

By: Senator(s) Robertson

To: Finance

SENATE BILL NO. 3186

1 AN ACT TO AMEND SECTION 27-65-17, MISSISSIPPI CODE OF 1972,
2 TO IMPOSE THE SALES TAX AT A REDUCED RATE ON CERTAIN SALES OF
3 MACHINERY AND MACHINE PARTS TO A HIGH TECHNOLOGY BUSINESS FOR
4 PLANT USE; TO AMEND SECTION 27-65-101, MISSISSIPPI CODE OF 1972,
5 TO EXEMPT FROM SALES TAXATION SALES OF CERTAIN COMPONENT MATERIALS
6 AND MACHINERY AND EQUIPMENT TO HIGH TECHNOLOGY BUSINESSES FOR
7 INDUSTRIAL PURPOSES; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 27-65-17, Mississippi Code of 1972, is
10 amended as follows:

11 27-65-17. (1) Upon every person engaging or continuing
12 within this state in the business of selling any tangible personal
13 property whatsoever there is hereby levied, assessed and shall be
14 collected a tax equal to seven percent (7%) of the gross proceeds
15 of the retail sales of the business, except as otherwise provided
16 herein.

17 Retail sales of farm tractors shall be taxed at the rate of
18 one percent (1%) when made to farmers for agricultural purposes.

19 Retail sales of farm implements sold to farmers and used
20 directly in the production of poultry, ratite, domesticated fish
21 as defined in Section 69-7-501, livestock, livestock products,
22 agricultural crops or ornamental plant crops or used for other
23 agricultural purposes shall be taxed at the rate of three percent
24 (3%) when used on the farm. The three percent (3%) rate shall
25 also apply to all equipment used in logging, pulpwood operations
26 or tree farming which is either (a) self-propelled or which is (b)
27 mounted so that it is (i) permanently attached to other equipment
28 which is self-propelled or (ii) permanently attached to other
29 equipment drawn by a vehicle which is self-propelled.

30 Except as otherwise provided in subsection (3) of this
31 section, retail sales of aircraft, automobiles, trucks,
32 truck-tractors, semitrailers and mobile homes shall be taxed at
33 the rate of three percent (3%).

34 Sales of manufacturing machinery or manufacturing machine
35 parts when made to a manufacturer or custom processor for plant
36 use only when the machinery and machine parts will be used
37 exclusively and directly within this state in manufacturing a
38 commodity for sale, rental or in processing for a fee shall be
39 taxed at the rate of one and one-half percent (1-1/2%).

40 Sales of machinery and machine parts when made to a high
41 technology business for plant use only when the machinery and
42 machine parts will be used exclusively and directly within this
43 state for industrial purposes, including, but not limited to,
44 manufacturing or research and development activities, shall be
45 taxed at the rate of one and one-half percent (1-1/2%).

46 Sales of materials for use in track and track structures to a
47 railroad whose rates are fixed by the Interstate Commerce
48 Commission or the Mississippi Public Service Commission shall be
49 taxed at the rate of three percent (3%).

50 Sales of tangible personal property to electric power
51 associations for use in the ordinary and necessary operation of
52 their generating or distribution systems shall be taxed at the
53 rate of one percent (1%).

54 Wholesale sales of beer shall be taxed at the rate of seven
55 percent (7%), and the retailer shall file a return and compute the
56 retail tax on retail sales but may take credit for the amount of
57 the tax paid to the wholesaler on the return covering the
58 subsequent sales of same property, provided adequate invoices and
59 records are maintained to substantiate the credit.

60 Wholesale sales of food and drink for human consumption to
61 full service vending machine operators to be sold through vending

62 machines located apart from and not connected with other taxable
63 businesses shall be taxed at the rate of eight percent (8%).

64 A manufacturer selling at retail in this state shall be
65 required to make returns of the gross proceeds of such sales and
66 pay the tax imposed in this section.

