

Senate Amendments to House Bill No. 968

TO THE CLERK OF THE HOUSE:

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

AMENDMENT NO. 1

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

8 **SECTION 1.** Section 27-67-5, Mississippi Code of 1972, is
9 amended as follows:

10 27-67-5. There is hereby levied, assessed and shall be
11 collected from every person a tax for the privilege of using,
12 storing or consuming, within this state, any tangible personal
13 property or specified digital product possession of which is
14 acquired in any manner.

15 (a) The use tax hereby imposed and levied shall be
16 collected at the same rates as imposed under Section 27-65-20, and
17 Sections 27-65-17, 27-65-18, 27-65-19, 27-65-24, 27-65-25 and
18 27-65-26 computed on the purchase or sales price, or value, as
19 defined in this article.

20 (b) It shall be the duty of the tax collectors of the
21 several counties, or the commissioner, as the case may be, to
22 collect, remit and account for the tax on the use of all vehicles
23 licensed or registered by the State of Mississippi for the first
24 time, except when the Mississippi use tax was collected by an

25 authorized out-of-state dealer at the time of purchase, or when
26 the use thereof was exempt by Section 27-67-7. The tax collector
27 or the commissioner shall give to the person registering the
28 vehicle a receipt in a form prescribed and furnished by the
29 Department of Revenue for the amount of tax collected.

30 The tax collector or the commissioner is expressly prohibited
31 from issuing a license tag to any applicant without collecting the
32 tax levied by this article, unless positive proof is filed,
33 together with the application for the license tag, that the
34 Mississippi tax has been paid, or that the sale was exempt by
35 Section 27-67-7.

36 Persons not engaging and continuing in business so as to be
37 registered for payment of sales and/or use tax may pay use tax due
38 on the first use of boats, airplanes, equipment or other tangible
39 personal property and specified digital products to county tax
40 collectors who are hereby authorized to accept such payments on
41 behalf of the commissioner. Receipts for all such payments shall
42 be given to taxpayers in a form prescribed and furnished by the
43 Department of Revenue.

44 County tax collectors and the commissioner shall be liable
45 for the tax they are required hereby to collect, and taxes which
46 are in fact collected under authority of this section; and failure
47 to properly collect or maintain proper records shall not relieve
48 them of liability for payment to the commissioner. Deficiencies
49 in collection or payment shall be assessed against the tax
50 collector or the commissioner in the same manner and subject to

51 the same penalties and provisions for appeal as are deficiencies
52 assessed against taxpayers.

53 A dealer authorized to collect and remit the tax to the
54 Department of Revenue shall give to the purchaser a receipt for
55 the payment of the tax, in a form prescribed and furnished by the
56 commissioner, which shall serve as proof of payment to the tax
57 collector of the county in which the license is to be issued.

58 Each tax collector of the several counties shall, on or
59 before the twentieth day of each month, file a report with and pay
60 to the commissioner all funds collected under the provisions of
61 this article, less a commission of five percent (5%) which shall
62 be retained by the tax collector as a commission for collecting
63 such tax and be deposited in the county general fund. The report
64 required to be filed shall cover all collections made during the
65 calendar month next preceding the date on which the report is due
66 and filed.

67 Any error in the report and remittance to the commissioner
68 may be adjusted on a subsequent report. If the error was in the
69 collection by the tax collector, it shall be adjusted through the
70 tax collector with the taxpayer before credit is allowed by the
71 commissioner.

72 All information relating to the collection of use tax by tax
73 collectors and such records as the commissioner may require shall
74 be preserved in the tax collector's office for a period of three
75 (3) years for audit by the commissioner.

76 **SECTION 2.** Section 27-67-7, Mississippi Code of 1972, is

77 amended as follows:

78 27-67-7. The tax levied by this article shall not be
79 collected in the following instances:

80 (a) On the use, storage or consumption of any tangible
81 personal property or specified digital products if the sale
82 thereof has already been included in the measure of this tax or
83 the tax imposed by Section 27-65-20 or Section 27-65-17, 27-65-19,
84 27-65-25 or 27-65-26, or has already been included in the measure
85 of a sales tax imposed by another state in which the property or
86 products were sold or use tax imposed by some other state in which
87 the property was used. If the rate of sales or use tax paid
88 another state by the person using the property or products in
89 Mississippi is not equal to or greater than the rate imposed by
90 this article, then the user or purchaser shall apply the
91 difference in these rates to the purchase price or value of the
92 property or products and pay to the commissioner the amount of tax
93 thus computed. Persons using business property or products in
94 this state which has been used by them in other states shall be
95 entitled to a credit for sales and/or use tax paid to other states
96 equal to the aggregate of all such state rates multiplied by the
97 value of the property or products at the time of importation into
98 this state. Persons using business property or products in this
99 state which were acquired from another person who used it in other
100 states shall be entitled to a credit equal to the applicable rate
101 in the state of last prior use multiplied by the value of the

102 property or products at the time of importation into this state.
103 However, credit for use tax paid to another state shall not apply
104 on the purchase price of tangible personal property or specified
105 digital products that have been only stored or warehoused in the
106 other state and the first use of the property or products occurs
107 in Mississippi. Provided further, that credit for sales or use
108 tax paid to another state shall not apply on the purchase price or
109 value of automobiles, trucks, truck-tractors, semitrailers,
110 trailers, boats, travel trailers, motorcycles and all-terrain
111 cycles imported and first used in Mississippi.

112 Credit for sales or use tax paid to another state as provided
113 in this paragraph (a) shall be evidenced by an invoice clearly and
114 correctly showing the amount of the tax as a separate item, and no
115 credit shall be allowed otherwise.

116 (b) On the use, storage or consumption of tangible
117 personal property or specified digital products to the extent that
118 sales of similar property or products in Mississippi are either
119 excluded or specifically exempt from sales tax or are taxed at the
120 wholesale rate.

121 This exemption shall be confined to the use of property or
122 products the sale of which is an itemized exemption in the
123 Mississippi Sales Tax Law, or to use by persons who are listed in
124 the Mississippi Sales Tax Law as being exempt from sales tax.

125 (c) On the use, storage or consumption of tangible
126 personal property or specified digital products brought into this
127 state by a nonresident for his or her use or enjoyment while

128 temporarily within the state, but not including tangible personal
129 property or specified digital products brought in for use in
130 connection with a business activity. This exemption shall not
131 apply to property or products which remain situated in this state
132 for the repeated use, storage or consumption by out-of-state
133 visitors, or which is acquired by visitors and first used in this
134 state.

135 (d) On the use of a motor vehicle for which a
136 registration is required by the motor vehicle law, when such motor
137 vehicle was purchased by a natural person for his personal or
138 family use while such person was a bona fide resident of another
139 state and who thereafter became a resident of this state, but not
140 to include a motor vehicle which is transferred by the owner for
141 commercial use or for use by another person within this state.

142 (e) On the use of personal and household effects by a
143 natural person acquired while the person was a bona fide resident
144 of another state, and who thereafter became a resident of this
145 state.

146 (f) On the use or rental of motion picture film,
147 video-audio tapes, phonograph records or specified digital
148 products for exhibition either by a person paying Mississippi
149 sales tax on gross income from admissions for the exhibitions or
150 by a person operating a television or radio broadcasting station.

151 (g) On any vehicle purchased in another state for use
152 outside of this state by a Mississippi citizen serving in the

153 Armed Forces and stationed in another state who elects to license
154 the vehicle in Mississippi.

155 (h) On the cost or value and on the use, storage and
156 consumption of rail rolling stock and component parts thereof.

157 (i) On the use, storage or consumption of literature,
158 video tapes, photographic slides or specified digital products
159 used by religious institutions for the propagation of their creeds
160 or for carrying on their customary nonprofit religious activities,
161 and on the use of any tangible personal property or specified
162 digital products purchased and first used in another state by
163 religious institutions for the propagation of their creeds or for
164 carrying on their customary nonprofit religious activities.

