

By: Senator(s) Robertson, Hewes

To: Finance

SENATE BILL NO. 3026

1 AN ACT TO AMEND SECTION 27-65-23, MISSISSIPPI CODE OF 1972,
2 TO REMOVE AIRCRAFT REPAIRING AND SERVICING FROM THE BUSINESSES OR
3 ACTIVITIES TAXED UNDER THE SALES TAX LAW; TO AMEND SECTION
4 27-65-101, MISSISSIPPI CODE OF 1972, TO EXEMPT FROM SALES TAXATION
5 SALES OF PARTS USED IN THE REPAIR AND MAINTENANCE OF AIRCRAFT TO
6 BUSINESSES ENGAGED IN AIRCRAFT REPAIR AND MAINTENANCE; AND FOR
7 RELATED PURPOSES.

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

9 **SECTION 1.** Section 27-65-23, Mississippi Code of 1972, is
10 amended as follows:

11 27-65-23. Upon every person engaging or continuing in any of
12 the following businesses or activities there is hereby levied,
13 assessed and shall be collected a tax equal to seven percent (7%)
14 of the gross income of the business, except as otherwise provided:

- 15 Air conditioning installation or repairs;
- 16 Automobile, * * * motorcycle, boat or any other vehicle
17 repairing or servicing except aircraft repairing or servicing;
- 18 Billiards, pool or domino parlors;
- 19 Bowling or tenpin alleys;
- 20 Burglar and fire alarm systems or services;
- 21 Car washing--automatic, self-service, or manual;
- 22 Computer software sales and services;
- 23 Cotton compresses or cotton warehouses;
- 24 Custom creosoting or treating, custom planing, custom
25 sawing;
- 26 Custom meat processing;
- 27 Electricians, electrical work, wiring, all repairs or
28 installation of electrical equipment;

29 Elevator or escalator installing, repairing or
30 servicing;
31 Film developing or photo finishing;
32 Foundries, machine or general repairing;
33 Furniture repairing or upholstering;
34 Grading, excavating, ditching, dredging or landscaping;
35 Hotels, motels, tourist courts or camps, trailer parks;
36 Insulating services or repairs;
37 Jewelry or watch repairing;
38 Laundering, cleaning, pressing or dyeing;
39 Marina services;
40 Mattress renovating;
41 Office and business machine repairing;
42 Parking garages and lots;
43 Plumbing or pipe fitting;
44 Public storage warehouses (There shall be no tax levied
45 on gross income of a public storage warehouse derived from the
46 temporary storage of tangible personal property in this state
47 pending shipping or mailing of the property to another state.);
48 Refrigerating equipment repairs;
49 Radio or television installing, repairing, or servicing;
50 Renting or leasing personal property used within this
51 state;
52 Services performed in connection with geophysical
53 surveying, exploring, developing, drilling, producing,
54 distributing, or testing of oil, gas, water and other mineral
55 resources;
56 Shoe repairing;
57 Storage lockers;
58 Telephone answering or paging services;
59 Termite or pest control services;
60 Tin and sheet metal shops;

61 TV cable systems, subscription TV services, and other
62 similar activities;

63 Vulcanizing, repairing or recapping of tires or tubes;
64 Welding; and

65 Woodworking or wood turning shops.

66 Income from services taxed herein performed for electric
67 power associations in the ordinary and necessary operation of
68 their generating or distribution systems shall be taxed at the
69 rate of one percent (1%).

70 Income from services taxed herein performed on materials for
71 use in track or track structures to a railroad whose rates are
72 fixed by the Interstate Commerce Commission or the Mississippi
73 Public Service Commission shall be taxed at the rate of three
74 percent (3%).

75 Income from renting or leasing tangible personal property
76 used within this state shall be taxed at the same rates as sales
77 of the same property.

78 Persons doing business in this state who rent transportation
79 equipment with a situs within or without the state to common,
80 contract or private commercial carriers are taxed on that part of
81 the income derived from use within this state. If specific
82 accounting is impracticable, a formula may be used with approval
83 of the commissioner.

84 A lessor may deduct from the tax computed on the rental
85 income from tangible personal property a credit for sales or use
86 tax paid to this state at the time of purchase of the specific
87 personal property being leased or rented until such credit has
88 been exhausted.

89 Charges for custom processing and repairing services may be
90 excluded from gross taxable income when the property on which the
91 service was performed is delivered to the customer in another
92 state either by common carrier or in the seller's equipment.