67 Any person exercising any privilege taxable under Section
68 27-65-15 and selling his natural resource products at wholesale or
69 to exempt persons shall pay the tax levied by such section in lieu
70 of the tax levied by this section.

71 (2) From and after January 1, 1995, retail sales of private
72 carriers of passengers and light carriers of property, as defined
73 in Section 27-51-101, shall be taxed an additional two percent
74 (2%).

75 (3) In lieu of the tax levied in subsection (1) of this
76 section, there is levied on retail sales of truck-tractors and
77 semitrailers used in interstate commerce and registered under the
78 International Registration Plan (IRP) or any similar reciprocity
79 agreement or compact relating to the proportional registration of
80 commercial vehicles entered into as provided for in Section
81 27-19-143, a tax at the rate of three percent (3%) of the portion
82 of the sale that is attributable to the usage of such
83 truck-tractor or semitrailer in Mississippi. The portion of the
84 retail sale that is attributable to the usage of such
85 truck-tractor or semitrailer in Mississippi is the retail sales
86 price of the truck-tractor or semitrailer multiplied by the
87 percentage of the total miles traveled by the vehicle that are
88 traveled in Mississippi. The tax levied pursuant to this
89 subsection (3) shall be collected by the State Tax Commission from
90 the purchaser of such truck-tractor or semitrailer at the time of
91 registration of such truck-tractor or semitrailer.

92 **SECTION 2.** Section 27-65-101, Mississippi Code of 1972, is
93 amended as follows:

94 27-65-101. (1) The exemptions from the provisions of this
95 chapter which are of an industrial nature or which are more
96 properly classified as industrial exemptions than any other
97 exemption classification of this chapter shall be confined to
98 those persons or property exempted by this section or by the
99 provisions of the Constitution of the United States or the State
100 of Mississippi. No industrial exemption as now provided by any
101 other section except Section 57-3-33 shall be valid as against the
102 tax herein levied. Any subsequent industrial exemption from the
103 tax levied hereunder shall be provided by amendment to this
104 section. No exemption provided in this section shall apply to
105 taxes levied by Section 27-65-15 or 27-65-21.

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

108 (a) Sales of boxes, crates, cartons, cans, bottles and
109 other packaging materials to manufacturers and wholesalers for use
110 as containers or shipping materials to accompany goods sold by the
111 manufacturers or wholesalers where possession thereof will pass to
112 the customer at the time of sale of the goods contained therein
113 and sales to anyone of containers or shipping materials for use in
114 ships engaged in international commerce.

115 (b) Sales of raw materials, catalysts, processing
116 chemicals, welding gases or other industrial processing gases
117 (except natural gas) to a manufacturer for use directly in
118 manufacturing or processing a product for sale or rental or
119 repairing or reconditioning vessels or barges of fifty (50) tons
120 load displacement and over. For the purposes of this exemption,
121 electricity used directly in the electrolysis process in the
122 production of sodium chlorate shall be considered a raw material.
123 This exemption shall not apply to any property used as fuel except
124 to the extent that such fuel comprises by-products which have no
125 market value.

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

130 (d) Sales to commercial fishermen of commercial fishing
131 boats of over five (5) tons load displacement and not more than
132 fifty (50) tons load displacement as registered with the United
133 States Coast Guard and licensed by the Mississippi Commission on
134 Marine Resources.

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

137 (f) Sales of petroleum products to vessels or barges
138 for consumption in marine international commerce or interstate
139 transportation businesses.

140 (g) Sales and rentals of rail rolling stock (and
141 component parts thereof) for ultimate use in interstate commerce
142 and gross income from services with respect to manufacturing,
143 repairing, cleaning, altering, reconditioning or improving such
144 rail rolling stock (and component parts thereof).