165 "Religious institution," for the purpose of this exemption, means
166 any religious institution granted an exemption under 26 USCS
167 Section 501(c) (3). Any exemption under this paragraph obtained by
168 fraud, misstatement or misrepresentation shall be cancelled by
169 the * * * department, and the person committing the fraud,
170 misstatement or misrepresentation shall be liable for prosecution
171 for fraud on the assessment, and, on conviction, shall be fined
172 not less than One Thousand Dollars (\$1,000.00), or punished by
173 imprisonment in the State Penitentiary for a term not to exceed
174 five (5) years, or both, within the discretion of the court.

175 (j) The tax on the cost or value of farm machinery used
176 in the harvesting of agricultural products shall be limited to the
177 ratio of use within this state to the life of the property.

178 (k) [Repealed]

179 (1) On the use of machinery and equipment; special
180 tooling such as dies, molds, jigs and similar items treated as
181 special tooling for federal income tax purposes; or repair parts
182 therefor or replacements thereof; or repair services thereon; by a
183 taxpayer other than the manufacturer when the manufacturer still
184 holds title to the items and the items are purchased by the
185 manufacturer as a part of a project as defined in Section
186 57-75-5(f)(iv)1, Section 57-75-5(f)(xxi) or Section
187 57-75-5(f)(xxii).

188 (m) On the use, storage or consumption of utilities
189 purchased by a manufacturer described in Section 27-65-101(x).

190 (n) On the use, storage or consumption of utilities
191 purchased by an enterprise described in Section 27-65-101(cc).

192 (o) On the use, storage or consumption of jet aircraft
193 engines that are temporarily located within the State of
194 Mississippi and are brought into the state for research and/or
195 testing purposes at a jet aircraft engine research and testing
196 facility.

197 **SECTION 3.** Section 27-67-11, Mississippi Code of 1972, is
198 amended as follows:

199 27-67-11. (1) Every person maintaining a place of business,
200 or doing business, in this state, shall collect the tax imposed by
201 this article from the purchaser and remit the tax to the
202 commissioner as hereinafter provided. Failure to collect the tax
203 from the purchaser shall not relieve the seller of liability for
204 payment of the tax.

205 (2) This section does not affect or impair the:

206 (a) Obligation of a purchaser in this state to remit
207 use tax on any applicable transaction in which the seller does not
208 collect and remit sales or use tax;

209 (b) Obligation of a seller, when the seller is
210 transacting business in the state and tax is collected on the
211 transaction, to remit all state and local taxes on any applicable
212 transaction in which the seller provides goods or furnishes
213 services within the state * * *;

214 (c) Ability of a state entity to immediately collect
215 the taxes described in this section.

216 (3) The department shall audit a marketplace facilitator
217 solely for sales made by marketplace sellers and facilitated by
218 the marketplace facilitator. The department shall not audit
219 marketplace sellers for sales facilitated by a marketplace
220 facilitator except to the extent the marketplace facilitator seeks
221 relief from liability under subsection (5) of this section.

222 (4) A marketplace facilitator that collects and remits the
223 taxes imposed by this chapter shall collect taxes on sales through
224 its marketplace based upon the address where the tangible personal
225 property or specified digital products taxable under this chapter
226 are shipped or delivered; provided, however, that taxes on
227 services sold through its marketplace shall be collected as
228 otherwise provided.

229 (5) A marketplace facilitator is relieved of liability under
230 this section for failure to collect and remit the correct amount

231 of tax under this section to the extent that the failure was due
232 to incorrect or insufficient information given to the marketplace
233 facilitator by the marketplace seller, provided that the
234 marketplace facilitator can demonstrate it made a reasonable
235 effort to obtain correct and sufficient information from the
236 marketplace seller. This subsection does not apply if the
237 marketplace facilitator and the marketplace seller are related.

238 (6) Nothing herein shall prohibit the marketplace
239 facilitator and the marketplace seller from contractually agreeing
240 to have the marketplace seller collect and remit all applicable
241 taxes and fees where the marketplace seller:

242 (a) Has annual United States gross sales over One
243 Billion Dollars (\$1,000,000,000.00), including the gross sales of
244 any related entities, and in the case of franchised entities,
245 including the combined sales of all franchisees of a single
246 franchisor;

247 (b) Provides evidence to the marketplace facilitator
248 that it is registered under Section 27-65-27 or Section 27-67-9 in
249 this state; and

250 (c) Notifies the department in a manner prescribed by
251 the department that the marketplace seller will collect and remit
252 all applicable taxes on its sales through the marketplace and is
253 liable for failure to collect or remit applicable taxes on its
254 sales.

255 (7) Any person selling tangible personal property or
256 specified digital products that does not maintain a place of

257 business in this state may be authorized by the commissioner to
258 collect the tax from customers in Mississippi who are liable for
259 its payment, and such person shall remit the tax to the
260 commissioner in the same manner and subject to the same
261 requirements as a person maintaining a place of business or doing
262 business within this state. Such authority may be cancelled at
263 any time when, in the judgment of the commissioner, the tax can be
264 collected more effectively from the purchaser in this state. When
265 the tax has been collected from the purchaser, the seller shall be
266 liable for payment of the tax to the commissioner.

267 (8) Every person required or authorized to collect the tax
268 shall add to the sales price of tangible personal property,
269 services or specified digital products the amount of the tax
270 imposed on purchaser for the use, storage, or consumption thereof,
271 and, when so added, the tax shall be a debt from the purchaser to
272 the seller until paid, and shall be collectible at law in the same
273 manner as other debts. It shall be unlawful for any person to
274 advertise, hold out, or state to the public or to any customer
275 that the tax herein imposed will be assumed or absorbed by the
276 seller or that any part thereof will be refunded. Said tax shall
277 be stated separately from the sales price on the sales invoice and
278 shown separately on the seller's records. The purchaser shall pay
279 the tax to the seller as trustee for and on account of the state.

280 **SECTION 4.** Section 27-65-3, Mississippi Code of 1972, is
281 brought forward as follows:

282 27-65-3. The words, terms and phrases, when used in this
283 chapter, shall have the meanings ascribed to them herein.

284 (a) "Tax Commission" or "department" means the
285 Department of Revenue of the State of Mississippi.

286 (b) "Commissioner" means the Commissioner of Revenue of
287 the Department of Revenue.

288 (c) "Person" means and includes any individual, firm,
289 copartnership, joint venture, association, corporation, promoter
290 of a temporary event, estate, trust or other group or combination
291 acting as a unit, and includes the plural as well as the singular
292 in number. "Person" shall include husband or wife, or both, where
293 joint benefits are derived from the operation of a business taxed
294 hereunder. "Person" shall also include any state, county,
295 municipal or other agency or association engaging in a business
296 taxable under this chapter.

297 (d) "Tax year" or "taxable year" means either the
298 calendar year or the taxpayer's fiscal year.

299 (e) "Taxpayer" means any person liable for or having
300 paid any tax to the State of Mississippi under the provisions of
301 this chapter. A taxpayer is required to obtain a sales tax permit
302 under Section 27-65-27 before engaging in business in this state.
303 If a taxpayer fails to obtain a sales tax permit before engaging
304 in business in this state, the taxpayer shall pay the retail rate
305 on all purchases of tangible personal property and/or services in
306 this state, even if purchased for resale. Upon obtaining a sales
307 tax permit, a previously unregistered taxpayer shall file sales

308 tax returns for all tax periods during which he engaged in
309 business in this state without a sales tax permit, and report and
310 pay the sales tax accruing from his operation during this period
311 and any applicable penalties and interest. On such return, the
312 taxpayer may take a credit for any sales taxes paid during the
313 period he operated without a sales tax permit on a purchase that
314 would have constituted a wholesale sale if the taxpayer had a
315 sales tax permit at the time of the purchase and if proper
316 documentation exists to substantiate a wholesale sale. This
317 credit may also be allowed in any audit of the taxpayer. Any
318 penalties and interest owed by the taxpayer on the return or in an
319 audit for a period during which he operated without a sales tax
320 permit may be determined based on the sales tax accruing from the
321 taxpayer's operation for that period after the taking of this
322 credit.

