

Senate Amendments to House Bill No. 1780

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

17 SECTION 1. The provisions of Sections 1 through 4 of this
18 act shall be known and may be cited as the "Mississippi Motion
19 Picture Incentive Act."

20 SECTION 2. As used in Sections 1 through 4 of this act, the
21 following terms shall have the meanings ascribed in this section
22 unless the context clearly indicates otherwise:

23 (a) "Base investment" means the actual investment made
24 and expended in Mississippi by a motion picture production company
25 in connection with the production of a state-certified production
26 in the state. The term "base investment" shall not include
27 payroll.

28 (b) "Motion picture" means a nationally distributed
29 feature-length film, video, television series or commercial made
30 in Mississippi, in whole or in part, for theatrical or television
31 viewing or as a television pilot. The term "motion picture" shall
32 not include the production of television coverage of news and
33 athletic events, or a film, video, television series or commercial
34 that contains any material or performance defined in Section
35 97-29-103.

36 (c) "Motion picture production company" means a company
37 engaged in the business of producing nationally distributed motion
38 pictures, videos, television series or commercials intended for a
39 theatrical release or for television viewing. The term "motion
40 picture production company" shall not mean or include any company
41 owned, affiliated, or controlled, in whole or in part, by any
42 company or person which is in default on a loan made by the state

43 or a loan guaranteed by the state, or any company or person who
44 has ever declared bankruptcy under which an obligation of the
45 company or person to pay or repay public funds or monies was
46 discharged as a part of such bankruptcy.

47 (d) "Payroll" means salary, wages or other compensation
48 including related benefits.

49 (e) "Resident" or "resident of Mississippi" means a
50 natural person, and for the purpose of determining eligibility for
51 the tax credit provided by Section 3 of this act, any person
52 domiciled in the State of Mississippi and any other person who
53 maintains a permanent place of abode within the state and spends
54 in the aggregate more than six (6) months of each year within the
55 state.

56 (f) "State" means the State of Mississippi.

57 (g) "State-certified production" means a motion picture
58 approved by the Mississippi Development Authority produced by a
59 motion picture production company in the state.

60 **SECTION 3.** (1) A motion picture production company shall be
61 entitled to a tax credit for the employment of residents of
62 Mississippi in connection with production of a state-certified
63 production in the state. The credit shall be equal to ten percent
64 (10%) of the total aggregate payroll for residents employed in
65 connection with such state-certified production during the taxable
66 year.

67 (2) The credit may be applied to the tax liability
68 applicable to the motion picture production company imposed by
69 Chapter 7 of Title 27, Mississippi Code of 1972. The credit shall
70 be limited to the tax liability created by the activity for which
71 the credit is granted.

72 (3) If the motion picture production company is an entity
73 not subject to the tax imposed by Chapter 7 of Title 27,
74 Mississippi Code of 1972, the tax credit shall flow through to its
75 partners or members as follows:

76 (a) Corporate partners or members shall claim their
77 share of the credit on their corporation income tax return.

78 (b) Individual partners or members shall claim their
79 share of the credit on their individual income tax returns.

80 (c) Partners or members that are estates or trusts
81 shall claim their share of the credit on their fiduciary income
82 tax returns.

83 (4) Any unused credit may be carried forward no more than
84 ten (10) years from the date the credit was earned. The credit
85 authorized in this section is not refundable.

86 (5) A motion picture production company desiring a tax
87 credit under this section must submit an application to the State
88 Tax Commission. The application must include a detailed
89 accounting of the total aggregate payroll for residents employed
90 in connection with such state-certified production during the
91 taxable year and any other information required by the State Tax
92 Commission.

93 (6) The State Tax Commission shall have all powers necessary
94 to implement and administer the provisions of this section, and
95 the commission shall promulgate rules and regulations, in
96 accordance with the Mississippi Administrative Procedures Law,
97 necessary for the implementation of this section.

98 **SECTION 4.** (1) A motion picture production company shall be
99 entitled to a rebate of a portion of the base investment made by
100 the motion picture production company. The amount of the rebate
101 shall be equal to ten percent (10%) of the base investment made by
102 the motion picture production company.

103 (2) A motion picture production company desiring a rebate
104 under this section must submit an application to the State Tax
105 Commission upon completion of the project. The application must
106 include a detailed accounting of the base investment made by the
107 motion picture production company and any other information
108 required by the State Tax Commission. Rebates made by the State
109 Tax Commission under this section shall be made from current
110 income tax collections.