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

151 (i) Sales of machinery or tools or repair parts
152 therefor or replacements thereof, fuel or supplies used directly
153 in manufacturing, converting or repairing ships of three thousand
154 (3,000) tons load displacement and over, but not to include office
155 and plant supplies or other equipment not directly used on the
156 ship being built, converted or repaired.

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

159 on board such ships. This exemption shall be limited to cases in
160 which procedures satisfactory to the commissioner, ensuring
161 against use in this state other than on such ships, are
162 established.

163 (k) Sales of materials used in the construction of a
164 building, or any addition or improvement thereon, and sales of any
165 machinery and equipment not later than three (3) months after the
166 completion of construction of the building, or any addition
167 thereon, to be used therein, to qualified businesses, as defined
168 in Section 57-51-5, which are located in a county or portion
169 thereof designated as an enterprise zone pursuant to Sections
170 57-51-1 through 57-51-15.

171 (l) Sales of materials used in the construction of a
172 building, or any addition or improvement thereon, and sales of any
173 machinery and equipment not later than three (3) months after the
174 completion of construction of the building, or any addition
175 thereon, to be used therein, to qualified businesses, as defined
176 in Section 57-54-5.

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

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

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

186 (p) Sales of materials used in the construction of a
187 building, or any addition or improvement thereon, and sales of any
188 machinery and equipment not later than three (3) months after the
189 completion of construction of the building, or any addition
190 thereon, to be used therein, to qualified companies, certified as

191 such by the Mississippi Development Authority under Section
192 57-53-1.

193 (q) Sales of component materials used in the
194 construction of a building, or any addition or improvement
195 thereon, sales of machinery and equipment to be used therein, and
196 sales of manufacturing or processing machinery and equipment which
197 is permanently attached to the ground or to a permanent foundation
198 and which is not by its nature intended to be housed within a
199 building structure, not later than three (3) months after the
200 initial start-up date, to permanent business enterprises engaging
201 in manufacturing or processing in Tier Three areas (as such term
202 is defined in Section 57-73-21), which businesses are certified by
203 the State Tax Commission as being eligible for the exemption
204 granted in this paragraph (q).

205 (r) Sales of component materials used in the
206 construction of a building, or any addition or improvement
207 thereon, and sales of any machinery and equipment not later than
208 three (3) months after the completion of the building, addition or
209 improvement thereon, to be used therein, for any company
210 establishing or transferring its national or regional headquarters
211 from within or outside the State of Mississippi and creating a
212 minimum of thirty-five (35) jobs at the new headquarters in this
213 state. The Tax Commission shall establish criteria and prescribe
214 procedures to determine if a company qualifies as a national or
215 regional headquarters for the purpose of receiving the exemption
216 provided in this paragraph.

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

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

223 reservoirs, caverns, structures and formations suitable for such
224 storage.

225 (u) Sales of machinery and equipment to nonprofit
226 organizations if the organization: (i) is tax-exempt pursuant to
227 Section 501(c)(4) of the Internal Revenue Code of 1986, as
228 amended; (ii) assists in the implementation of the national
229 contingency plan or area contingency plan, and which is created in
230 response to the requirements of Title IV, Subtitle B of the Oil
231 Pollution Act of 1990, Public Law 101-380; and (iii) engages
232 primarily in programs to contain, clean up and otherwise mitigate
233 spills of oil or other substances occurring in the United States
234 coastal and tidal waters. For purposes of this exemption,
235 "machinery and equipment" means any ocean-going vessels, barges,
236 booms, skimmers and other capital equipment used primarily in the
237 operations of nonprofit organizations referred to herein.

238 (v) Sales of component materials and equipment to
239 approved business enterprises as provided under the Growth and
240 Prosperity Act.

241 (w) From and after July 1, 2001, sales of pollution
242 control equipment to manufacturers or custom processors for
243 industrial use. For the purposes of this exemption, "pollution
244 control equipment" means equipment, devices, machinery or systems
245 used or acquired to prevent, control, monitor or reduce air, water
246 or groundwater pollution, or solid or hazardous waste as required
247 by federal or state law or regulation.