323 (f) "Sale" or "sales" includes the barter or exchange
324 of property as well as the sale thereof for money or other
325 consideration, and every closed transaction by which the title to
326 taxable property passes shall constitute a taxable event.

327 "Sale" shall also include the passing of title to property
328 for a consideration of coupons, trading stamps or by any other
329 means when redemption is subsequent to the original sale by which
330 the coupon, stamp or other obligation was created.

331 The situs of a sale for the purpose of distributing taxes to
332 municipalities shall be the same as the location of the business
333 from which the sale is made except that:

334 (i) Retail sales along a route from a vehicle or
335 otherwise by a transient vendor shall take the situs of delivery
336 to the customer.

337 (ii) The situs of wholesale sales of tangible
338 personal property taxed at wholesale rates, the amount of which is
339 allowed as a credit against the sales tax liability of the
340 retailer, shall be the same as the location of the business of the
341 retailer receiving the credit.

342 (iii) The situs of wholesale sales of tangible
343 personal property taxed at wholesale rates, the amount of which is
344 not allowed as a credit against the sales tax liability of the
345 retailer, shall have a rural situs.

346 (iv) Income received from the renting or leasing
347 of property used for transportation purposes between cities or
348 counties shall have a rural situs.

349 (g) "Delivery charges" shall mean and include any
350 expenses incurred by a seller in acquiring merchandise for sale in
351 the regular course of business commonly known as "freight-in" or
352 "transportation costs-in." "Delivery charges" also include any
353 charges made by the seller for delivery of property sold to the
354 purchaser.

355 (h) "Gross proceeds of sales" means the value
356 proceeding or accruing from the full sale price of tangible
357 personal property, including installation charges, without any
358 deduction for delivery charges, cost of property sold, other

359 expenses or losses, or taxes of any kind except those expressly
360 exempt by this chapter.

361 "Gross proceeds of sales" includes consideration received by
362 the seller from third parties if:

363 (i) The seller actually received consideration
364 from a party other than the purchaser and the consideration is
365 directly related to a price reduction or discount on the sale;

366 (ii) The seller has an obligation to pass the
367 price reduction or discount through to the purchaser;

368 (iii) The amount of the consideration attributable
369 to the sale is fixed and determinable by the seller at the time of
370 the sale of the item to the purchaser; and

371 (iv) One (1) of the following criteria is met:

372 1. The purchaser presents a coupon,
373 certificate or other documentation to the seller to claim a price
374 reduction or discount where the coupon, certificate or
375 documentation is authorized, distributed or granted by a third
376 party with the understanding that the third party will reimburse
377 any seller to whom the coupon, certificate or documentation is
378 presented;

379 2. The purchaser identified himself or
380 herself to the seller as a member of a group or organization
381 entitled to a price reduction or discount (a "preferred customer"
382 card that is available to any patron does not constitute
383 membership in such a group); or

384 3. The price reduction or discount is
385 identified as a third-party price reduction or discount on the
386 invoice received by the purchaser or on a coupon, certificate or
387 other documentation presented by the purchaser.

388 Where a trade-in is taken as part payment on tangible
389 personal property sold, "gross proceeds of sales" shall include
390 only the difference received between the selling price of the
391 tangible personal property and the amount allowed for a trade-in
392 of property of the same kind. When the trade-in is subsequently
393 sold, the selling price thereof shall be included in "gross
394 proceeds of sales."

395 "Gross proceeds of sales" shall include the value of any
396 goods, wares, merchandise or property purchased at wholesale or
397 manufactured, and any mineral or natural resources produced, which
398 are withdrawn or used from an established business or from the
399 stock in trade for consumption or any other use in the business or
400 by the owner. However, "gross proceeds of sales" does not include
401 meals prepared by a restaurant and provided at no charge to
402 employees of the restaurant or donated to a charitable
403 organization that regularly provides food to the needy and the
404 indigent and which has been granted exemption from the federal
405 income tax as an organization described in Section 501(c)(3) of
406 the Internal Revenue Code of 1986.

407 "Gross proceeds of sales" shall not include bad check or
408 draft service charges as provided for in Section 97-19-57.

409 "Gross proceeds of sales" does not include finance charges,
410 carrying charges or any other addition to the selling price as a
411 result of deferred payments by the purchaser.

412 (i) "Gross income" means the total charges for service
413 or the total receipts (actual or accrued) derived from trades,
414 business or commerce by reason of the investment of capital in the
415 business engaged in, including the sale or rental of tangible
416 personal property, compensation for labor and services performed,
417 and including the receipts from the sales of property retained as
418 toll, without any deduction for rebates, cost of property sold,
419 cost of materials used, labor costs, interest paid, losses or any
420 expense whatever.

421 "Gross income" shall also include the cost of property given
422 as compensation when the property is consumed by a person
423 performing a taxable service for the donor.

424 However, "gross income" or "gross proceeds of sales" shall
425 not be construed to include the value of goods returned by
426 customers when the total sale price is refunded either in cash or
427 by credit, or cash discounts allowed and taken on sales. Cash
428 discounts shall not include the value of trading stamps given with
429 a sale of property.

430 (j) "Tangible personal property" means personal
431 property perceptible to the human senses or by chemical analysis
432 as opposed to real property or intangibles and shall include
433 property sold on an installed basis which may become a part of
434 real or personal property.

435 (k) "Installation charges" shall mean and include the
436 charge for the application of tangible personal property to real
437 or personal property without regard to whether or not it becomes a
438 part of the real property or retains its personal property
439 classification. It shall include, but not be limited to, sales in
440 place of roofing, tile, glass, carpets, drapes, fences, awnings,
441 window air-conditioning units, gasoline pumps, window guards,
442 floor coverings, carports, store fixtures, aluminum and plastic
443 siding, tombstones and similar personal property.

444 (1) "Newspaper" means a periodical which:

445 (i) Is not published primarily for advertising
446 purposes and has not contained more than seventy-five percent
447 (75%) advertising in more than one-half (1/2) of its issues during
448 any consecutive twelve-month period excluding separate advertising
449 supplements inserted into but separately identifiable from any
450 regular issue or issues;

451 (ii) Has been established and published
452 continuously for at least twelve (12) months;

453 (iii) Is regularly issued at stated intervals no
454 less frequently than once a week, bears a date of issue, and is
455 numbered consecutively; provided, however, that publication on
456 legal holidays of this state or of the United States and on
457 Saturdays and Sundays shall not be required, and failure to
458 publish not more than two (2) regular issues in any calendar year
459 shall not exclude a periodical from this definition;

460 (iv) Is issued from a known office of publication,
461 which shall be the principal public business office of the
462 newspaper and need not be the place at which the periodical is
463 printed and a newspaper shall be deemed to be "published" at the
464 place where its known office of publication is located;

465 (v) Is formed of printed sheets; provided,
466 however, that a periodical that is reproduced by the stencil,
467 mimeograph or hectograph process shall not be considered to be a
468 "newspaper"; and

469 (vi) Is originated and published for the
470 dissemination of current news and intelligence of varied, broad
471 and general public interest, announcements and notices, opinions
472 as editorials on a regular or irregular basis, and advertising and
473 miscellaneous reading matter.

474 The term "newspaper" shall include periodicals which are
475 designed primarily for free circulation or for circulation at
476 nominal rates as well as those which are designed for circulation
477 at more than a nominal rate.

478 The term "newspaper" shall not include a publication or
479 periodical which is published, sponsored by, is directly supported
480 financially by, or is published to further the interests of, or is
481 directed to, or has a circulation restricted, in whole or in part,
482 to any particular sect, denomination, labor or fraternal
483 organization or other special group or class or citizens.

484 For purposes of this paragraph, a periodical designed
485 primarily for free circulation or circulation at nominal rates

486 shall not be considered to be a newspaper unless such periodical
487 has made an application for such status to the department in the
488 manner prescribed by the department and has provided to the
489 department documentation satisfactory to the department showing
490 that such periodical meets the requirements of the definition of
491 the term "newspaper." However, if such periodical has been
492 determined to be a newspaper under action taken by the department
493 on or before April 11, 1996, such periodical shall be considered
494 to be a newspaper without the necessity of applying for such
495 status. A determination by the Department of Revenue that a
496 publication is a newspaper shall be limited to the application of
497 this chapter and shall not establish that the publication is a
498 newspaper for any other purpose.