93 When a taxpayer performs unitary services covered by this
94 section, which are performed both in intrastate and interstate
95 commerce, the commissioner is hereby invested with authority to
96 formulate in each particular case and to fix for such taxpayer in
97 each instance formulae of apportionment which will apportion to
98 this state, for taxation, that portion of the services which are
99 performed within the State of Mississippi.

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

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

114 The tax levied by this chapter shall not apply to the
115 following:

116 (a) Sales of boxes, crates, cartons, cans, bottles and
117 other packaging materials to manufacturers and wholesalers for use
118 as containers or shipping materials to accompany goods sold by
119 said manufacturers or wholesalers where possession thereof will
120 pass to the customer at the time of sale of the goods contained
121 therein and sales to anyone of containers or shipping materials
122 for use in ships engaged in international commerce.

123 (b) Sales of raw materials, catalysts, processing
124 chemicals, welding gases or other industrial processing gases
125 (except natural gas) to a manufacturer for use directly in

126 manufacturing or processing a product for sale or rental or
127 repairing or reconditioning vessels or barges of fifty (50) tons
128 load displacement and over. For the purposes of this exemption,
129 electricity used directly in the electrolysis process in the
130 production of sodium chlorate shall be considered a raw material.
131 This exemption shall not apply to any property used as fuel except
132 to the extent that such fuel comprises by-products which have no
133 market value.

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

138 (d) Sales to commercial fishermen of commercial fishing
139 boats of over five (5) tons load displacement and not more than
140 fifty (50) tons load displacement as registered with the United
141 States Coast Guard and licensed by the Mississippi Commission on
142 Marine Resources.

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

145 (f) Sales of petroleum products to vessels or barges
146 for consumption in marine international commerce or interstate
147 transportation businesses.

148 (g) Sales and rentals of rail rolling stock (and
149 component parts thereof) for ultimate use in interstate commerce
150 and gross income from services with respect to manufacturing,
151 repairing, cleaning, altering, reconditioning or improving such
152 rail rolling stock (and component parts thereof).

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

159 (i) Sales of machinery or tools or repair parts
160 therefor or replacements thereof, fuel or supplies used directly
161 in manufacturing, converting or repairing ships of three thousand
162 (3,000) tons load displacement and over, but not to include office
163 and plant supplies or other equipment not directly used on the
164 ship being built, converted or repaired.

165 (j) Sales of tangible personal property to persons
166 operating ships in international commerce for use or consumption
167 on board such ships. This exemption shall be limited to cases in
168 which procedures satisfactory to the commissioner, ensuring
169 against use in this state other than on such ships, are
170 established.

171 (k) 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 57-51-5, which are located in a county or portion
177 thereof designated as an enterprise zone pursuant to Sections
178 57-51-1 through 57-51-15.

179 (l) Sales of materials used in the construction of a
180 building, or any addition or improvement thereon, and sales of any
181 machinery and equipment not later than three (3) months after the
182 completion of construction of the building, or any addition
183 thereon, to be used therein, to qualified businesses, as defined
184 in Section 57-54-5.

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

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

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

194 (p) Sales of materials used in the construction of a
195 building, or any addition or improvement thereon, and sales of any
196 machinery and equipment not later than three (3) months after the
197 completion of construction of the building, or any addition
198 thereon, to be used therein, to qualified companies, certified as
199 such by the Mississippi Development Authority under Section
200 57-53-1.

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

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

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

229 (t) Gross income from the storage and handling of
230 natural gas in underground salt domes and in other underground
231 reservoirs, caverns, structures and formations suitable for such
232 storage.

233 (u) Sales of machinery and equipment to nonprofit
234 organizations if the organization:

235 (i) Is tax-exempt pursuant to Section 501(c)(4) of
236 the Internal Revenue Code of 1986, as amended;

237 (ii) Assists in the implementation of the national
238 contingency plan or area contingency plan, and which is created in
239 response to the requirements of Title IV, Subtitle B of the Oil
240 Pollution Act of 1990, Public Law 101-380; and

241 (iii) Engages primarily in programs to contain,
242 clean up and otherwise mitigate spills of oil or other substances
243 occurring in the United States coastal and tidal waters.

244 For purposes of this exemption, "machinery and equipment"
245 means any ocean-going vessels, barges, booms, skimmers and other
246 capital equipment used primarily in the operations of nonprofit
247 organizations referred to herein.

