because of
 32 tax exemptions provided to any approved business enterprise under

33 the Growth and Prosperity Act, such business enterprise may apply
34 to the MDA and request the MDA to designate it as eligible for the
35 tax exemptions provided under the Growth and Prosperity Act. The
36 application shall be on a form prescribed by the MDA and shall
37 contain such information as may be required by the MDA to
38 determine if the business enterprise is at a competitive
39 disadvantage because of tax exemptions provided to any approved
40 business enterprise under the Growth and Prosperity Act. The MDA
41 shall review the application and determine whether the business
42 enterprise is at such a competitive disadvantage. If the MDA
43 determines the business enterprise is at a competitive
44 disadvantage, the MDA shall issue a certificate to the business
45 enterprise designating it as eligible for the tax exemptions
46 provided under the Growth and Prosperity Act. A business
47 enterprise issued a certificate under this section shall not be
48 required to satisfy any minimum number of jobs requirement
49 provided in the Growth and Prosperity Act.

50 (3) The MDA shall promulgate rules and regulations necessary
51 for the implementation and administration of this section.

52 SECTION 2. Section 27-7-21, Mississippi Code of 1972, is
53 amended as follows:

54 27-7-21. (a) **Allowance of deductions.** In the case of a
55 resident individual, the exemptions provided by this section, as
56 applicable to individuals, shall be allowed as deductions in
57 computing taxable income.

58 (b) **Single individuals.** In the case of a single individual,
59 a personal exemption of Five Thousand Two Hundred Fifty Dollars
60 (\$5,250.00) for the 1979 and 1980 calendar years and Six Thousand
61 Dollars (\$6,000.00) for each calendar year thereafter.

62 (c) **Married individuals.** In the case of married individuals
63 living together, a joint personal exemption of Eight Thousand
64 Dollars (\$8,000.00) for the 1979 and 1980 calendar years and Nine
65 Thousand Five Hundred Dollars (\$9,500.00) for the 1981 through

66 1997 calendar years, Ten Thousand Dollars (\$10,000.00) for the
67 calendar year 1998, Eleven Thousand Dollars (\$11,000.00) for the
68 calendar year 1999, and Twelve Thousand Dollars (\$12,000.00) for
69 each calendar year thereafter. A husband and wife living together
70 shall receive but one (1) personal exemption in the amounts
71 provided for in this subsection for each calendar year against
72 their aggregate income.

73 (d) **Head of family individuals.** In the case of a head of
74 family individual, a personal exemption of Eight Thousand Dollars
75 (\$8,000.00) for the 1979 and 1980 calendar years and Nine Thousand
76 Five Hundred Dollars (\$9,500.00) for each calendar year
77 thereafter. The term "head of family" means an individual who is
78 single, or married but not living with his spouse for the entire
79 taxable year, who maintains a household which constitutes the
80 principal place of abode of himself and one or more individuals
81 who are dependents under the provisions of Section 152(a) of the
82 Internal Revenue Code of 1954, as amended. The head of family
83 individual shall be entitled to the additional dependent exemption
84 as provided in subsection (e) of this section only to the extent
85 of dependents in excess of the one (1) dependent needed to qualify
86 as head of family.

87 (e) **Additional exemption for dependents.** In the case of any
88 individual having a dependent, other than husband or wife, an
89 additional personal exemption of One Thousand Five Hundred Dollars
90 (\$1,500.00) for each such dependent, except as otherwise provided
91 in subsection (d) of this section. The term "dependent" as used
92 in this subsection shall mean any person or individual who
93 qualifies as a dependent under the provisions of Section 152,
94 Internal Revenue Code of 1954, as amended.

95 (f) **Additional exemption for taxpayer or spouse aged**
96 **sixty-five (65) or more.** In the case of any taxpayer or the
97 spouse of the taxpayer who has attained the age of sixty-five (65)

98 before the close of his taxable year, an additional exemption of
99 One Thousand Five Hundred Dollars (\$1,500.00).

100 (g) **Additional exemption for blindness of taxpayer or**
101 **spouse.** In the case of any taxpayer or the spouse of the taxpayer
102 who is blind at the close of the taxable year, an additional
103 exemption of One Thousand Five Hundred Dollars (\$1,500.00). For
104 the purpose of this subsection, an individual is blind only if his
105 central visual acuity does not exceed 20/200 in the better eye
106 with correcting lenses, or if his visual acuity is greater than
107 20/200 but is accompanied by a limitation in the fields of vision
108 such that the widest diameter of the visual field subtends an
109 angle no greater than twenty (20) degrees.