499 (m) "MPC" or "Material Purchase Certificate" means a
500 certificate for which a person that is liable for the tax levy
501 under Section 27-65-21 can apply and obtain from the commissioner,
502 and when issued, entitles the holder to purchase materials and
503 services that are to become a component part of a structure to be
504 erected or repaired with no tax due. Any person taxable under
505 Section 27-65-21 who obtains an MPC for a project and purchases
506 materials and services in this state that are to become a
507 component part of a structure being erected or repaired in the
508 project and at any time pays sales tax on these purchases may,
509 after obtaining the MPC for the project, take a credit against his
510 sales taxes for the sales tax paid on these purchases if proper
511 documentation exists to substantiate the payment of the sales tax

512 on the purchase of component materials and services. This credit
513 may also be allowed in any audit of the taxpayer. Any penalties
514 and interest owed by the taxpayer on the return or in the audit
515 where this credit is taken may be determined based on the sales
516 tax due after the taking of this credit.

517 **SECTION 5.** Section 27-65-7, Mississippi Code of 1972, is
518 brought forward as follows:

519 27-65-7. "Retailer" shall apply to a person making retail
520 sales through vending machines, by maintaining a store, or
521 operating as a transient vendor, or renting or leasing tangible
522 personal property. Retailer also includes persons who facilitate
523 the sale of services or tangible personal property that belongs to
524 a third party.

525 "Retail sales" shall mean and include all sales of tangible
526 personal property except those defined herein as wholesale and
527 those made to a wholesaler, jobber, manufacturer or custom
528 processor for resale or for further processing.

529 "Retail sale" shall include the value of any tangible
530 personal property manufactured or purchased at wholesale which is
531 withdrawn from the business or stock in trade and is used or
532 consumed within this state in the business or by the owner or by
533 any other person, whether or not in the regular course of business
534 or trade.

535 "Retail sale" shall also include a sale invoiced to a
536 retailer but delivered to another person who pays for the
537 merchandise upon taking possession.

538 "Retail sale" shall also include a sale made or facilitated
539 by a person regularly engaged in the sale or facilitation of sales
540 of services or tangible personal property. "Retail sale" does not
541 include a sale by a third-party food delivery service that
542 delivers food from an unrelated restaurant to a customer,
543 regardless of whether the customer orders and pays for the food
544 through the delivery service or whether the delivery service adds
545 fees or upcharges to the price of the food.

546 **SECTION 6.** Section 27-65-9, Mississippi Code of 1972, is
547 brought forward as follows:

548 27-65-9. (1) "Business" shall mean and include all
549 activities or acts engaged in (personal or corporate), for benefit
550 or advantage, either direct or indirect, and not exempting
551 subactivities in connection therewith. Each of such subactivities
552 shall be considered business engaged in, taxable in the class in
553 which it falls.

554 (2) "Business" shall include activities engaged in by exempt
555 organizations or political entities in competition with privately
556 owned business subject to the provisions of this chapter; however,
557 the term "business" shall not include the following activities:

558 (a) Sales of prepaid student meal plans by public or
559 private universities, colleges and community or junior colleges;

560 (b) Sales of prepared meals by any public or private
561 school to students in kindergarten through Grade 12; and

562 (c) Retail sales of prepared meals when:

563 (i) Sold on the campus of a public or private
564 university, college or community or junior college in this state
565 to a student enrolled at such university, college or community or
566 junior college; and

567 (ii) Payment for the sale is made through the use
568 of a prepaid declining balance account or similar instrument or
569 account issued to such student by the university, college or
570 community or junior college that may be used only to purchase
571 prepared meals.

572 (3) "Business" shall include the activity or activities of a
573 person in this state performing a service under contract or
574 agreement with another person when the service performed is
575 taxable under the provisions of this chapter.

576 (4) "Doing business" shall include any person owning
577 personal property located in this state under lease or rental
578 agreement or any person installing personal property within this
579 state.

580 (5) "Doing business" shall include any person represented in
581 this state by salesmen taking or soliciting orders to be filled
582 from points outside this state for subsequent delivery of the
583 merchandise in equipment owned or leased by the seller to
584 customers located in this state.

585 (6) "Doing business" shall include any person selling or
586 facilitating the sale of services or tangible personal property.

587 **SECTION 7.** Section 27-65-17, Mississippi Code of 1972, is
588 brought forward as follows:

589 27-65-17. (1) (a) Except as otherwise provided in this
590 section, upon every person engaging or continuing within this
591 state in the business of selling any tangible personal property
592 whatsoever there is hereby levied, assessed and shall be collected
593 a tax equal to seven percent (7%) of the gross proceeds of the
594 retail sales of the business.

595 (b) Retail sales of farm tractors and parts and labor
596 used to maintain and/or repair such tractors shall be taxed at the
597 rate of one and one-half percent (1-1/2%) when made to farmers for
598 agricultural purposes.

599 (c) (i) Retail sales of farm implements sold to
600 farmers and used directly in the production of poultry, ratite,
601 domesticated fish as defined in Section 69-7-501, livestock,
602 livestock products, agricultural crops or ornamental plant crops
603 or used for other agricultural purposes, and parts and labor used
604 to maintain and/or repair such implements, shall be taxed at the
605 rate of one and one-half percent (1-1/2%) when used on the farm.

606 (ii) The one and one-half percent (1-1/2%) rate
607 shall also apply to all equipment used in logging, pulpwood
608 operations or tree farming, and parts and labor used to maintain
609 and/or repair such equipment, which is either:

- 610 1. Self-propelled, or
- 611 2. Mounted so that it is permanently attached
612 to other equipment which is self-propelled or attached to other
613 equipment drawn by a vehicle which is self-propelled.

614 In order to be eligible for the rate of tax provided for in
615 this subparagraph (ii), such sales must be made to a professional
616 logger. For the purposes of this subparagraph (ii), a
617 "professional logger" is a person, corporation, limited liability
618 company or other entity, or an agent thereof, who possesses a
619 professional logger's permit issued by the Department of Revenue
620 and who presents the permit to the seller at the time of purchase.
621 The department shall establish an application process for a
622 professional logger's permit to be issued, which shall include a
623 requirement that the applicant submit a copy of documentation
624 verifying that the applicant is certified according to Sustainable
625 Forestry Initiative guidelines. Upon a determination that an
626 applicant is a professional logger, the department shall issue the
627 applicant a numbered professional logger's permit.

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

632 (e) Sales of manufacturing machinery or manufacturing
633 machine parts when made to a manufacturer or custom processor for
634 plant use only when the machinery and machine parts will be used
635 exclusively and directly within this state in manufacturing a
636 commodity for sale, rental or in processing for a fee shall be
637 taxed at the rate of one and one-half percent (1-1/2%).

638 (f) Sales of machinery and machine parts when made to a
639 technology intensive enterprise for plant use only when the

640 machinery and machine parts will be used exclusively and directly
641 within this state for industrial purposes, including, but not
642 limited to, manufacturing or research and development activities,
643 shall be taxed at the rate of one and one-half percent (1-1/2%).
644 In order to be considered a technology intensive enterprise for
645 purposes of this paragraph:

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

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

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

653 (iv) The enterprise shall manufacture plastics,
654 chemicals, automobiles, aircraft, computers or electronics; or
655 shall be a research and development facility, a computer design or
656 related facility, or a software publishing facility or other
657 technology intensive facility or enterprise as determined by the
658 Mississippi Development Authority;

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

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

664 A medical cannabis establishment, as defined in the
665 Mississippi Medical Cannabis Act, shall not be considered to be a

666 technology intensive enterprise for the purposes of this paragraph
667 (f).

668 (g) Sales of materials for use in track and track
669 structures to a railroad whose rates are fixed by the Interstate
670 Commerce Commission or the Mississippi Public Service Commission
671 shall be taxed at the rate of three percent (3%).