248 (v) Sales or leases of materials and equipment to
249 approved business enterprises as provided under the Growth and
250 Prosperity Act.

251 (w) From and after July 1, 2001, sales of pollution
252 control equipment to manufacturers or custom processors for
253 industrial use. For the purposes of this exemption, "pollution
254 control equipment" means equipment, devices, machinery or systems
255 used or acquired to prevent, control, monitor or reduce air, water
256 or groundwater pollution, or solid or hazardous waste as required
257 by federal or state law or regulation.

258 (x) Sales or leases to a manufacturer of motor vehicles
259 operating a project that has been certified by the Mississippi
260 Major Economic Impact Authority as a project as defined in Section
261 57-75-5(f)(iv)1 of machinery and equipment; special tooling such
262 as dies, molds, jigs and similar items treated as special tooling
263 for federal income tax purposes; or repair parts therefor or
264 replacements thereof; repair services thereon; fuel, supplies,
265 electricity, coal and natural gas used directly in the manufacture
266 of motor vehicles or motor vehicle parts or used to provide
267 climate control for manufacturing areas.

268 (y) Sales or leases of component materials, machinery
269 and equipment used in the construction of a building, or any
270 addition or improvement thereon to an enterprise operating a
271 project that has been certified by the Mississippi Major Economic
272 Impact Authority as a project as defined in Section
273 57-75-5(f)(iv)1 and any other sales or leases required to
274 establish or operate such project.

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

277 (aa) The gross income from the stripping and painting
278 of commercial aircraft engaged in foreign or interstate
279 transportation business.

280 (bb) Sales of production items used in the production
281 of motion pictures such as film; videotape; component building
282 materials used in the construction of a set; makeup; fabric used
283 as or in the making of costumes; clothing, including, shoes,
284 accessories and jewelry used as wardrobes; materials used as set
285 dressing; materials used as props on a set or by an actor;
286 materials used in the creation of special effects; and expendable
287 items purchased for limited use by grip, electric and camera
288 departments such as tape, fasteners and compressed air. For the
289 purposes of this paragraph * * * the term "motion picture" means a
290 nationally distributed feature-length film, video, television

291 series or commercial made in Mississippi, in whole or in part, for
292 theatrical or television viewing or as a television pilot. The
293 term "motion picture" shall not include the production of
294 television coverage of news and athletic events, or a film, video,
295 television series or commercial that contains any material or
296 performance defined in Section 97-29-103.

297 (cc) Sales of parts used in the repair and maintenance
298 of aircraft to businesses engaged in aircraft repair and
299 maintenance.

300 (2) Sales of component materials used in the construction of
301 a building, or any addition or improvement thereon, sales of
302 machinery and equipment to be used therein, and sales of
303 manufacturing or processing machinery and equipment which is
304 permanently attached to the ground or to a permanent foundation
305 and which is not by its nature intended to be housed within a
306 building structure, not later than three (3) months after the
307 initial start-up date, to permanent business enterprises engaging
308 in manufacturing or processing in Tier Two areas and Tier One
309 areas (as such areas are designated in accordance with Section
310 57-73-21), which businesses are certified by the State Tax
311 Commission as being eligible for the exemption granted in this
312 paragraph, shall be exempt from one-half (1/2) of the taxes
313 imposed on such transactions under this chapter.

314 (3) (a) For purposes of this subsection:

315 (i) "Telecommunications enterprises" shall have
316 the meaning ascribed to such term in Section 57-73-21(13);

317 (ii) "Tier One areas" mean counties designated as
318 Tier One areas pursuant to Section 57-73-21(1);

319 (iii) "Tier Two areas" mean counties designated as
320 Tier Two areas pursuant to Section 57-73-21(1);

321 (iv) "Tier Three areas" mean counties designated
322 as Tier Three areas pursuant to Section 57-73-21(1); and

323 (v) "Equipment used in the deployment of broadband
324 technologies" means any equipment capable of being used for or in
325 connection with the transmission of information at a rate, prior
326 to taking into account the effects of any signal degradation, that
327 is not less than three hundred eighty-four (384) kilobits per
328 second in at least one direction, including, but not limited to,
329 asynchronous transfer mode switches, digital subscriber line
330 access multiplexers, routers, servers, multiplexers, fiber optics
331 and related equipment.

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

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

342 **SECTION 3.** This act shall take effect and be in force from
343 and after July 1, 2005.