

By: Senator(s) Brown

To: Finance

SENATE BILL NO. 3062

1 AN ACT TO AMEND SECTION 27-65-101, MISSISSIPPI CODE OF 1972,
 2 TO EXEMPT FROM SALES TAXATION SALES OF REPLACEMENT MANUFACTURING
 3 MACHINE PARTS WHEN MADE TO A MANUFACTURER OR CUSTOM PROCESSOR FOR
 4 PLANT USE WHEN THE REPLACEMENT MACHINE PARTS WILL BE USED
 5 EXCLUSIVELY AND DIRECTLY WITHIN THIS STATE IN MANUFACTURING A
 6 COMMODITY FOR SALE, RENTAL OR IN PROCESSING FOR A FEE; TO AMEND
 7 SECTION 27-65-17, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO;
 8 AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 27-65-101, Mississippi Code of 1972, is
 11 amended as follows:

12 27-65-101. (1) The exemptions from the provisions of this
 13 chapter which are of an industrial nature or which are more
 14 properly classified as industrial exemptions than any other
 15 exemption classification of this chapter shall be confined to
 16 those persons or property exempted by this section or by the
 17 provisions of the Constitution of the United States or the State
 18 of Mississippi. No industrial exemption as now provided by any
 19 other section except Section 57-3-33 shall be valid as against the
 20 tax herein levied. Any subsequent industrial exemption from the
 21 tax levied hereunder shall be provided by amendment to this
 22 section. No exemption provided in this section shall apply to
 23 taxes levied by Section 27-65-15 or 27-65-21.

24 The tax levied by this chapter shall not apply to the
 25 following:

26 (a) Sales of boxes, crates, cartons, cans, bottles and
 27 other packaging materials to manufacturers and wholesalers for use
 28 as containers or shipping materials to accompany goods sold by
 29 said manufacturers or wholesalers where possession thereof will
 30 pass to the customer at the time of sale of the goods contained

31 therein and sales to anyone of containers or shipping materials
32 for use in ships engaged in international commerce.

33 (b) Sales of raw materials, catalysts, processing
34 chemicals, welding gases or other industrial processing gases
35 (except natural gas) to a manufacturer for use directly in
36 manufacturing or processing a product for sale or rental or
37 repairing or reconditioning vessels or barges of fifty (50) tons
38 load displacement and over. For the purposes of this exemption,
39 electricity used directly in the electrolysis process in the
40 production of sodium chlorate shall be considered a raw material.
41 This exemption shall not apply to any property used as fuel except
42 to the extent that such fuel comprises by-products which have no
43 market value.

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

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

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

55 (f) Sales of petroleum products to vessels or barges
56 for consumption in marine international commerce or interstate
57 transportation businesses.

58 (g) Sales and rentals of rail rolling stock (and
59 component parts thereof) for ultimate use in interstate commerce
60 and gross income from services with respect to manufacturing,
61 repairing, cleaning, altering, reconditioning or improving such
62 rail rolling stock (and component parts thereof).

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

69 (i) Sales of machinery or tools or repair parts
70 therefor or replacements thereof, fuel or supplies used directly
71 in manufacturing, converting or repairing ships, vessels or barges
72 of three thousand (3,000) tons load displacement and over, but not
73 to include office and plant supplies or other equipment not
74 directly used on the ship, vessel or barge being built, converted
75 or repaired. For purposes of this exemption, "ships, vessels or
76 barges" shall not include floating structures described in Section
77 27-65-18.

78 (j) Sales of tangible personal property to persons
79 operating ships in international commerce for use or consumption
80 on board such ships. This exemption shall be limited to cases in
81 which procedures satisfactory to the commissioner, ensuring
82 against use in this state other than on such ships, are
83 established.

84 (k) Sales of materials used in the construction of a
85 building, or any addition or improvement thereon, and sales of any
86 machinery and equipment not later than three (3) months after the
87 completion of construction of the building, or any addition
88 thereon, to be used therein, to qualified businesses, as defined
89 in Section 57-51-5, which are located in a county or portion
90 thereof designated as an enterprise zone pursuant to Sections
91 57-51-1 through 57-51-15.