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

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

682 (j) Wholesale sales of food and drink for human
683 consumption to full-service vending machine operators to be sold
684 through vending machines located apart from and not connected with
685 other taxable businesses shall be taxed at the rate of eight
686 percent (8%).

687 (k) Sales of equipment used or designed for the purpose
688 of assisting disabled persons, such as wheelchair equipment and
689 lifts, that is mounted or attached to or installed on a private
690 carrier of passengers or light carrier of property, as defined in
691 Section 27-51-101, at the time when the private carrier of

692 passengers or light carrier of property is sold shall be taxed at
693 the same rate as the sale of such vehicles under this section.

694 (1) Sales of the factory-built components of modular
695 homes, panelized homes and precut homes, and panel constructed
696 homes consisting of structural insulated panels, shall be taxed at
697 the rate of three percent (3%).

698 (m) Sales of materials used in the repair, renovation,
699 addition to, expansion and/or improvement of buildings and related
700 facilities used by a dairy producer shall be taxed at the rate of
701 three and one-half percent (3-1/2%). For the purposes of this
702 paragraph (m), "dairy producer" means any person engaged in the
703 production of milk for commercial use.

704 (2) From and after January 1, 1995, retail sales of private
705 carriers of passengers and light carriers of property, as defined
706 in Section 27-51-101, shall be taxed an additional two percent
707 (2%).

708 (3) A manufacturer selling at retail in this state shall be
709 required to make returns of the gross proceeds of such sales and
710 pay the tax imposed in this section.

711 **SECTION 8.** Section 27-65-19, Mississippi Code of 1972, is
712 brought forward as follows:

713 27-65-19. (1) (a) (i) Except as otherwise provided in
714 this subsection, upon every person selling to consumers,
715 electricity, current, power, potable water, steam, coal, natural
716 gas, liquefied petroleum gas or other fuel, there is hereby
717 levied, assessed and shall be collected a tax equal to seven

718 percent (7%) of the gross income of the business. Provided, gross
719 income from sales to consumers of electricity, current, power,
720 natural gas, liquefied petroleum gas or other fuel for residential
721 heating, lighting or other residential noncommercial or
722 nonagricultural use, and sales of potable water for residential,
723 noncommercial or nonagricultural use shall be excluded from
724 taxable gross income of the business. Provided further, upon
725 every such seller using electricity, current, power, potable
726 water, steam, coal, natural gas, liquefied petroleum gas or other
727 fuel for nonindustrial purposes, there is hereby levied, assessed
728 and shall be collected a tax equal to seven percent (7%) of the
729 cost or value of the product or service used.

730 (ii) Gross income from sales to a church that is
731 exempt from federal income taxation under 26 USCS Section
732 501(c)(3) of electricity, current, power, natural gas, liquefied
733 petroleum gas or other fuel for heating, lighting or other use,
734 and sales of potable water to such a church shall be excluded from
735 taxable gross income of the business if the electricity, current,
736 power, natural gas, liquefied petroleum gas or potable water is
737 utilized on property that is primarily used for religious or
738 educational purposes.

739 (b) (i) There is hereby levied, assessed and shall be
740 collected a tax equal to one and one-half percent (1-1/2%) of the
741 gross income of the business from the sale of naturally occurring
742 carbon dioxide and anthropogenic carbon dioxide lawfully injected
743 into the earth for:

744 1. Use in an enhanced oil recovery project,
745 including, but not limited to, use for cycling, repressuring or
746 lifting of oil; or

747 2. Permanent sequestration in a geological
748 formation.

749 (ii) The one and one-half percent (1-1/2%) rate
750 provided for in this subsection shall apply to electricity,
751 current, power, steam, coal, natural gas, liquefied petroleum gas
752 or other fuel that is sold to a producer of oil and gas for use
753 directly in enhanced oil recovery using carbon dioxide and/or the
754 permanent sequestration of carbon dioxide in a geological
755 formation.

756 (c) The one and one-half percent (1-1/2%) rate provided
757 for in this subsection shall not apply to sales of fuel for
758 automobiles, trucks, truck-tractors, buses, farm tractors or
759 airplanes.

760 (d) (i) Upon every person providing services in this
761 state, there is hereby levied, assessed and shall be collected:

762 1. A tax equal to seven percent (7%) of the
763 gross income received from all charges for intrastate
764 telecommunications services.

765 2. A tax equal to seven percent (7%) of the
766 gross income received from all charges for interstate
767 telecommunications services.

768 3. A tax equal to seven percent (7%) of the
769 gross income received from all charges for international
770 telecommunications services.

771 4. A tax equal to seven percent (7%) of the
772 gross income received from all charges for ancillary services.

773 5. A tax equal to seven percent (7%) of the
774 gross income received from all charges for products delivered
775 electronically, including, but not limited to, software, music,
776 games, reading materials or ring tones.

777 (ii) A person, upon proof that he has paid a tax
778 in another state on an event described in subparagraph (i) of this
779 paragraph (d), shall be allowed a credit against the tax imposed
780 in this paragraph (d) on interstate telecommunications service
781 charges to the extent that the amount of such tax is properly due
782 and actually paid in such other state and to the extent that the
783 rate of sales tax imposed by and paid in such other state does not
784 exceed the rate of sales tax imposed by this paragraph (d).

785 (iii) Charges by one (1) telecommunications
786 provider to another telecommunications provider holding a permit
787 issued under Section 27-65-27 for services that are resold by such
788 other telecommunications provider, including, but not limited to,
789 access charges, shall not be subject to the tax levied pursuant to
790 this paragraph (d).

791 (iv) For purposes of this paragraph (d):

792 1. "Telecommunications service" means the
793 electronic transmission, conveyance or routing of voice, data,

794 audio, video or any other information or signals to a point, or
795 between points. The term "telecommunications service" includes
796 such transmission, conveyance or routing in which computer
797 processing applications are used to act on the form, code or
798 protocol of the content for purposes of transmission, conveyance
799 or routing without regard to whether such service is referred to
800 as voice over Internet protocol services or is classified by the
801 Federal Communications Commission as enhanced or value added. The
802 term "telecommunications service" shall not include:

803 a. Data processing and information
804 services that allow data to be generated, acquired, stored,
805 processed or retrieved and delivered by an electronic transmission
806 to a purchaser where such purchaser's primary purpose for the
807 underlying transaction is the processed data or information;

808 b. Installation or maintenance of wiring
809 or equipment on a customer's premises;

810 c. Tangible personal property;

811 d. Advertising, including, but not
812 limited to, directory advertising;

813 e. Billing and collection services
814 provided to third parties;

815 f. Internet access service;

816 g. Radio and television audio and video
817 programming services regardless of the medium, including the
818 furnishing of transmission, conveyance and routing of such
819 services by the programming service provider. Radio and

820 television audio and video programming services shall include, but
821 not be limited to, cable service as defined in 47 USCS 522(6) and
822 audio and video programming services delivered by commercial
823 mobile radio service providers, as defined in 47 CFR 20.3;

824 h. Ancillary services; or

825 i. Digital products delivered
826 electronically, including, but not limited to, software, music,
827 video, reading materials or ring tones.

828 2. "Ancillary services" means services that
829 are associated with or incidental to the provision of
830 telecommunications services, including, but not limited to,
831 detailed telecommunications billing, directory assistance,
832 vertical service and voice mail service.

833 a. "Conference bridging" means an
834 ancillary service that links two (2) or more participants of an
835 audio or video conference call and may include the provision of a
836 telephone number. Conference bridging does not include the
837 telecommunications services used to reach the conference bridge.

838 b. "Detailed telecommunications billing
839 service" means an ancillary service of separately stating
840 information pertaining to individual calls on a customer's billing
841 statement.

842 c. "Directory assistance" means an
843 ancillary service of providing telephone number information and/or
844 address information.

845 d. "Vertical service" means an ancillary
846 service that is offered in connection with one or more
847 telecommunications services, which offers advanced calling
848 features that allow customers to identify callers and to manage
849 multiple calls and call connections, including conference bridging
850 services.

