

By: Senator(s) Robertson, Hewes

To: Finance

SENATE BILL NO. 3026  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 27-65-23, MISSISSIPPI CODE OF 1972,  
2 TO REMOVE THE REPAIRING AND SERVICING OF AIRCRAFT NOT REGISTERED  
3 IN MISSISSIPPI ENGAGED EXCLUSIVELY IN FOREIGN OR INTERSTATE  
4 COMMERCE FROM THE ACTIVITIES TAXED UNDER THE SALES TAX LAW; TO  
5 AMEND SECTION 27-65-101, MISSISSIPPI CODE OF 1972, TO EXEMPT FROM  
6 SALES TAXATION SALES OF PARTS USED IN THE REPAIR AND MAINTENANCE  
7 OF AIRCRAFT NOT REGISTERED IN MISSISSIPPI ENGAGED EXCLUSIVELY IN  
8 FOREIGN OR INTERSTATE COMMERCE TO BUSINESSES ENGAGED IN AIRCRAFT  
9 REPAIR AND MAINTENANCE; TO PROVIDE THAT SALES OF CERTAIN TANGIBLE  
10 PERSONAL PROPERTY USED DIRECTLY IN THE MANUFACTURING, CONVERTING  
11 OR REPAIRING OF VESSELS OR BARGES SHALL BE EXEMPT FROM SALES  
12 TAXATION; AND FOR RELATED PURPOSES.

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

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

16 27-65-23. Upon every person engaging or continuing in any of  
17 the following businesses or activities there is hereby levied,  
18 assessed and shall be collected a tax equal to seven percent (7%)  
19 of the gross income of the business, except as otherwise provided:

- 20 Air conditioning installation or repairs;
- 21 Automobile, aircraft, motorcycle, boat or any other
- 22 vehicle repairing or servicing, except the repairing or servicing
- 23 of aircraft not registered in Mississippi engaged exclusively in
- 24 the business of foreign or interstate transportation;
- 25 Billiards, pool or domino parlors;
- 26 Bowling or tenpin alleys;
- 27 Burglar and fire alarm systems or services;
- 28 Car washing--automatic, self-service, or manual;
- 29 Computer software sales and services;
- 30 Cotton compresses or cotton warehouses;
- 31 Custom creosoting or treating, custom planing, custom
- 32 sawing;

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

66           Termite or pest control services;  
67           Tin and sheet metal shops;  
68           TV cable systems, subscription TV services, and other  
69 similar activities;  
70           Vulcanizing, repairing or recapping of tires or tubes;  
71           Welding; and  
72           Woodworking or wood turning shops.

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

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

82           Income from renting or leasing tangible personal property  
83 used within this state shall be taxed at the same rates as sales  
84 of the same property.

85           Persons doing business in this state who rent transportation  
86 equipment with a situs within or without the state to common,  
87 contract or private commercial carriers are taxed on that part of  
88 the income derived from use within this state. If specific  
89 accounting is impracticable, a formula may be used with approval  
90 of the commissioner.

91           A lessor may deduct from the tax computed on the rental  
92 income from tangible personal property a credit for sales or use  
93 tax paid to this state at the time of purchase of the specific  
94 personal property being leased or rented until such credit has  
95 been exhausted.

96           Charges for custom processing and repairing services may be  
97 excluded from gross taxable income when the property on which the

98 service was performed is delivered to the customer in another  
99 state either by common carrier or in the seller's equipment.

100 When a taxpayer performs unitary services covered by this  
101 section, which are performed both in intrastate and interstate  
102 commerce, the commissioner is hereby invested with authority to  
103 formulate in each particular case and to fix for such taxpayer in  
104 each instance formulae of apportionment which will apportion to  
105 this state, for taxation, that portion of the services which are  
106 performed within the State of Mississippi.

107 **SECTION 2.** Section 27-65-101, Mississippi Code of 1972, as  
108 amended by House Bill No. 1668, 2005 Regular Session, is amended  
109 as follows:

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

122 The tax levied by this chapter shall not apply to the  
123 following:

124 (a) Sales of boxes, crates, cartons, cans, bottles and  
125 other packaging materials to manufacturers and wholesalers for use  
126 as containers or shipping materials to accompany goods sold by  
127 said manufacturers or wholesalers where possession thereof will  
128 pass to the customer at the time of sale of the goods contained  
129 therein and sales to anyone of containers or shipping materials  
130 for use in ships engaged in international commerce.

131           (b) Sales of raw materials, catalysts, processing  
132 chemicals, welding gases or other industrial processing gases  
133 (except natural gas) to a manufacturer for use directly in  
134 manufacturing or processing a product for sale or rental or  
135 repairing or reconditioning vessels or barges of fifty (50) tons  
136 load displacement and over. For the purposes of this exemption,  
137 electricity used directly in the electrolysis process in the  
138 production of sodium chlorate shall be considered a raw material.  
139 This exemption shall not apply to any property used as fuel except  
140 to the extent that such fuel comprises by-products which have no  
141 market value.