92 (l) Sales of materials used in the construction of a
93 building, or any addition or improvement thereon, and sales of any
94 machinery and equipment not later than three (3) months after the
95 completion of construction of the building, or any addition

96 thereon, to be used therein, to qualified businesses, as defined
97 in Section 57-54-5.

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

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

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

107 (p) Sales of materials used in the construction of a
108 building, or any addition or improvement thereon, and sales of any
109 machinery and equipment not later than three (3) months after the
110 completion of construction of the building, or any addition
111 thereon, to be used therein, to qualified companies, certified as
112 such by the Mississippi Development Authority under Section
113 57-53-1.

114 (q) Sales of component materials used in the
115 construction of a building, or any addition or improvement
116 thereon, sales of machinery and equipment to be used therein, and
117 sales of manufacturing or processing machinery and equipment which
118 is permanently attached to the ground or to a permanent foundation
119 and which is not by its nature intended to be housed within a
120 building structure, not later than three (3) months after the
121 initial start-up date, to permanent business enterprises engaging
122 in manufacturing or processing in Tier Three areas (as such term
123 is defined in Section 57-73-21), which businesses are certified by
124 the State Tax Commission as being eligible for the exemption
125 granted in this paragraph (q).

126 (r) Sales of component materials used in the
127 construction of a building, or any addition or improvement
128 thereon, and sales of any machinery and equipment not later than

129 three (3) months after the completion of the building, addition or
130 improvement thereon, to be used therein, for any company
131 establishing or transferring its national or regional headquarters
132 from within or outside the State of Mississippi and creating a
133 minimum of thirty-five (35) jobs at the new headquarters in this
134 state. The Tax Commission shall establish criteria and prescribe
135 procedures to determine if a company qualifies as a national or
136 regional headquarters for the purpose of receiving the exemption
137 provided in this paragraph.

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

142 (t) Gross income from the storage and handling of
143 natural gas in underground salt domes and in other underground
144 reservoirs, caverns, structures and formations suitable for such
145 storage.

146 (u) Sales of machinery and equipment to nonprofit
147 organizations if the organization:

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

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

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

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

161 (v) Sales or leases of materials and equipment to
162 approved business enterprises as provided under the Growth and
163 Prosperity Act.

164 (w) From and after July 1, 2001, sales of pollution
165 control equipment to manufacturers or custom processors for
166 industrial use. For the purposes of this exemption, "pollution
167 control equipment" means equipment, devices, machinery or systems
168 used or acquired to prevent, control, monitor or reduce air, water
169 or groundwater pollution, or solid or hazardous waste as required
170 by federal or state law or regulation.

171 (x) Sales or leases to a manufacturer of motor vehicles
172 operating a project that has been certified by the Mississippi
173 Major Economic Impact Authority as a project as defined in Section
174 57-75-5(f)(iv)1 of machinery and equipment; special tooling such
175 as dies, molds, jigs and similar items treated as special tooling
176 for federal income tax purposes; or repair parts therefor or
177 replacements thereof; repair services thereon; fuel, supplies,
178 electricity, coal and natural gas used directly in the manufacture
179 of motor vehicles or motor vehicle parts or used to provide
180 climate control for manufacturing areas.

181 (y) Sales or leases of component materials, machinery
182 and equipment used in the construction of a building, or any
183 addition or improvement thereon to an enterprise operating a
184 project that has been certified by the Mississippi Major Economic
185 Impact Authority as a project as defined in Section
186 57-75-5(f)(iv)1 and any other sales or leases required to
187 establish or operate such project.

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

190 (aa) The gross income from the stripping and painting
191 of commercial aircraft engaged in foreign or interstate
192 transportation business.