851 e. "Voice mail service" means an
852 ancillary service that enables the customer to store, send or
853 receive recorded messages. Voice mail service does not include
854 any vertical services that the customer may be required to have in
855 order to utilize the voice mail service.

856 3. "Intrastate" means telecommunications
857 service that originates in one (1) United States state or United
858 States territory or possession, and terminates in the same United
859 States state or United States territory or possession.

860 4. "Interstate" means a telecommunications
861 service that originates in one (1) United States state or United
862 States territory or possession, and terminates in a different
863 United States state or United States territory or possession.

864 5. "International" means a telecommunications
865 service that originates or terminates in the United States and
866 terminates or originates outside the United States, respectively.

867 (v) For purposes of paragraph (d), the following
868 sourcing rules shall apply:

869 1. Except for the defined telecommunications
870 services in item 3 of this subparagraph, the sales of

871 telecommunications services sold on a call-by-call basis shall be
872 sourced to:

873 a. Each level of taxing jurisdiction
874 where the call originates and terminates in that jurisdiction, or

875 b. Each level of taxing jurisdiction
876 where the call either originates or terminates and in which the
877 service address is also located.

878 2. Except for the defined telecommunications
879 services in item 3 of this subparagraph, a sale of
880 telecommunications services sold on a basis other than a
881 call-by-call basis, is sourced to the customer's place of primary
882 use.

883 3. The sale of the following
884 telecommunications services shall be sourced to each level of
885 taxing jurisdiction as follows:

886 a. A sale of mobile telecommunications
887 services other than air-to-ground radiotelephone service and
888 prepaid calling service is sourced to the customer's place of
889 primary use as required by the Mobile Telecommunication Sourcing
890 Act.

891 A. A home service provider shall be
892 responsible for obtaining and maintaining the customer's place of
893 primary use. The home service provider shall be entitled to rely
894 on the applicable residential or business street address supplied
895 by such customer, if the home service provider's reliance is in
896 good faith; and the home service provider shall be held harmless

897 from liability for any additional taxes based on a different
898 determination of the place of primary use for taxes that are
899 customarily passed on to the customer as a separate itemized
900 charge. A home service provider shall be allowed to treat the
901 address used for purposes of the tax levied by this chapter for
902 any customer under a service contract in effect on August 1, 2002,
903 as that customer's place of primary use for the remaining term of
904 such service contract or agreement, excluding any extension or
905 renewal of such service contract or agreement. Month-to-month
906 services provided after the expiration of a contract shall be
907 treated as an extension or renewal of such contract or agreement.

908 B. If the commissioner determines
909 that the address used by a home service provider as a customer's
910 place of primary use does not meet the definition of the term
911 "place of primary use" as defined in subitem a.A. of this item 3,
912 the commissioner shall give binding notice to the home service
913 provider to change the place of primary use on a prospective basis
914 from the date of notice of determination; however, the customer
915 shall have the opportunity, prior to such notice of determination,
916 to demonstrate that such address satisfies the definition.

917 C. The department has the right to
918 collect any taxes due directly from the home service provider's
919 customer that has failed to provide an address that meets the
920 definition of the term "place of primary use" which resulted in a
921 failure of tax otherwise due being remitted.

922 b. A sale of postpaid calling service is
923 sourced to the origination point of the telecommunications signal
924 as first identified by either:

925 A. The seller's telecommunications
926 system; or

927 B. Information received by the
928 seller from its service provider, where the system used to
929 transport such signals is not that of the seller.

930 c. A sale of a prepaid calling service
931 or prepaid wireless calling service shall be subject to the tax
932 imposed by this paragraph if the sale takes place in this state.
933 If the customer physically purchases a prepaid calling service or
934 prepaid wireless calling service at the vendor's place of
935 business, the sale is deemed to take place at the vendor's place
936 of business. If the customer does not physically purchase the
937 service at the vendor's place of business, the sale of a prepaid
938 calling card or prepaid wireless calling card is deemed to take
939 place at the first of the following locations that applies to the
940 sale:

941 A. The customer's shipping address,
942 if the sale involves a shipment;

943 B. The customer's billing address;

944 C. Any other address of the
945 customer that is known by the vendor; or

946 D. The address of the vendor, or
947 alternatively, in the case of a prepaid wireless calling service,
948 the location associated with the mobile telephone number.

949 4. A sale of a private communication service
950 is sourced as follows:

951 a. Service for a separate charge related
952 to a customer channel termination point is sourced to each level
953 of jurisdiction in which such customer channel termination point
954 is located.

955 b. Service where all customer
956 termination points are located entirely within one (1)
957 jurisdiction or levels of jurisdiction is sourced in such
958 jurisdiction in which the customer channel termination points are
959 located.

960 c. Service for segments of a channel
961 between two (2) customer channel termination points located in
962 different jurisdictions and which segments of a channel are
963 separately charged is sourced fifty percent (50%) in each level of
964 jurisdiction in which the customer channel termination points are
965 located.

966 d. Service for segments of a channel
967 located in more than one (1) jurisdiction or levels of
968 jurisdiction and which segments are not separately billed is
969 sourced in each jurisdiction based on the percentage determined by
970 dividing the number of customer channel termination points in such

971 jurisdiction by the total number of customer channel termination
972 points.

973 5. A sale of ancillary services is sourced to
974 the customer's place of primary use.

975 (vi) For purposes of subparagraph (v) of this
976 paragraph (d):

977 1. "Air-to-ground radiotelephone service"
978 means a radio service, as that term is defined in 47 CFR 22.99, in
979 which common carriers are authorized to offer and provide radio
980 telecommunications service for hire to subscribers in aircraft.

981 2. "Call-by-call basis" means any method of
982 charging for telecommunications services where the price is
983 measured by individual calls.

984 3. "Communications channel" means a physical
985 or virtual path of communications over which signals are
986 transmitted between or among customer channel termination points.

987 4. "Customer" means the person or entity that
988 contracts with the seller of telecommunications services. If the
989 end user of telecommunications services is not the contracting
990 party, the end user of the telecommunications service is the
991 customer of the telecommunications service. Customer does not
992 include a reseller of telecommunications service or for mobile
993 telecommunications service of a serving carrier under an agreement
994 to serve the customer outside the home service provider's licensed
995 service area.

996 5. "Customer channel termination point" means
997 the location where the customer either inputs or receives the
998 communications.

999 6. "End user" means the person who utilizes
1000 the telecommunications service. In the case of an entity, "end
1001 user" means the individual who utilizes the service on behalf of
1002 the entity.

1003 7. "Home service provider" has the meaning
1004 ascribed to such term in Section 124(5) of Public Law 106-252
1005 (Mobile Telecommunications Sourcing Act).

1006 8. "Mobile telecommunications service" has
1007 the meaning ascribed to such term in Section 124(7) of Public Law
1008 106-252 (Mobile Telecommunications Sourcing Act).

1009 9. "Place of primary use" means the street
1010 address representative of where the customer's use of the
1011 telecommunications service primarily occurs, which must be the
1012 residential street address or the primary business street address
1013 of the customer. In the case of mobile telecommunications
1014 services, the place of primary use must be within the licensed
1015 service area of the home service provider.

1016 10. "Post-paid calling service" means the
1017 telecommunications service obtained by making a payment on a
1018 call-by-call basis either through the use of a credit card or
1019 payment mechanism such as a bank card, travel card, credit card or
1020 debit card, or by charge made to a telephone number which is not
1021 associated with the origination or termination of the

1022 telecommunications service. A post-paid calling service includes
1023 a telecommunications service, except a prepaid wireless calling
1024 service that would be a prepaid calling service except it is not
1025 exclusively a telecommunications service.

1026 11. "Prepaid calling service" means the right
1027 to access exclusively telecommunications services, which must be
1028 paid for in advance and which enables the origination of calls
1029 using an access number or authorization code, whether manually or
1030 electronically dialed, and that is sold in predetermined units or
1031 dollars of which the number declines with use in a known amount.

