

By: Senator(s) Hewes

To: Finance

SENATE BILL NO. 2988

1 AN ACT TO AMEND SECTION 27-65-23, MISSISSIPPI CODE OF 1972,
2 TO REMOVE THE REPAIRING AND SERVICING OF ALL AIRCRAFT FROM THE
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 ALL AIRCRAFT;
6 AND FOR RELATED PURPOSES.

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

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

10 27-65-23. Upon every person engaging or continuing in any of
11 the following businesses or activities there is hereby levied,
12 assessed and shall be collected a tax equal to seven percent (7%)
13 of the gross income of the business, except as otherwise provided:

14 Air conditioning installation or repairs;

15 Automobile, * * * motorcycle, boat or any other vehicle
16 repairing or servicing * * *;

17 Billiards, pool or domino parlors;

18 Bowling or tenpin alleys;

19 Burglar and fire alarm systems or services;

20 Car washing--automatic, self-service, or manual;

21 Computer software sales and services;

22 Cotton compresses or cotton warehouses;

23 Custom creosoting or treating, custom planing, custom
24 sawing;

25 Custom meat processing;

26 Electricians, electrical work, wiring, all repairs or
27 installation of electrical equipment;

28 Elevator or escalator installing, repairing or
29 servicing;

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

63 Welding; and

64 Woodworking or wood turning shops.

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

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

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

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

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

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

92 When a taxpayer performs unitary services covered by this
93 section, which are performed both in intrastate and interstate
94 commerce, the commissioner is hereby invested with authority to
95 formulate in each particular case and to fix for such taxpayer in

96 each instance formulae of apportionment which will apportion to
97 this state, for taxation, that portion of the services which are
98 performed within the State of Mississippi.

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

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

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

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

122 (b) Sales of raw materials, catalysts, processing
123 chemicals, welding gases or other industrial processing gases
124 (except natural gas) to a manufacturer for use directly in
125 manufacturing or processing a product for sale or rental or
126 repairing or reconditioning vessels or barges of fifty (50) tons
127 load displacement and over. For the purposes of this exemption,
128 electricity used directly in the electrolysis process in the

129 production of sodium chlorate shall be considered a raw material.
130 This exemption shall not apply to any property used as fuel except
131 to the extent that such fuel comprises by-products which have no
132 market value.

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

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

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

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

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

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

158 (i) Sales of machinery or tools or repair parts
159 therefor or replacements thereof, fuel or supplies used directly
160 in manufacturing, converting or repairing ships, vessels or barges
161 of three thousand (3,000) tons load displacement and over, but not

162 to include office and plant supplies or other equipment not
163 directly used on the ship, vessel or barge being built, converted
164 or repaired. For purposes of this exemption, "ships, vessels or
165 barges" shall not include floating structures described in Section
166 27-65-18.

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

173 (k) Sales of materials used in the construction of a
174 building, or any addition or improvement thereon, and sales of any
175 machinery and equipment not later than three (3) months after the
176 completion of construction of the building, or any addition
177 thereon, to be used therein, to qualified businesses, as defined
178 in Section 57-51-5, which are located in a county or portion
179 thereof designated as an enterprise zone pursuant to Sections
180 57-51-1 through 57-51-15.

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

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

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

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

196 (p) Sales of materials used in the construction of a
197 building, or any addition or improvement thereon, and sales of any
198 machinery and equipment not later than three (3) months after the
199 completion of construction of the building, or any addition
200 thereon, to be used therein, to qualified companies, certified as
201 such by the Mississippi Development Authority under Section
202 57-53-1.

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

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

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

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

235 (u) Sales of machinery and equipment to nonprofit
236 organizations if the organization:

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

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

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

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

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

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

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

270 (y) Sales or leases of component materials, machinery
271 and equipment used in the construction of a building, or any
272 addition or improvement thereon to an enterprise operating a
273 project that has been certified by the Mississippi Major Economic
274 Impact Authority as a project as defined in Section
275 57-75-5(f)(iv)1 and any other sales or leases required to
276 establish or operate such project.

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

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

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

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

299 (cc) Sales or leases to an enterprise owning or
300 operating a project that has been designated by the Mississippi
301 Major Economic Impact Authority as a project as defined in Section
302 57-75-5(f)(xviii) of machinery and equipment; special tooling such
303 as dies, molds, jigs and similar items treated as special tooling
304 for federal income tax purposes; or repair parts therefor or
305 replacements thereof; repair services thereon; fuel, supplies,
306 electricity, coal and natural gas used directly in the
307 manufacturing/production operations of the project or used to
308 provide climate control for manufacturing/production areas.