110 (h) **Husband and wife--claiming exemptions.** In the case of
111 husband and wife living together and filing combined returns, the
112 personal and additional exemptions authorized and allowed by this
113 section may be taken by either, or divided between them in any
114 manner they may choose. If the husband and wife fail to choose,
115 the commissioner shall divide the exemptions between husband and
116 wife in an equitable manner. In the case of a husband and wife
117 filing separate returns, the personal and additional exemptions
118 authorized and allowed by this section shall be divided equally
119 between the spouses.

120 (i) **Nonresidents.** A nonresident individual shall be allowed
121 the same personal and additional exemptions as are authorized for
122 resident individuals in subsection (a) of this section; however,
123 the nonresident individual is entitled only to that proportion of
124 the personal and additional exemptions as his net income from
125 sources within the State of Mississippi bears to his total or
126 entire net income from all sources.

127 A nonresident individual who is married and whose spouse has
128 income from independent sources must declare the joint income of
129 himself and his spouse from sources within and without Mississippi
130 and claim as a personal exemption that proportion of the

131 authorized personal and additional exemptions which the total net
132 income from Mississippi sources bears to the total net income of
133 both spouses from all sources. If both spouses have income from
134 sources within Mississippi and wish to file separate returns,
135 their combined personal and additional exemptions shall be that
136 proration of the exemption which their combined net income from
137 Mississippi sources is of their total combined net income from all
138 sources. The amount of the personal and additional exemptions so
139 computed may be divided between them in any manner they choose.

140 In the case of married individuals where one (1) spouse is a
141 resident and the other is a nonresident, the personal exemption of
142 the resident individual shall be prorated on the same basis as if
143 both were nonresidents having net income from within and without
144 the State of Mississippi.

145 For the purpose of this subsection, the term "net income"
146 means gross income less business expenses incurred in the
147 taxpayer's regular trade or business and computed in accordance
148 with the provisions of the Mississippi Income Tax Law.

149 (j) **Part-year residents.** An individual who is a resident of
150 Mississippi for only a part of his taxable year by reason of
151 either moving into the state or moving from the state shall be
152 allowed the same personal and additional exemptions as authorized
153 for resident individuals in subsection (a) of this section; the
154 part-year resident shall prorate his exemption on the same basis
155 as nonresidents having net income from within and without the
156 state.

157 (k) **Estates.** In the case of an estate, a specific exemption
158 of Six Hundred Dollars (\$600.00).

159 (l) **Trusts.** In the case of a trust which, under its
160 governing instrument, is required to distribute all of its income
161 currently, a specific exemption of Three Hundred Dollars
162 (\$300.00). In the case of all other trusts, a specific exemption
163 of One Hundred Dollars (\$100.00).

164 (m) **Corporations, foundations, joint ventures, associations.**

165 In the case of a corporation, foundation, joint venture or
166 association taxable herein, there shall be allowed no specific
167 exemption, except as provided under the Growth and Prosperity Act
168 and Section 1 of House Bill No. , 2001 Regular Session.

169 (n) **Status.** The status on the last day of the taxable year,
170 except in the case of the head of family as provided in subsection
171 (d) of this section, shall determine the right to the exemptions
172 provided in this section; provided, that a taxpayer shall be
173 entitled to such exemptions, otherwise allowable, if the husband
174 or wife or dependent has died during the taxable year.

175 (o) **Fiscal-year taxpayers.** Individual taxpayers reporting
176 on a fiscal year basis shall prorate their exemptions in a manner
177 established by regulations promulgated by the commissioner.

178 SECTION 3. Section 27-13-5, Mississippi Code of 1972, is
179 amended as follows:

180 27-13-5. (1) **Franchise tax levy.** Except as otherwise
181 provided in subsections (3), (4) and (5) of this section, there is
182 hereby imposed, to be paid and collected as hereinafter provided,
183 a franchise or excise tax upon every corporation, association or
184 joint-stock company or partnership treated as a corporation under
185 the income tax laws or regulations, organized or created for
186 pecuniary gain, having privileges not possessed by individuals,
187 and having authorized capital stock now existing in this state, or
188 hereafter organized, created or established, under and by virtue
189 of the laws of the State of Mississippi, equal to Two Dollars and
190 Fifty Cents (\$2.50) for each One Thousand Dollars (\$1,000.00), or
191 fraction thereof, of the value of the capital used, invested or
192 employed in the exercise of any power, privilege or right enjoyed
193 by such organization within this state, except as hereinafter
194 provided. In no case shall the franchise tax due for the
195 accounting period be less than Twenty-five Dollars (\$25.00). It
196 is the purpose of this section to require the payment to the State

197 of Mississippi of this tax for the right granted by the laws of
198 this state to exist as such organization, and to enjoy, under the
199 protection of the laws of this state, the powers, rights,
200 privileges and immunities derived from the state by the form of
201 such existence.