193 (bb) Sales of production items used in the production
194 of motion pictures such as film; videotape; component building
195 materials used in the construction of a set; makeup; fabric used
196 as or in the making of costumes; clothing, including, shoes,
197 accessories and jewelry used as wardrobes; materials used as set
198 dressing; materials used as props on a set or by an actor;
199 materials used in the creation of special effects; and expendable
200 items purchased for limited use by grip, electric and camera
201 departments such as tape, fasteners and compressed air. For the
202 purposes of this paragraph (bb), the term "motion picture" means a
203 nationally distributed feature-length film, video, television
204 series or commercial made in Mississippi, in whole or in part, for
205 theatrical or television viewing or as a television pilot. The
206 term "motion picture" shall not include the production of
207 television coverage of news and athletic events, or a film, video,
208 television series or commercial that contains any material or
209 performance defined in Section 97-29-103.

210 (cc) Sales or leases to an enterprise owning or
211 operating a project that has been designated by the Mississippi
212 Major Economic Impact Authority as a project as defined in Section
213 57-75-5(f)(xviii) of machinery and equipment; special tooling such
214 as dies, molds, jigs and similar items treated as special tooling
215 for federal income tax purposes; or repair parts therefor or
216 replacements thereof; repair services thereon; fuel, supplies,
217 electricity, coal and natural gas used directly in the
218 manufacturing/production operations of the project or used to
219 provide climate control for manufacturing/production areas.

220 (dd) Sales or leases of component materials, machinery
221 and equipment used in the construction of a building, or any
222 addition or improvement thereon to an enterprise owning or
223 operating a project that has been designated by the Mississippi
224 Major Economic Impact Authority as a project as defined in Section

225 57-75-5(f)(xviii) and any other sales or leases required to
226 establish or operate such project.

227 (ee) Sales of parts used in the repair and servicing of
228 aircraft not registered in Mississippi engaged exclusively in the
229 business of foreign or interstate transportation to businesses
230 engaged in aircraft repair and maintenance.

231 (ff) Sales of component materials used in the
232 construction of a facility, or any addition or improvement
233 thereon, and sales or leases of machinery and equipment not later
234 than three (3) months after the completion of construction of the
235 facility, or any addition or improvement thereto, to be used in
236 the building or any addition or improvement thereto, to a
237 permanent business enterprise operating a data/information
238 enterprise in Tier Three areas (as such areas are designated in
239 accordance with Section 57-73-21), meeting minimum criteria
240 established by the Mississippi Development Authority.

241 (gg) Sales of component materials used in the
242 construction of a facility, or any addition or improvement
243 thereto, and sales of machinery and equipment not later than three
244 (3) months after the completion of construction of the facility,
245 or any addition or improvement thereto, to be used in the facility
246 or any addition or improvement thereto, to technology intensive
247 enterprises for industrial purposes in Tier Three areas (as such
248 areas are designated in accordance with Section 57-73-21), as
249 certified by the State Tax Commission. For purposes of this
250 paragraph, an enterprise must meet the criteria provided for in
251 Section 27-65-17(1)(f) in order to be considered a technology
252 intensive enterprise.

253 (hh) Sales of replacement manufacturing machine parts
254 when made to a manufacturer or custom processor for plant use only
255 when the replacement machine parts will be used exclusively and
256 directly within this state in manufacturing a commodity for sale,
257 rental or in processing for a fee.

258 (2) Sales of component materials used in the construction of
259 a building, or any addition or improvement thereon, sales of
260 machinery and equipment to be used therein, and sales of
261 manufacturing or processing machinery and equipment which is
262 permanently attached to the ground or to a permanent foundation
263 and which is not by its nature intended to be housed within a
264 building structure, not later than three (3) months after the
265 initial start-up date, to permanent business enterprises engaging
266 in manufacturing or processing in Tier Two areas and Tier One
267 areas (as such areas are designated in accordance with Section
268 57-73-21), which businesses are certified by the State Tax
269 Commission as being eligible for the exemption granted in this
270 paragraph, shall be exempt from one-half (1/2) of the taxes
271 imposed on such transactions under this chapter.