1032 12. "Prepaid wireless calling service" means
1033 a telecommunications service that provides the right to utilize
1034 mobile wireless service as well as other nontelecommunications
1035 services, including the download of digital products delivered
1036 electronically, content and ancillary service, which must be paid
1037 for in advance that is sold in predetermined units or dollars of
1038 which the number declines with use in a known amount.

1039 13. "Private communication service" means a
1040 telecommunications service that entitles the customer to exclusive
1041 or priority use of a communications channel or group of channels
1042 between or among termination points, regardless of the manner in
1043 which such channel or channels are connected, and includes
1044 switching capacity, extension lines, stations and any other
1045 associated services that are provided in connection with the use
1046 of such channel or channels.

1047 14. "Service address" means:

1048 a. The location of the
1049 telecommunications equipment to which a customer's call is charged
1050 and from which the call originates or terminates, regardless of
1051 where the call is billed or paid.

1052 b. If the location in subitem a of this
1053 item 14 is not known, the origination point of the signal of the
1054 telecommunications services first identified by either the
1055 seller's telecommunications system or in information received by
1056 the seller from its service provider, where the system used to
1057 transport such signals is not that of the seller.

1058 c. If the location in subitems a and b
1059 of this item 14 are not known, the location of the customer's
1060 place of primary use.

1061 (vii) 1. For purposes of this subparagraph (vii),
1062 "bundled transaction" means a transaction that consists of
1063 distinct and identifiable properties or services which are sold
1064 for a single nonitemized price but which are treated differently
1065 for tax purposes.

1066 2. In the case of a bundled transaction that
1067 includes telecommunications services, ancillary services, Internet
1068 access, or audio or video programming services taxed under this
1069 chapter in which the price of the bundled transaction is
1070 attributable to properties or services that are taxable and
1071 nontaxable, the portion of the price that is attributable to any
1072 nontaxable property or service shall be subject to the tax unless

1073 the provider can reasonably identify that portion from its books
1074 and records kept in the regular course of business.

1075 3. In the case of a bundled transaction that
1076 includes telecommunications services, ancillary services, Internet
1077 access, audio or video programming services subject to tax under
1078 this chapter in which the price is attributable to properties or
1079 services that are subject to the tax but the tax revenue from the
1080 different properties or services are dedicated to different funds
1081 or purposes, the provider shall allocate the price among the
1082 properties or services:

1083 a. By reasonably identifying the portion
1084 of the price attributable to each of the properties and services
1085 from its books and records kept in the regular course of business;
1086 or

1087 b. Based on a reasonable allocation
1088 methodology approved by the department.

1089 4. This subparagraph (vii) shall not create a
1090 right of action for a customer to require that the provider or the
1091 department, for purposes of determining the amount of tax
1092 applicable to a bundled transaction, allocate the price to the
1093 different portions of the transaction in order to minimize the
1094 amount of tax charged to the customer. A customer shall not be
1095 entitled to rely on the fact that a portion of the price is
1096 attributable to properties or services not subject to tax unless
1097 the provider elects, after receiving a written request from the
1098 customer in the form required by the provider, to provide

1099 verifiable data based upon the provider's books and records that
1100 are kept in the regular course of business that reasonably
1101 identifies the portion of the price attributable to the properties
1102 or services not subject to the tax.

1103 (2) Persons making sales to consumers of electricity,
1104 current, power, natural gas, liquefied petroleum gas or other fuel
1105 for residential heating, lighting or other residential
1106 noncommercial or nonagricultural use or sales of potable water for
1107 residential, noncommercial or nonagricultural use shall indicate
1108 on each statement rendered to customers that such charges are
1109 exempt from sales taxes.

1110 (3) There is hereby levied, assessed and shall be paid on
1111 transportation charges on shipments moving between points within
1112 this state when paid directly by the consumer, a tax equal to the
1113 rate applicable to the sale of the property being transported.
1114 Such tax shall be reported and paid directly to the Department of
1115 Revenue by the consumer.

1116 **SECTION 9.** Section 27-65-23, Mississippi Code of 1972, is
1117 brought forward as follows:

1118 27-65-23. Upon every person engaging or continuing in any of
1119 the following businesses or activities there is hereby levied,
1120 assessed and shall be collected a tax equal to seven percent (7%)
1121 of the gross income of the business, except as otherwise provided:

1122 Air-conditioning installation or repairs;

1123 Automobile, motorcycle, boat or any other vehicle
1124 repairing or servicing;

1125 Billiards, pool or domino parlors;
1126 Bowling or tenpin alleys;
1127 Burglar and fire alarm systems or services;
1128 Car washing – automatic, self-service, or manual;
1129 Computer software sales and services;
1130 Cotton compresses or cotton warehouses;
1131 Custom creosoting or treating, custom planing, custom
1132 sawing;
1133 Custom meat processing;
1134 Electricians, electrical work, wiring, all repairs or
1135 installation of electrical equipment;
1136 Elevator or escalator installing, repairing or
1137 servicing;
1138 Film developing or photo finishing;
1139 Foundries, machine or general repairing;
1140 Furniture repairing or upholstering;
1141 Grading, excavating, ditching, dredging or landscaping;
1142 Hotels (as defined in Section 41-49-3), motels, tourist
1143 courts or camps, trailer parks;
1144 Insulating services or repairs;
1145 Jewelry or watch repairing;
1146 Laundering, cleaning, pressing or dyeing;
1147 Marina services;
1148 Mattress renovating;
1149 Office and business machine repairing;
1150 Parking garages and lots;

1151 Plumbing or pipe fitting;
1152 Public storage warehouses (There shall be no tax levied
1153 on gross income of a public storage warehouse derived from the
1154 temporary storage of tangible personal property in this state
1155 pending shipping or mailing of the property to another state.);
1156 Refrigerating equipment repairs;
1157 Radio or television installing, repairing, or servicing;
1158 Renting or leasing personal property used within this
1159 state;
1160 Services performed in connection with geophysical
1161 surveying, exploring, developing, drilling, producing,
1162 distributing, or testing of oil, gas, water and other mineral
1163 resources;
1164 Shoe repairing;
1165 Storage lockers;
1166 Telephone answering or paging services;
1167 Termite or pest control services;
1168 Tin and sheet metal shops;
1169 TV cable systems, subscription TV services, and other
1170 similar activities;
1171 Vulcanizing, repairing or recapping of tires or tubes;
1172 Welding; and
1173 Woodworking or woodu-turning shops.
1174 Income from services taxed herein performed for electric
1175 power associations in the ordinary and necessary operation of

1176 their generating or distribution systems shall be taxed at the
1177 rate of one percent (1%).

1178 Income from services taxed herein performed on materials for
1179 use in track or track structures to a railroad whose rates are
1180 fixed by the Interstate Commerce Commission or the Mississippi
1181 Public Service Commission shall be taxed at the rate of three
1182 percent (3%).

1183 Income from renting or leasing tangible personal property
1184 used within this state shall be taxed at the same rates as sales
1185 of the same property.

1186 Persons doing business in this state who rent transportation
1187 equipment with a situs within or without the state to common,
1188 contract or private commercial carriers are taxed on that part of
1189 the income derived from use within this state. If specific
1190 accounting is impracticable, a formula may be used with approval
1191 of the commissioner.

1192 A lessor may deduct from the tax computed on the rental
1193 income from tangible personal property a credit for sales or use
1194 tax paid to this state at the time of purchase of the specific
1195 personal property being leased or rented until such credit has
1196 been exhausted.

1197 Charges for custom processing and repairing services may be
1198 excluded from gross taxable income when the property on which the
1199 service was performed is delivered to the customer in another
1200 state either by common carrier or in the seller's equipment.

1201 When a taxpayer performs unitary services covered by this
1202 section, which are performed both in intrastate and interstate
1203 commerce, the commissioner is hereby invested with authority to
1204 formulate in each particular case and to fix for such taxpayer in
1205 each instance formulae of apportionment which will apportion to
1206 this state, for taxation, that portion of the services which are
1207 performed within the State of Mississippi.