202 (2) **Annual report of domestic corporations.** Each domestic
203 corporation shall file, within the time prescribed by Section
204 79-3-251, an annual report as required by the provisions of
205 Section 79-3-249.

206 (3) A corporation that has negotiated a fee-in-lieu as
207 defined in Section 57-75-5 shall not be subject to the tax levied
208 by this section on such project; provided, however, that the
209 fee-in-lieu payment shall be otherwise treated in the same manner
210 as the payment of franchise taxes.

211 (4) An approved business enterprise as defined in the Growth
212 and Prosperity Act shall not be subject to the tax levied by this
213 section on the value of capital used, invested or employed by the
214 approved business enterprise in a growth and prosperity county or
215 supervisors district as provided in the Growth and Prosperity Act.

216 (5) A business enterprise issued a certificate under Section
217 1 of House Bill No. , 2001 Regular Session, shall not be
218 subject to the tax levied by this section on the value of capital
219 used, invested or employed by the business enterprise in a growth
220 and prosperity county or supervisors district as provided in
221 Section 1 of House Bill No. , 2001 Regular Session.

222 SECTION 4. Section 27-13-7, Mississippi Code of 1972, is
223 amended as follows:

224 27-13-7. (1) **Franchise tax levy.** Except as otherwise
225 provided in subsections (3), (4) and (5) of this section, there is
226 hereby imposed, levied and assessed upon every corporation,
227 association or joint stock company, or partnership treated as a
228 corporation under the Income Tax Laws or regulations as
229 hereinbefore defined, organized and existing under and by virtue

230 of the laws of some other state, territory or country, or
231 organized and existing without any specific statutory authority,
232 now or hereafter doing business or exercising any power, privilege
233 or right within this state, as hereinbefore defined, a franchise
234 or excise tax equal to Two Dollars and Fifty Cents (\$2.50) of each
235 One Thousand Dollars (\$1,000.00), or fraction thereof, of the
236 value of capital used, invested or employed within this state,
237 except as hereinafter provided. In no case shall the franchise
238 tax due for the accounting period be less than Twenty-five Dollars
239 (\$25.00). It is the purpose of this section to require the
240 payment of a tax by all organizations not organized under the laws
241 of this state, measured by the amount of capital or its
242 equivalent, for which such organization receives the benefit and
243 protection of the government and laws of the state.

244 (2) **Annual report of foreign corporations.** Each foreign
245 corporation authorized to transact business in this state shall
246 file, within the time prescribed by Section 79-3-251, an annual
247 report as required by the provisions of Section 79-3-249.

248 (3) A corporation that has negotiated a fee-in-lieu as
249 defined in Section 57-75-5 shall not be subject to the tax levied
250 by this section on such project; provided, however, that the
251 fee-in-lieu payment shall be otherwise treated in the same manner
252 as the payment of franchise taxes.

253 (4) An approved business enterprise as defined in the Growth
254 and Prosperity Act shall not be subject to the tax levied by this
255 section on the value of capital used, invested or employed by the
256 approved business enterprise in a growth and prosperity county or
257 supervisors district as provided in the Growth and Prosperity Act.

258 (5) A business enterprise issued a certificate under Section
259 1 of House Bill No. , 2001 Regular Session, shall not be
260 subject to the tax levied by this section on the value of capital
261 used, invested or employed by the business enterprise in a growth

262 and prosperity county or supervisors district as provided in
263 Section 1 of House Bill No. _____, 2001 Regular Session.

264 SECTION 5. Section 27-65-101, Mississippi Code of 1972, is
265 amended as follows:

266 27-65-101. (1) The exemptions from the provisions of this
267 chapter which are of an industrial nature or which are more
268 properly classified as industrial exemptions than any other
269 exemption classification of this chapter shall be confined to
270 those persons or property exempted by this section or by the
271 provisions of the Constitution of the United States or the State
272 of Mississippi. No industrial exemption as now provided by any
273 other section except Section 57-3-33 shall be valid as against the
274 tax herein levied. Any subsequent industrial exemption from the
275 tax levied hereunder shall be provided by amendment to this
276 section. No exemption provided in this section shall apply to
277 taxes levied by Section 27-65-15 or 27-65-21.