111 (3) The State Tax Commission shall have all powers necessary
112 to implement and administer the provisions of this section, and

113 the State Tax Commission shall promulgate rules and regulations,
114 in accordance with the Mississippi Administrative Procedures Law,
115 necessary for the implementation of this section.

116 **SECTION 5.** Section 27-65-11, Mississippi Code of 1972, is
117 amended as follows:

118 27-65-11. (a) "Manufacturer" means one who is exclusively
119 or predominately engaged in the business of manufacturing as
120 defined under the terms "to manufacture" or "manufacturing." A
121 person who is engaged in manufacturing and nonmanufacturing
122 activities may be classified as a manufacturer as to his
123 manufacturing activities which are operated as a separate business
124 or division.

125 (b) "To manufacture" or "manufacturing" embraces activities
126 of an industrial or commercial nature wherein labor or skill is
127 applied, by hand or machinery, to materials belonging to the
128 manufacturer so that a new, different, or more useful article of
129 tangible personal property or substance of trade or commerce or
130 electric power is produced for sale or rental and includes the
131 production or fabrication of special-made or custom-made articles
132 for sale or rental.

133 "To manufacture" or "manufacturing" does not include
134 activities such as cooking or preparing food or food products by a
135 retailer in the regular course of retail trade; repairing and
136 reconditioning property; the filling of prescriptions by a
137 pharmacist; the washing or screening of mineral products; the
138 cutting, hauling and decking of logs; or similar preparatory
139 functions even when performed by a manufacturer.

140 (c) "Remanufacturing" embraces activities of an industrial
141 or commercial nature wherein labor or skill is applied by hand or
142 machinery to materials, a portion of which may belong to the
143 customer, so that rebuilt articles of tangible personal property,
144 comparable in quality to new articles of the same property, are
145 created, a majority of the value of which is produced by the
146 remanufacturing activity.

147 (d) "Custom processor" means one who is exclusively or
148 predominately engaged in the business of custom processing or
149 remanufacturing as defined under the terms "custom processing" and
150 "remanufacturing."

151 (e) "Custom processing" means the performance of a
152 manufacturing service done or made to order upon the property of
153 the customer and shall include laundering, cleaning and pressing,
154 but shall not include "repairs" or "maintenance" as these terms
155 are defined herein; nor self-service commercial laundering,
156 drying, cleaning and pressing equipment.

157 (f) "Manufacturing machinery" shall mean and include that
158 machinery owned or leased by a manufacturer or custom processor
159 for use by said manufacturer or custom processor in his plant
160 directly and exclusively in manufacturing tangible personal
161 property for subsequent sale, rental or in custom processing for a
162 fee. Motorized units, conveyors, track and track structures,
163 conduits, and similar items for use in transporting the unfinished
164 product from storage or from one (1) phase of the manufacturing
165 process to another may be classed as "manufacturing machinery."

166 "Manufacturing machinery" shall also include laboratory
167 machinery which shall include X-ray machines and film, scales,
168 chemical equipment, pressure and tensile analysis machines and
169 similar equipment to determine the quality of the product in
170 process of manufacture, and equipment used in the processing of
171 waste materials to avoid air and water pollution, but only when
172 located at the manufacturer's plant site.

173 Machinery used by a manufacturer to move, repair, clean,
174 alter, improve, or otherwise recondition, rail rolling stock for
175 sale or rental shall likewise constitute "manufacturing
176 machinery."

177 "Manufacturing machinery" shall also include machinery and
178 equipment used in the production of motion pictures such as
179 editing equipment, audio equipment, lighting equipment, projection
180 equipment, camera equipment, sound equipment, cables, computer
181 equipment used in the editing process, computer equipment used in

182 the creation of special effects, and computer equipment used in
183 the graphic and animation process. For the purposes of this
184 paragraph the term "motion picture" means a nationally distributed
185 feature-length film, video, television series or commercial made
186 in Mississippi, in whole or in part, for theatrical or television
187 viewing or as a television pilot. The term "motion picture" shall
188 not include the production of television coverage of news and
189 athletic events, or a film, video, television series or commercial
190 that contains any material or performance defined in Section
191 97-29-103. Manufacturing machinery used in the production of
192 motion pictures shall not be limited to a plant site.

193 "Manufacturing machinery" shall not include machinery for use
194 in the hatching of baby chicks, the severance of timber, sand,
195 gravel, oil, gas or other natural resources produced or severed
196 from the soil or water, maintenance or repair machinery, research
197 laboratory machinery, storage warehouse machinery, equipment for
198 protection of the plant or comfort of the personnel, or other
199 equipment and supplies of like character. "Manufacturing
200 machinery" does not include machine foundations or materials for
201 their construction.