272 (3) Sales of component materials used in the construction of
273 a facility, or any addition or improvement thereon, and sales or
274 leases of machinery and equipment not later than three (3) months
275 after the completion of construction of the facility, or any
276 addition or improvement thereto, to be used in the building or any
277 addition or improvement thereto, to a permanent business
278 enterprise operating a data/information enterprise in Tier Two
279 areas and Tier One areas (as such areas are designated in
280 accordance with Section 57-73-21), which businesses meet minimum
281 criteria established by the Mississippi Development Authority,
282 shall be exempt from one-half (1/2) of the taxes imposed on such
283 transaction under this chapter.

284 (4) Sales of component materials used in the construction of
285 a facility, or any addition or improvement thereto, and sales of
286 machinery and equipment not later than three (3) months after the
287 completion of construction of the facility, or any addition or
288 improvement thereto, to be used in the building or any addition or
289 improvement thereto, to technology intensive enterprises for
290 industrial purposes in Tier Two areas and Tier One areas (as such

291 areas are designated in accordance with Section 57-73-21), which
292 businesses are certified by the State Tax Commission as being
293 eligible for the exemption granted in this paragraph, shall be
294 exempt from one-half (1/2) of the taxes imposed on such
295 transactions under this chapter. For purposes of this subsection,
296 an enterprise must meet the criteria provided for in Section
297 27-65-17(1)(f) in order to be considered a technology intensive
298 enterprise.

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

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

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

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

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

308 (v) "Equipment used in the deployment of broadband
309 technologies" means any equipment capable of being used for or in
310 connection with the transmission of information at a rate, prior
311 to taking into account the effects of any signal degradation, that
312 is not less than three hundred eighty-four (384) kilobits per
313 second in at least one direction, including, but not limited to,
314 asynchronous transfer mode switches, digital subscriber line
315 access multiplexers, routers, servers, multiplexers, fiber optics
316 and related equipment.

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

322 (c) Sales of equipment to telecommunications
323 enterprises after June 30, 2003, and before July 1, 2013, that is

324 installed in Tier Two and Tier Three areas and used in the
325 deployment of broadband technologies shall be exempt from the
326 taxes imposed on such transactions under this chapter.

327 **SECTION 2.** Section 27-65-17, Mississippi Code of 1972, is
328 amended as follows:

329 27-65-17. (1) (a) Except as otherwise provided in this
330 section, upon every person engaging or continuing within this
331 state in the business of selling any tangible personal property
332 whatsoever there is hereby levied, assessed and shall be collected
333 a tax equal to seven percent (7%) of the gross proceeds of the
334 retail sales of the business.

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

338 (c) Retail sales of farm implements sold to farmers and
339 used directly in the production of poultry, ratite, domesticated
340 fish as defined in Section 69-7-501, livestock, livestock
341 products, agricultural crops or ornamental plant crops or used for
342 other agricultural purposes shall be taxed at the rate of three
343 percent (3%) when used on the farm. The three percent (3%) rate
344 shall also apply to all equipment used in logging, pulpwood
345 operations or tree farming which is either:

346 (i) Self-propelled, or

347 (ii) Mounted so that it is permanently attached to
348 other equipment which is self-propelled or permanently attached to
349 other equipment drawn by a vehicle which is self-propelled.

350 (d) Except as otherwise provided in subsection (3) of
351 this section, retail sales of aircraft, automobiles, trucks,
352 truck-tractors, semitrailers and manufactured or mobile homes
353 shall be taxed at the rate of three percent (3%).

354 (e) Except as otherwise provided in Section
355 27-65-101(1)(hh), sales of manufacturing machinery or
356 manufacturing machine parts when made to a manufacturer or custom

357 processor for plant use only when the machinery and machine parts
358 will be used exclusively and directly within this state in
359 manufacturing a commodity for sale, rental or in processing for a
360 fee shall be taxed at the rate of one and one-half percent
361 (1-1/2%).