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

146           (d) Sales to commercial fishermen of commercial fishing  
147 boats of over five (5) tons load displacement and not more than  
148 fifty (50) tons load displacement as registered with the United  
149 States Coast Guard and licensed by the Mississippi Commission on  
150 Marine Resources.

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

153           (f) Sales of petroleum products to vessels or barges  
154 for consumption in marine international commerce or interstate  
155 transportation businesses.

156           (g) Sales and rentals of rail rolling stock (and  
157 component parts thereof) for ultimate use in interstate commerce  
158 and gross income from services with respect to manufacturing,  
159 repairing, cleaning, altering, reconditioning or improving such  
160 rail rolling stock (and component parts thereof).

161           (h) Sales of raw materials, catalysts, processing  
162 chemicals, welding gases or other industrial processing gases  
163 (except natural gas) used or consumed directly in manufacturing,

164 repairing, cleaning, altering, reconditioning or improving such  
165 rail rolling stock (and component parts thereof). This exemption  
166 shall not apply to any property used as fuel.

167 (i) Sales of machinery or tools or repair parts  
168 therefor or replacements thereof, fuel or supplies used directly  
169 in manufacturing, converting or repairing ships, vessels or barges  
170 of three thousand (3,000) tons load displacement and over, but not  
171 to include office and plant supplies or other equipment not  
172 directly used on the ship, vessel or barge being built, converted  
173 or repaired. For purposes of this exemption, "ships, vessels or  
174 barges" shall not include floating structures described in Section  
175 27-65-18.

176 (j) Sales of tangible personal property to persons  
177 operating ships in international commerce for use or consumption  
178 on board such ships. This exemption shall be limited to cases in  
179 which procedures satisfactory to the commissioner, ensuring  
180 against use in this state other than on such ships, are  
181 established.

182 (k) Sales of materials used in the construction of a  
183 building, or any addition or improvement thereon, and sales of any  
184 machinery and equipment not later than three (3) months after the  
185 completion of construction of the building, or any addition  
186 thereon, to be used therein, to qualified businesses, as defined  
187 in Section 57-51-5, which are located in a county or portion  
188 thereof designated as an enterprise zone pursuant to Sections  
189 57-51-1 through 57-51-15.

190 (l) Sales of materials used in the construction of a  
191 building, or any addition or improvement thereon, and sales of any  
192 machinery and equipment not later than three (3) months after the  
193 completion of construction of the building, or any addition  
194 thereon, to be used therein, to qualified businesses, as defined  
195 in Section 57-54-5.

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

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

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

205 (p) Sales of materials used in the construction of a  
206 building, or any addition or improvement thereon, and sales of any  
207 machinery and equipment not later than three (3) months after the  
208 completion of construction of the building, or any addition  
209 thereon, to be used therein, to qualified companies, certified as  
210 such by the Mississippi Development Authority under Section  
211 57-53-1.

212 (q) Sales of component materials used in the  
213 construction of a building, or any addition or improvement  
214 thereon, sales of machinery and equipment to be used therein, and  
215 sales of manufacturing or processing machinery and equipment which  
216 is permanently attached to the ground or to a permanent foundation  
217 and which is not by its nature intended to be housed within a  
218 building structure, not later than three (3) months after the  
219 initial start-up date, to permanent business enterprises engaging  
220 in manufacturing or processing in Tier Three areas (as such term  
221 is defined in Section 57-73-21), which businesses are certified by  
222 the State Tax Commission as being eligible for the exemption  
223 granted in this paragraph (q).

224 (r) Sales of component materials used in the  
225 construction of a building, or any addition or improvement  
226 thereon, and sales of any machinery and equipment not later than  
227 three (3) months after the completion of the building, addition or  
228 improvement thereon, to be used therein, for any company

229 establishing or transferring its national or regional headquarters  
230 from within or outside the State of Mississippi and creating a  
231 minimum of thirty-five (35) jobs at the new headquarters in this  
232 state. The Tax Commission shall establish criteria and prescribe  
233 procedures to determine if a company qualifies as a national or  
234 regional headquarters for the purpose of receiving the exemption  
235 provided in this paragraph.

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

240 (t) Gross income from the storage and handling of  
241 natural gas in underground salt domes and in other underground  
242 reservoirs, caverns, structures and formations suitable for such  
243 storage.

244 (u) Sales of machinery and equipment to nonprofit  
245 organizations if the organization:

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

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

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

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

259 (v) Sales or leases of materials and equipment to  
260 approved business enterprises as provided under the Growth and  
261 Prosperity Act.