202 (g) "Machine parts" are component parts of manufacturing
203 machinery and do not include parts for service equipment,
204 nonmanufacturing machinery, fuels, lubricants, paints, or tools
205 for maintenance.

206 (h) "Manufacturing plant" means the real and personal
207 property owned or leased by a manufacturer which is assembled and
208 used at a fixed location to perform activities defined as
209 "manufacturing."

210 (i) "Repair," "repairs," or "maintenance" means the
211 restoring of property in some measure to its original condition,
212 which may involve the use of either personal property or labor or
213 both, but, for the purposes of this chapter, the total charge for
214 the service shall constitute gross income taxable in the class in
215 which it falls.

216 (j) "Producer" means any person producing natural resource
217 products or agricultural or horticultural products from the soil
218 or water for sale.

219 **SECTION 6.** Section 27-65-101, Mississippi Code of 1972, is
220 amended as follows:

221 27-65-101. (1) The exemptions from the provisions of this
222 chapter which are of an industrial nature or which are more
223 properly classified as industrial exemptions than any other
224 exemption classification of this chapter shall be confined to
225 those persons or property exempted by this section or by the
226 provisions of the Constitution of the United States or the State
227 of Mississippi. No industrial exemption as now provided by any
228 other section except Section 57-3-33 shall be valid as against the
229 tax herein levied. Any subsequent industrial exemption from the
230 tax levied hereunder shall be provided by amendment to this
231 section. No exemption provided in this section shall apply to
232 taxes levied by Section 27-65-15 or 27-65-21.

233 The tax levied by this chapter shall not apply to the
234 following:

235 (a) Sales of boxes, crates, cartons, cans, bottles and
236 other packaging materials to manufacturers and wholesalers for use
237 as containers or shipping materials to accompany goods sold by
238 said manufacturers or wholesalers where possession thereof will
239 pass to the customer at the time of sale of the goods contained
240 therein and sales to anyone of containers or shipping materials
241 for use in ships engaged in international commerce.

242 (b) Sales of raw materials, catalysts, processing
243 chemicals, welding gases or other industrial processing gases
244 (except natural gas) to a manufacturer for use directly in
245 manufacturing or processing a product for sale or rental or
246 repairing or reconditioning vessels or barges of fifty (50) tons
247 load displacement and over. For the purposes of this exemption,
248 electricity used directly in the electrolysis process in the
249 production of sodium chlorate shall be considered a raw material.
250 This exemption shall not apply to any property used as fuel except

251 to the extent that such fuel comprises by-products which have no
252 market value.

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

257 (d) Sales to commercial fishermen of commercial fishing
258 boats of over five (5) tons load displacement and not more than
259 fifty (50) tons load displacement as registered with the United
260 States Coast Guard and licensed by the Mississippi Commission on
261 Marine Resources.

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

264 (f) Sales of petroleum products to vessels or barges
265 for consumption in marine international commerce or interstate
266 transportation businesses.

267 (g) Sales and rentals of rail rolling stock (and
268 component parts thereof) for ultimate use in interstate commerce
269 and gross income from services with respect to manufacturing,
270 repairing, cleaning, altering, reconditioning or improving such
271 rail rolling stock (and component parts thereof).

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

278 (i) Sales of machinery or tools or repair parts
279 therefor or replacements thereof, fuel or supplies used directly
280 in manufacturing, converting or repairing ships of three thousand
281 (3,000) tons load displacement and over, but not to include office
282 and plant supplies or other equipment not directly used on the
283 ship being built, converted or repaired.

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

286 on board such ships. This exemption shall be limited to cases in
287 which procedures satisfactory to the commissioner, ensuring
288 against use in this state other than on such ships, are
289 established.

290 (k) Sales of materials used in the construction of a
291 building, or any addition or improvement thereon, and sales of any
292 machinery and equipment not later than three (3) months after the
293 completion of construction of the building, or any addition
294 thereon, to be used therein, to qualified businesses, as defined
295 in Section 57-51-5, which are located in a county or portion
296 thereof designated as an enterprise zone pursuant to Sections
297 57-51-1 through 57-51-15.

298 (l) Sales of materials used in the construction of a
299 building, or any addition or improvement thereon, and sales of any
300 machinery and equipment not later than three (3) months after the
301 completion of construction of the building, or any addition
302 thereon, to be used therein, to qualified businesses, as defined
303 in Section 57-54-5.