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

280 (a) Sales of boxes, crates, cartons, cans, bottles and
281 other packaging materials to manufacturers and wholesalers for use
282 as containers or shipping materials to accompany goods sold by
283 said manufacturers or wholesalers where possession thereof will
284 pass to the customer at the time of sale of the goods contained
285 therein and sales to anyone of containers or shipping materials
286 for use in ships engaged in international commerce.

287 (b) Sales of raw materials, catalysts, processing
288 chemicals, welding gases or other industrial processing gases
289 (except natural gas) to a manufacturer for use directly in
290 manufacturing or processing a product for sale or rental or
291 repairing or reconditioning vessels or barges of fifty (50) tons
292 load displacement and over. This exemption shall not apply to any
293 property used as fuel except to the extent that such fuel
294 comprises by-products which have no market value.

295 (c) The gross proceeds of sales of dry docks, offshore
296 drilling equipment for use in oil exploitation or production,
297 vessels or barges of fifty (50) tons load displacement and over,
298 when sold by the manufacturer or builder thereof.

299 (d) Sales to commercial fishermen of commercial fishing
300 boats of over five (5) tons load displacement and not more than
301 fifty (50) tons load displacement as registered with the United
302 States Coast Guard and licensed by the Mississippi Commission on
303 Marine Resources.

304 (e) The gross income from repairs to vessels and barges
305 engaged in foreign trade or interstate transportation.

306 (f) Sales of petroleum products to vessels or barges
307 for consumption in marine international commerce or interstate
308 transportation businesses.

309 (g) Sales and rentals of rail rolling stock (and
310 component parts thereof) for ultimate use in interstate commerce
311 and gross income from services with respect to manufacturing,
312 repairing, cleaning, altering, reconditioning or improving such
313 rail rolling stock (and component parts thereof).

314 (h) Sales of raw materials, catalysts, processing
315 chemicals, welding gases or other industrial processing gases
316 (except natural gas) used or consumed directly in manufacturing,
317 repairing, cleaning, altering, reconditioning or improving such
318 rail rolling stock (and component parts thereof). This exemption
319 shall not apply to any property used as fuel.

320 (i) Sales of machinery or tools or repair parts
321 therefor or replacements thereof, fuel or supplies used directly
322 in manufacturing, converting or repairing ships of three thousand
323 (3,000) tons load displacement and over, but not to include office
324 and plant supplies or other equipment not directly used on the
325 ship being built, converted or repaired.

326 (j) Sales of tangible personal property to persons
327 operating ships in international commerce for use or consumption

328 on board such ships. This exemption shall be limited to cases in
329 which procedures satisfactory to the commissioner, ensuring
330 against use in this state other than on such ships, are
331 established.

332 (k) Sales of materials used in the construction of a
333 building, or any addition or improvement thereon, and sales of any
334 machinery and equipment not later than three (3) months after the
335 completion of construction of the building, or any addition
336 thereon, to be used therein, to qualified businesses, as defined
337 in Section 57-51-5, which are located in a county or portion
338 thereof designated as an enterprise zone pursuant to Sections
339 57-51-1 through 57-51-15.

340 (l) Sales of materials used in the construction of a
341 building, or any addition or improvement thereon, and sales of any
342 machinery and equipment not later than three (3) months after the
343 completion of construction of the building, or any addition
344 thereon, to be used therein, to qualified businesses, as defined
345 in Section 57-54-5.

346 (m) Income from storage and handling of perishable
347 goods by a public storage warehouse.

348 (n) The value of natural gas lawfully injected into the
349 earth for cycling, repressuring or lifting of oil, or lawfully
350 vented or flared in connection with the production of oil;
351 however, if any gas so injected into the earth is sold for such
352 purposes, then the gas so sold shall not be exempt.

353 (o) The gross collections from self-service commercial
354 laundering, drying, cleaning and pressing equipment.

355 (p) Sales of materials used in the construction of a
356 building, or any addition or improvement thereon, and sales of any
357 machinery and equipment not later than three (3) months after the
358 completion of construction of the building, or any addition
359 thereon, to be used therein, to qualified companies, certified as

360 such by the Mississippi Development Authority under Section
361 57-53-1.