309 (dd) Sales or leases of component materials, machinery
310 and equipment used in the construction of a building, or any
311 addition or improvement thereon to an enterprise owning or
312 operating a project that has been designated by the Mississippi
313 Major Economic Impact Authority as a project as defined in Section
314 57-75-5(f)(xviii) and any other sales or leases required to
315 establish or operate such project.

316 (ee) Sales of parts used in the repair and servicing of
317 aircraft * * * to businesses engaged in aircraft repair and
318 maintenance.

319 (ff) Sales of component materials used in the
320 construction of a facility, or any addition or improvement
321 thereon, and sales or leases of machinery and equipment not later
322 than three (3) months after the completion of construction of the
323 facility, or any addition or improvement thereto, to be used in
324 the building or any addition or improvement thereto, to a
325 permanent business enterprise operating a data/information

326 enterprise in Tier Three areas (as such areas are designated in
327 accordance with Section 57-73-21), meeting minimum criteria
328 established by the Mississippi Development Authority.

329 (gg) Sales of component materials used in the
330 construction of a facility, or any addition or improvement
331 thereto, and sales of machinery and equipment not later than three
332 (3) months after the completion of construction of the facility,
333 or any addition or improvement thereto, to be used in the facility
334 or any addition or improvement thereto, to technology intensive
335 enterprises for industrial purposes in Tier Three areas (as such
336 areas are designated in accordance with Section 57-73-21), as
337 certified by the State Tax Commission. For purposes of this
338 paragraph, an enterprise must meet the criteria provided for in
339 Section 27-65-17(1)(f) in order to be considered a technology
340 intensive enterprise.

341 (2) Sales of component materials used in the construction of
342 a building, or any addition or improvement thereon, sales of
343 machinery and equipment to be used therein, and sales of
344 manufacturing or processing machinery and equipment which is
345 permanently attached to the ground or to a permanent foundation
346 and which is not by its nature intended to be housed within a
347 building structure, not later than three (3) months after the
348 initial start-up date, to permanent business enterprises engaging
349 in manufacturing or processing in Tier Two areas and Tier One
350 areas (as such areas are designated in accordance with Section
351 57-73-21), which businesses are certified by the State Tax
352 Commission as being eligible for the exemption granted in this
353 paragraph, shall be exempt from one-half (1/2) of the taxes
354 imposed on such transactions under this chapter.

355 (3) Sales of component materials used in the construction of
356 a facility, or any addition or improvement thereon, and sales or
357 leases of machinery and equipment not later than three (3) months
358 after the completion of construction of the facility, or any

359 addition or improvement thereto, to be used in the building or any
360 addition or improvement thereto, to a permanent business
361 enterprise operating a data/information enterprise in Tier Two
362 areas and Tier One areas (as such areas are designated in
363 accordance with Section 57-73-21), which businesses meet minimum
364 criteria established by the Mississippi Development Authority,
365 shall be exempt from one-half (1/2) of the taxes imposed on such
366 transaction under this chapter.

367 (4) Sales of component materials used in the construction of
368 a facility, or any addition or improvement thereto, and sales of
369 machinery and equipment not later than three (3) months after the
370 completion of construction of the facility, or any addition or
371 improvement thereto, to be used in the building or any addition or
372 improvement thereto, to technology intensive enterprises for
373 industrial purposes in Tier Two areas and Tier One areas (as such
374 areas are designated in accordance with Section 57-73-21), which
375 businesses are certified by the State Tax Commission as being
376 eligible for the exemption granted in this paragraph, shall be
377 exempt from one-half (1/2) of the taxes imposed on such
378 transactions under this chapter. For purposes of this subsection,
379 an enterprise must meet the criteria provided for in Section
380 27-65-17(1)(f) in order to be considered a technology intensive
381 enterprise.

382 (5) (a) For purposes of this subsection:

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

385 (ii) "Tier One areas" mean counties designated as
386 Tier One areas pursuant to Section 57-73-21;

387 (iii) "Tier Two areas" mean counties designated as
388 Tier Two areas pursuant to Section 57-73-21;

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

391 (v) "Equipment used in the deployment of broadband
392 technologies" means any equipment capable of being used for or in
393 connection with the transmission of information at a rate, prior
394 to taking into account the effects of any signal degradation, that
395 is not less than three hundred eighty-four (384) kilobits per
396 second in at least one direction, including, but not limited to,
397 asynchronous transfer mode switches, digital subscriber line
398 access multiplexers, routers, servers, multiplexers, fiber optics
399 and related equipment.

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

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

410 **SECTION 3.** This act shall take effect and be in force from
411 and after July 1, 2006.