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

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

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

313 (p) Sales of materials used in the construction of a
314 building, or any addition or improvement thereon, and sales of any
315 machinery and equipment not later than three (3) months after the
316 completion of construction of the building, or any addition
317 thereon, to be used therein, to qualified companies, certified as
318 such by the Mississippi Development Authority under Section
319 57-53-1.

320 (q) Sales of component materials used in the
321 construction of a building, or any addition or improvement
322 thereon, sales of machinery and equipment to be used therein, and
323 sales of manufacturing or processing machinery and equipment which
324 is permanently attached to the ground or to a permanent foundation
325 and which is not by its nature intended to be housed within a
326 building structure, not later than three (3) months after the
327 initial start-up date, to permanent business enterprises engaging
328 in manufacturing or processing in Tier Three areas (as such term
329 is defined in Section 57-73-21), which businesses are certified by
330 the State Tax Commission as being eligible for the exemption
331 granted in this paragraph (q).

332 (r) Sales of component materials used in the
333 construction of a building, or any addition or improvement
334 thereon, and sales of any machinery and equipment not later than
335 three (3) months after the completion of the building, addition or
336 improvement thereon, to be used therein, for any company
337 establishing or transferring its national or regional headquarters
338 from within or outside the State of Mississippi and creating a
339 minimum of thirty-five (35) jobs at the new headquarters in this
340 state. The Tax Commission shall establish criteria and prescribe
341 procedures to determine if a company qualifies as a national or
342 regional headquarters for the purpose of receiving the exemption
343 provided in this paragraph.

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

348 (t) Gross income from the storage and handling of
349 natural gas in underground salt domes and in other underground
350 reservoirs, caverns, structures and formations suitable for such
351 storage.

352 (u) Sales of machinery and equipment to nonprofit
353 organizations if the organization: (i) is tax-exempt pursuant to
354 Section 501(c)(4) of the Internal Revenue Code of 1986, as

355 amended; (ii) assists in the implementation of the national
356 contingency plan or area contingency plan, and which is created in
357 response to the requirements of Title IV, Subtitle B of the Oil
358 Pollution Act of 1990, Public Law 101-380; and (iii) engages
359 primarily in programs to contain, clean up and otherwise mitigate
360 spills of oil or other substances occurring in the United States
361 coastal and tidal waters. For purposes of this exemption,
362 "machinery and equipment" means any ocean-going vessels, barges,
363 booms, skimmers and other capital equipment used primarily in the
364 operations of nonprofit organizations referred to herein.

365 (v) Sales of component materials and equipment to
366 approved business enterprises as provided under the Growth and
367 Prosperity Act.

368 (w) From and after July 1, 2001, sales of pollution
369 control equipment to manufacturers or custom processors for
370 industrial use. For the purposes of this exemption, "pollution
371 control equipment" means equipment, devices, machinery or systems
372 used or acquired to prevent, control, monitor or reduce air, water
373 or groundwater pollution, or solid or hazardous waste as required
374 by federal or state law or regulation.

375 (x) Sales or leases to a manufacturer of motor vehicles
376 operating a project that has been certified by the Mississippi
377 Major Economic Impact Authority as a project as defined in Section
378 57-75-5(f)(iv)1 of machinery and equipment; special tooling such
379 as dies, molds, jigs and similar items treated as special tooling
380 for federal income tax purposes; or repair parts therefor or
381 replacements thereof; repair services thereon; fuel, supplies,
382 electricity, coal and natural gas used directly in the manufacture
383 of motor vehicles or motor vehicle parts or used to provide
384 climate control for manufacturing areas.

385 (y) Sales or leases of component materials, machinery
386 and equipment used in the construction of a building, or any
387 addition or improvement thereon to an enterprise operating a
388 project that has been certified by the Mississippi Major Economic
389 Impact Authority as a project as defined in Section

390 57-75-5(f)(iv)1 and any other sales or leases required to
391 establish or operate such project.