262 (w) From and after July 1, 2001, sales of pollution  
263 control equipment to manufacturers or custom processors for  
264 industrial use. For the purposes of this exemption, "pollution  
265 control equipment" means equipment, devices, machinery or systems  
266 used or acquired to prevent, control, monitor or reduce air, water  
267 or groundwater pollution, or solid or hazardous waste as required  
268 by federal or state law or regulation.

269 (x) Sales or leases to a manufacturer of motor vehicles  
270 operating a project that has been certified by the Mississippi  
271 Major Economic Impact Authority as a project as defined in Section  
272 57-75-5(f)(iv)1 of machinery and equipment; special tooling such  
273 as dies, molds, jigs and similar items treated as special tooling  
274 for federal income tax purposes; or repair parts therefor or  
275 replacements thereof; repair services thereon; fuel, supplies,  
276 electricity, coal and natural gas used directly in the manufacture  
277 of motor vehicles or motor vehicle parts or used to provide  
278 climate control for manufacturing areas.

279 (y) Sales or leases of component materials, machinery  
280 and equipment used in the construction of a building, or any  
281 addition or improvement thereon to an enterprise operating a  
282 project that has been certified by the Mississippi Major Economic  
283 Impact Authority as a project as defined in Section  
284 57-75-5(f)(iv)1 and any other sales or leases required to  
285 establish or operate such project.

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

288 (aa) The gross income from the stripping and painting  
289 of commercial aircraft engaged in foreign or interstate  
290 transportation business.

291 (bb) Sales of production items used in the production  
292 of motion pictures such as film; videotape; component building  
293 materials used in the construction of a set; makeup; fabric used  
294 as or in the making of costumes; clothing, including, shoes,

295 accessories and jewelry used as wardrobes; materials used as set  
296 dressing; materials used as props on a set or by an actor;  
297 materials used in the creation of special effects; and expendable  
298 items purchased for limited use by grip, electric and camera  
299 departments such as tape, fasteners and compressed air. For the  
300 purposes of this paragraph (bb) the term "motion picture" means a  
301 nationally distributed feature-length film, video, television  
302 series or commercial made in Mississippi, in whole or in part, for  
303 theatrical or television viewing or as a television pilot. The  
304 term "motion picture" shall not include the production of  
305 television coverage of news and athletic events, or a film, video,  
306 television series or commercial that contains any material or  
307 performance defined in Section 97-29-103.

308 (cc) Sales or leases to an enterprise owning or  
309 operating a project that has been designated by the Mississippi  
310 Major Economic Impact Authority as a project as defined in Section  
311 57-75-5(f)(xviii) of machinery and equipment; special tooling such  
312 as dies, molds, jigs and similar items treated as special tooling  
313 for federal income tax purposes; or repair parts therefor or  
314 replacements thereof; repair services thereon; fuel, supplies,  
315 electricity, coal and natural gas used directly in the  
316 manufacturing/production operations of the project or used to  
317 provide climate control for manufacturing/production areas.

318 (dd) Sales or leases of component materials, machinery  
319 and equipment used in the construction of a building, or any  
320 addition or improvement thereon to an enterprise owning or  
321 operating a project that has been designated by the Mississippi  
322 Major Economic Impact Authority as a project as defined in Section  
323 57-75-5(f)(xviii) and any other sales or leases required to  
324 establish or operate such project.

325 (ee) Sales of parts used in the repair and servicing of  
326 aircraft not registered in Mississippi engaged exclusively in the

327 business of foreign or interstate transportation to businesses  
328 engaged in aircraft repair and maintenance.

329 (2) Sales of component materials used in the construction of  
330 a building, or any addition or improvement thereon, sales of  
331 machinery and equipment to be used therein, and sales of  
332 manufacturing or processing machinery and equipment which is  
333 permanently attached to the ground or to a permanent foundation  
334 and which is not by its nature intended to be housed within a  
335 building structure, not later than three (3) months after the  
336 initial start-up date, to permanent business enterprises engaging  
337 in manufacturing or processing in Tier Two areas and Tier One  
338 areas (as such areas are designated in accordance with Section  
339 57-73-21), which businesses are certified by the State Tax  
340 Commission as being eligible for the exemption granted in this  
341 paragraph, shall be exempt from one-half (1/2) of the taxes  
342 imposed on such transactions under this chapter.

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

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

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

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

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

352 (v) "Equipment used in the deployment of broadband  
353 technologies" means any equipment capable of being used for or in  
354 connection with the transmission of information at a rate, prior  
355 to taking into account the effects of any signal degradation, that  
356 is not less than three hundred eighty-four (384) kilobits per  
357 second in at least one direction, including, but not limited to,  
358 asynchronous transfer mode switches, digital subscriber line

359 access multiplexers, routers, servers, multiplexers, fiber optics  
360 and related equipment.

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

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

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