248 (x) Sales or leases to a manufacturer of motor vehicles
249 operating a project that has been certified by the Mississippi
250 Major Economic Impact Authority as a project as defined in Section
251 57-75-5(f)(iv)1 of machinery and equipment; special tooling such
252 as dies, molds, jigs and similar items treated as special tooling
253 for federal income tax purposes; or repair parts therefor or
254 replacements thereof; repair services thereon; fuel, supplies,
255 electricity, coal and natural gas used directly in the manufacture

256 of motor vehicles or motor vehicle parts or used to provide
257 climate control for manufacturing areas.

258 (y) Sales or leases of component materials, machinery
259 and equipment used in the construction of a building, or any
260 addition or improvement thereon to an enterprise operating a
261 project that has been certified by the Mississippi Major Economic
262 Impact Authority as a project as defined in Section
263 57-75-5(f)(iv)1 and any other sales or leases required to
264 establish or operate such project.

265 (z) Sales of component materials and equipment to a
266 business enterprise as provided under Section 57-64-33.

267 (aa) Sales of component materials used in the
268 construction of a building, or any addition or improvement
269 thereto, and sales of machinery and equipment not later than three
270 (3) months after the completion of construction of the building,
271 or any addition or improvement thereto, to be used in the building
272 or any addition or improvement thereto, to qualified high
273 technology businesses for industrial purposes, as certified by the
274 State Tax Commission.

275 (2) Sales of component materials used in the construction of
276 a building, or any addition or improvement thereon, sales of
277 machinery and equipment to be used therein, and sales of
278 manufacturing or processing machinery and equipment which is
279 permanently attached to the ground or to a permanent foundation
280 and which is not by its nature intended to be housed within a
281 building structure, not later than three (3) months after the
282 initial start-up date, to permanent business enterprises engaging
283 in manufacturing or processing in Tier Two areas and Tier One
284 areas (as such areas are designated in accordance with Section
285 57-73-21), which businesses are certified by the State Tax
286 Commission as being eligible for the exemption granted in this
287 paragraph, shall be exempt from one-half (1/2) of the taxes
288 imposed on such transactions under this chapter.

289 (3) (a) For purposes of this subsection:
290 (i) "Telecommunications enterprises" shall have
291 the meaning ascribed to such term in Section 57-73-21(13);
292 (ii) "Tier One areas" mean counties designated as
293 Tier One areas pursuant to Section 57-73-21(1);
294 (iii) "Tier Two areas" mean counties designated as
295 Tier Two areas pursuant to Section 57-73-21(1);
296 (iv) "Tier Three areas" mean counties designated
297 as Tier Three areas pursuant to Section 57-73-21(1); and
298 (v) "Equipment used in the deployment of broadband
299 technologies" means any equipment capable of being used for or in
300 connection with the transmission of information at a rate, prior
301 to taking into account the effects of any signal degradation, that
302 is not less than three hundred eighty-four (384) kilobits per
303 second in at least one direction, including, but not limited to,
304 asynchronous transfer mode switches, digital subscriber line
305 access multiplexers, routers, servers, multiplexers, fiber optics
306 and related equipment.
307 (b) Sales of equipment to telecommunications
308 enterprises after June 30, 2003, and before July 1, 2013, that is
309 installed in Tier One areas and used in the deployment of
310 broadband technologies shall be exempt from one-half (1/2) of the
311 taxes imposed on such transactions under this chapter.
312 (c) Sales of equipment to telecommunications
313 enterprises after June 30, 2003, and before July 1, 2013, that is
314 installed in Tier Two and Tier Three areas and used in the
315 deployment of broadband technologies shall be exempt from the
316 taxes imposed on such transactions under this chapter.
317 **SECTION 3.** This act shall take effect and be in force from
318 and after its passage.