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

394 (aa) Sales of production items used in the production
395 of motion pictures such as film; videotape; component building
396 materials used in the construction of a set; makeup; fabric used
397 as or in the making of costumes; clothing, including, shoes,
398 accessories and jewelry used as wardrobes; materials used as set
399 dressing; materials used as props on a set or by an actor;
400 materials used in the creation of special effects; and expendable
401 items purchased for limited use by grip, electric and camera
402 departments such as tape, fasteners and compressed air. For the
403 purposes of this paragraph (aa) the term "motion picture" means a
404 nationally distributed feature-length film, video, television
405 series or commercial made in Mississippi, in whole or in part, for
406 theatrical or television viewing or as a television pilot. The
407 term "motion picture" shall not include the production of
408 television coverage of news and athletic events, or a film, video,
409 television series or commercial that contains any material or
410 performance defined in Section 97-29-103.

411 (2) Sales of component materials used in the construction of
412 a building, or any addition or improvement thereon, sales of
413 machinery and equipment to be used therein, and sales of
414 manufacturing or processing machinery and equipment which is
415 permanently attached to the ground or to a permanent foundation
416 and which is not by its nature intended to be housed within a
417 building structure, not later than three (3) months after the
418 initial start-up date, to permanent business enterprises engaging
419 in manufacturing or processing in Tier Two areas and Tier One
420 areas (as such areas are designated in accordance with Section
421 57-73-21), which businesses are certified by the State Tax
422 Commission as being eligible for the exemption granted in this
423 paragraph, shall be exempt from one-half (1/2) of the taxes
424 imposed on such transactions under this chapter.

425 (3) (a) For purposes of this subsection:
426 (i) "Telecommunications enterprises" shall have
427 the meaning ascribed to such term in Section 57-73-21(13);
428 (ii) "Tier One areas" mean counties designated as
429 Tier One areas pursuant to Section 57-73-21(1);
430 (iii) "Tier Two areas" mean counties designated as
431 Tier Two areas pursuant to Section 57-73-21(1);
432 (iv) "Tier Three areas" mean counties designated
433 as Tier Three areas pursuant to Section 57-73-21(1); and
434 (v) "Equipment used in the deployment of broadband
435 technologies" means any equipment capable of being used for or in
436 connection with the transmission of information at a rate, prior
437 to taking into account the effects of any signal degradation, that
438 is not less than three hundred eighty-four (384) kilobits per
439 second in at least one direction, including, but not limited to,
440 asynchronous transfer mode switches, digital subscriber line
441 access multiplexers, routers, servers, multiplexers, fiber optics
442 and related equipment.

443 (b) Sales of equipment to telecommunications
444 enterprises after June 30, 2003, and before July 1, 2013, that is
445 installed in Tier One areas and used in the deployment of
446 broadband technologies shall be exempt from one-half (1/2) of the
447 taxes imposed on such transactions under this chapter.

448 (c) Sales of equipment to telecommunications
449 enterprises after June 30, 2003, and before July 1, 2013, that is
450 installed in Tier Two and Tier Three areas and used in the
451 deployment of broadband technologies shall be exempt from the
452 taxes imposed on such transactions under this chapter.

453 **SECTION 7.** This act shall take effect and be in force from
454 and after July 1, 2004.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO ENACT THE MISSISSIPPI MOTION PICTURE INCENTIVE ACT;
2 TO PROVIDE THAT A MOTION PICTURE PRODUCTION COMPANY SHALL BE
3 ENTITLED TO AN INCOME TAX CREDIT FOR THE EMPLOYMENT OF RESIDENTS
4 OF MISSISSIPPI IN CONNECTION WITH THE PRODUCTION OF A MOTION

5 PICTURE; TO PROVIDE FOR THE AMOUNT OF THE CREDIT; TO PROVIDE FOR A
6 REBATE OF A PERCENTAGE OF THE INVESTMENT MADE BY A MOTION PICTURE
7 PRODUCTION COMPANY IN CERTAIN MOTION PICTURES; TO PROVIDE FOR THE
8 AMOUNT OF THE REBATE; TO AMEND SECTION 27-65-11, MISSISSIPPI CODE
9 OF 1972, TO REVISE THE DEFINITION OF THE TERM "MANUFACTURING
10 MACHINERY" UNDER THE STATE SALES TAX LAW TO INCLUDE CERTAIN
11 MACHINERY AND EQUIPMENT USED IN THE PRODUCTION OF MOTION PICTURES;
12 TO AMEND SECTION 27-65-101, MISSISSIPPI CODE OF 1972, TO CREATE AN
13 INDUSTRIAL SALES TAX EXEMPTION FOR SALES OF CERTAIN MACHINERY AND
14 EQUIPMENT USED IN THE PRODUCTION OF MOTION PICTURES; AND FOR
15 RELATED PURPOSES.

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John O. Gilbert
Secretary of the Senate