362 (q) Sales of component materials used in the
363 construction of a building, or any addition or improvement
364 thereon, sales of machinery and equipment to be used therein, and
365 sales of manufacturing or processing machinery and equipment which
366 is permanently attached to the ground or to a permanent foundation
367 and which is not by its nature intended to be housed within a
368 building structure, not later than three (3) months after the
369 initial start-up date, to permanent business enterprises engaging
370 in manufacturing or processing in Tier Three areas (as such term
371 is defined in Section 57-73-21), which businesses are certified by
372 the State Tax Commission as being eligible for the exemption
373 granted in this paragraph (q).

374 (r) Sales of component materials used in the
375 construction of a building, or any addition or improvement
376 thereon, and sales of any machinery and equipment not later than
377 three (3) months after the completion of the building, addition or
378 improvement thereon, to be used therein, for any company
379 establishing or transferring its national or regional headquarters
380 from within or outside the State of Mississippi and creating a
381 minimum of thirty-five (35) jobs at the new headquarters in this
382 state. The Tax Commission shall establish criteria and prescribe
383 procedures to determine if a company qualifies as a national or
384 regional headquarters for the purpose of receiving the exemption
385 provided in this paragraph.

386 (s) The gross proceeds from the sale of semitrailers,
387 trailers, boats, travel trailers, motorcycles and all-terrain
388 cycles if exported from this state within forty-eight (48) hours
389 and registered and first used in another state.

390 (t) Gross income from the storage and handling of
391 natural gas in underground salt domes and in other underground

392 reservoirs, caverns, structures and formations suitable for such
393 storage.

394 (u) Sales of machinery and equipment to nonprofit
395 organizations if the organization: (i) is tax-exempt pursuant to
396 Section 501(c)(4) of the Internal Revenue Code of 1986, as
397 amended; (ii) assists in the implementation of the national
398 contingency plan or area contingency plan, and which is created in
399 response to the requirements of Title IV, Subtitle B of the Oil
400 Pollution Act of 1990, Public Law 101-380; and (iii) engages
401 primarily in programs to contain, clean up and otherwise mitigate
402 spills of oil or other substances occurring in the United States
403 coastal and tidal waters. For purposes of this exemption,
404 "machinery and equipment" means any ocean-going vessels, barges,
405 booms, skimmers and other capital equipment used primarily in the
406 operations of nonprofit organizations referred to herein.

407 (v) Sales of component materials and equipment to
408 approved business enterprises as provided under the Growth and
409 Prosperity Act.

410 (w) From and after July 1, 2001, sales of pollution
411 control equipment to manufacturers or custom processors for
412 industrial use. For the purposes of this exemption, "pollution
413 control equipment" means equipment, devices, machinery or systems
414 used or acquired to prevent, control, monitor or reduce air, water
415 or groundwater pollution, or solid or hazardous waste as required
416 by federal or state law or regulation.

417 (x) Sales or leases to a manufacturer of motor vehicles
418 operating a project that has been certified by the Mississippi
419 Major Economic Impact Authority as a project as defined in Section
420 57-75-5(f)(iv)1 of machinery and equipment; special tooling such
421 as dies, molds, jigs and similar items treated as special tooling
422 for federal income tax purposes; or repair parts therefor or
423 replacements thereof; repair services thereon; fuel, supplies,
424 electricity, coal and natural gas used directly in the manufacture

425 of motor vehicles or motor vehicle parts or used to provide
426 climate control for manufacturing areas.

427 (y) Sales or leases of component materials, machinery
428 and equipment used in the construction of a building, or any
429 addition or improvement thereon to an enterprise operating a
430 project that has been certified by the Mississippi Major Economic
431 Impact Authority as a project as defined in Section
432 57-75-5(f)(iv)1 and any other sales or leases required to
433 establish or operate such project.

434 (z) Sales of component materials and equipment to a
435 business enterprise as provided under Section 1 of House Bill No.
436 ____, 2001 Regular Session.

437 (2) Sales of component materials used in the construction of
438 a building, or any addition or improvement thereon, sales of
439 machinery and equipment to be used therein, and sales of
440 manufacturing or processing machinery and equipment which is
441 permanently attached to the ground or to a permanent foundation
442 and which is not by its nature intended to be housed within a
443 building structure, not later than three (3) months after the
444 initial start-up date, to permanent business enterprises engaging
445 in manufacturing or processing in Tier Two areas and Tier One
446 areas (as such areas are designated in accordance with Section
447 57-73-21), which businesses are certified by the State Tax
448 Commission as being eligible for the exemption granted in this
449 paragraph, shall be exempt from one-half (1/2) of the taxes
450 imposed on such transactions under this chapter.

451 SECTION 6. This act shall take effect and be in force from
452 and after July 1, 2001.