362 (f) Sales of machinery and machine parts when made to a
363 technology intensive enterprise for plant use only when the
364 machinery and machine parts will be used exclusively and directly
365 within this state for industrial purposes, including, but not
366 limited to, manufacturing or research and development activities,
367 shall be taxed at the rate of one and one-half percent (1-1/2%).
368 In order to be considered a technology intensive enterprise for
369 purposes of this paragraph:

370 (i) The enterprise shall meet minimum criteria
371 established by the Mississippi Development Authority;

372 (ii) The enterprise shall employ at least ten (10)
373 persons in full-time jobs;

374 (iii) At least ten percent (10%) of the workforce
375 in the facility operated by the enterprise shall be scientists,
376 engineers or computer specialists;

377 (iv) The enterprise shall manufacture plastics,
378 chemicals, automobiles, aircraft, computers or electronics; or
379 shall be a research and development facility, a computer design or
380 related facility, or a software publishing facility or other
381 technology intensive facility or enterprise as determined by the
382 Mississippi Development Authority;

383 (v) The average wage of all workers employed by
384 the enterprise at the facility shall be at least one hundred fifty
385 percent (150%) of the state average annual wage; and

386 (vi) The enterprise must provide a basic health
387 care plan to all employees at the facility.

388 (g) Sales of materials for use in track and track
389 structures to a railroad whose rates are fixed by the Interstate

390 Commerce Commission or the Mississippi Public Service Commission
391 shall be taxed at the rate of three percent (3%).

392 (h) Sales of tangible personal property to electric
393 power associations for use in the ordinary and necessary operation
394 of their generating or distribution systems shall be taxed at the
395 rate of one percent (1%).

396 (i) Wholesale sales of beer shall be taxed at the rate
397 of seven percent (7%), and the retailer shall file a return and
398 compute the retail tax on retail sales but may take credit for the
399 amount of the tax paid to the wholesaler on said return covering
400 the subsequent sales of same property, provided adequate invoices
401 and records are maintained to substantiate the credit.

402 (j) Wholesale sales of food and drink for human
403 consumption to full service vending machine operators to be sold
404 through vending machines located apart from and not connected with
405 other taxable businesses shall be taxed at the rate of eight
406 percent (8%).

407 (k) Sales of equipment used or designed for the purpose
408 of assisting disabled persons, such as wheelchair equipment and
409 lifts, that is mounted or attached to or installed on a private
410 carrier of passengers or light carrier of property, as defined in
411 Section 27-51-101, at the time when the private carrier of
412 passengers or light carrier of property is sold shall be taxed at
413 the same rate as the sale of such vehicles under this section.

414 (l) Sales of the factory-built components of modular
415 homes, panelized homes and precut homes, and panel constructed
416 homes consisting of structural insulated panels, shall be taxed at
417 the rate of three percent (3%).

418 (2) From and after January 1, 1995, retail sales of private
419 carriers of passengers and light carriers of property, as defined
420 in Section 27-51-101, shall be taxed an additional two percent
421 (2%).

422 (3) In lieu of the tax levied in subsection (1) of this
423 section, there is levied on retail sales of truck-tractors and
424 semitrailers used in interstate commerce and registered under the
425 International Registration Plan (IRP) or any similar reciprocity
426 agreement or compact relating to the proportional registration of
427 commercial vehicles entered into as provided for in Section
428 27-19-143, a tax at the rate of three percent (3%) of the portion
429 of the sale that is attributable to the usage of such
430 truck-tractor or semitrailer in Mississippi. The portion of the
431 retail sale that is attributable to the usage of such
432 truck-tractor or semitrailer in Mississippi is the retail sales
433 price of the truck-tractor or semitrailer multiplied by the
434 percentage of the total miles traveled by the vehicle that are
435 traveled in Mississippi. The tax levied pursuant to this
436 subsection (3) shall be collected by the State Tax Commission from
437 the purchaser of such truck-tractor or semitrailer at the time of
438 registration of such truck-tractor or semitrailer.

439 (4) A manufacturer selling at retail in this state shall be
440 required to make returns of the gross proceeds of such sales and
441 pay the tax imposed in this section.

442 (5) Any person exercising any privilege taxable under
443 Section 27-65-15 and selling his natural resource products at
444 wholesale or to exempt persons shall pay the tax levied by said
445 section in lieu of the tax levied by this section.

446 **SECTION 3.** This act shall take effect and be in force from
447 and after July 1, 2007.