1208 **SECTION 10.** Section 27-65-93, Mississippi Code of 1972, is
1209 brought forward as follows:

1210 27-65-93. (1) The commissioner shall, from time to time,
1211 promulgate rules and regulations, not inconsistent with the
1212 provisions of the sales tax law, for making returns and for the
1213 ascertainment, assessment and collection of the tax imposed by the
1214 sales tax law as he may deem necessary to enforce its provisions;
1215 and, upon request, he shall furnish any taxpayer with a copy of
1216 the rules and regulations.

1217 (2) All forms, necessary for the enforcement of the sales
1218 tax law, shall be prescribed, printed and furnished by the
1219 commissioner.

1220 (3) The commissioner may adopt rules and regulations
1221 providing for the issuance of permits to manufacturers, utilities,
1222 construction contractors, companies receiving bond financing
1223 through the Mississippi Business Finance Corporation or the
1224 Mississippi Development Authority, and other taxpayers as
1225 determined by the commissioner, and the commissioner shall adopt
1226 rules and regulations providing for the issuance of a permit to

1227 any qualified business or industry, which is certified as such by
1228 the Mississippi Development Authority pursuant to the Mississippi
1229 Flexible Tax Incentive Act and awarded any mFlex tax incentive
1230 amount for such qualified business's or industry's qualified
1231 economic development project, certified as such by the Mississippi
1232 Development Authority pursuant to the Mississippi Flexible Tax
1233 Incentive Act, to purchase tangible personal property taxed under
1234 Section 27-65-17, items taxed under Section 27-65-18, items taxed
1235 under Section 27-65-19, services taxed under Section 27-65-23,
1236 items taxed under Section 27-65-24, and items taxed under Section
1237 27-65-26 without the payment to the vendor of the tax imposed by
1238 the sales and use tax laws, and providing for persons to report
1239 and pay the tax directly to the commissioner in instances where
1240 the commissioner determines that these provisions will facilitate
1241 and expedite the collection of the tax at the proper rates which
1242 may be due on purchases by the permittee. Under the provisions of
1243 this chapter, the vendor is relieved of collecting and remitting
1244 the taxes specified hereunder and the person holding the permit
1245 shall become liable for such taxes instead of the seller. The
1246 full enforcement provisions of the sales tax law shall apply in
1247 the collection of the tax from the permittee.

1248 **SECTION 11.** Section 27-65-101, Mississippi Code of 1972, is
1249 brought forward as follows:

1250 27-65-101. (1) The exemptions from the provisions of this
1251 chapter which are of an industrial nature or which are more
1252 properly classified as industrial exemptions than any other

1253 exemption classification of this chapter shall be confined to
1254 those persons or property exempted by this section or by the
1255 provisions of the Constitution of the United States or the State
1256 of Mississippi. No industrial exemption as now provided by any
1257 other section except Section 57-3-33 shall be valid as against the
1258 tax herein levied. Any subsequent industrial exemption from the
1259 tax levied hereunder shall be provided by amendment to this
1260 section. No exemption provided in this section shall apply to
1261 taxes levied by Section 27-65-15 or 27-65-21.

1262 The tax levied by this chapter shall not apply to the
1263 following:

1264 (a) Sales of boxes, crates, cartons, cans, bottles and
1265 other packaging materials to manufacturers and wholesalers for use
1266 as containers or shipping materials to accompany goods sold by
1267 said manufacturers or wholesalers where possession thereof will
1268 pass to the customer at the time of sale of the goods contained
1269 therein and sales to anyone of containers or shipping materials
1270 for use in ships engaged in international commerce.

1271 (b) Sales of raw materials, catalysts, processing
1272 chemicals, welding gases or other industrial processing gases
1273 (except natural gas) to a manufacturer for use directly in
1274 manufacturing or processing a product for sale or rental or
1275 repairing or reconditioning vessels or barges of fifty (50) tons
1276 load displacement and over. For the purposes of this exemption,
1277 electricity used directly in the electrolysis process in the
1278 production of sodium chlorate shall be considered a raw material.

1279 This exemption shall not apply to any property used as fuel except
1280 to the extent that such fuel comprises by-products which have no
1281 market value.

1282 (c) The gross proceeds of sales of dry docks, offshore
1283 drilling equipment for use in oil or natural gas exploration or
1284 production, vessels or barges of fifty (50) tons load displacement
1285 and over, when the vessels or barges are sold by the manufacturer
1286 or builder thereof. In addition to other types of equipment,
1287 offshore drilling equipment for use in oil or natural gas
1288 exploration or production shall include aircraft used
1289 predominately to transport passengers or property to or from
1290 offshore oil or natural gas exploration or production platforms or
1291 vessels, and engines, accessories and spare parts for such
1292 aircraft.

1293 (d) Sales to commercial fishermen of commercial fishing
1294 boats of over five (5) tons load displacement and not more than
1295 fifty (50) tons load displacement as registered with the United
1296 States Coast Guard and licensed by the Mississippi Commission on
1297 Marine Resources.

1298 (e) The gross income from repairs to vessels and barges
1299 engaged in foreign trade or interstate transportation.

1300 (f) Sales of petroleum products to vessels or barges
1301 for consumption in marine international commerce or interstate
1302 transportation businesses.

1303 (g) Sales and rentals of rail rolling stock (and
1304 component parts thereof) for ultimate use in interstate commerce

1305 and gross income from services with respect to manufacturing,
1306 repairing, cleaning, altering, reconditioning or improving such
1307 rail rolling stock (and component parts thereof).

1308 (h) Sales of raw materials, catalysts, processing
1309 chemicals, welding gases or other industrial processing gases
1310 (except natural gas) used or consumed directly in manufacturing,
1311 repairing, cleaning, altering, reconditioning or improving such
1312 rail rolling stock (and component parts thereof). This exemption
1313 shall not apply to any property used as fuel.

1314 (i) Sales of machinery or tools or repair parts
1315 therefor or replacements thereof, fuel or supplies used directly
1316 in manufacturing, converting or repairing ships, vessels or barges
1317 of three thousand (3,000) tons load displacement and over, but not
1318 to include office and plant supplies or other equipment not
1319 directly used on the ship, vessel or barge being built, converted
1320 or repaired. For purposes of this exemption, "ships, vessels or
1321 barges" shall not include floating structures described in Section
1322 27-65-18.

1323 (j) Sales of tangible personal property to persons
1324 operating ships in international commerce for use or consumption
1325 on board such ships. This exemption shall be limited to cases in
1326 which procedures satisfactory to the commissioner, ensuring
1327 against use in this state other than on such ships, are
1328 established.

1329 (k) Sales of materials used in the construction of a
1330 building, or any addition or improvement thereon, and sales of any

1331 machinery and equipment not later than three (3) months after the
1332 completion of construction of the building, or any addition
1333 thereon, to be used therein, to qualified businesses, as defined
1334 in Section 57-51-5, which are located in a county or portion
1335 thereof designated as an enterprise zone pursuant to Sections
1336 57-51-1 through 57-51-15.

1337 (l) Sales of materials used in the construction of a
1338 building, or any addition or improvement thereon, and sales of any
1339 machinery and equipment not later than three (3) months after the
1340 completion of construction of the building, or any addition
1341 thereon, to be used therein, to qualified businesses, as defined
1342 in Section 57-54-5.

1343 (m) Income from storage and handling of perishable
1344 goods by a public storage warehouse.

1345 (n) The value of natural gas lawfully injected into the
1346 earth for cycling, repressuring or lifting of oil, or lawfully
1347 vented or flared in connection with the production of oil;
1348 however, if any gas so injected into the earth is sold for such
1349 purposes, then the gas so sold shall not be exempt.

1350 (o) The gross collections from self-service commercial
1351 laundering, drying, cleaning and pressing equipment.

1352 (p) Sales of materials used in the construction of a
1353 building, or any addition or improvement thereon, and sales of any
1354 machinery and equipment not later than three (3) months after the
1355 completion of construction of the building, or any addition
1356 thereon, to be used therein, to qualified companies, certified as

1357 such by the Mississippi Development Authority under Section
1358 57-53-1.

1359 (q) Sales of component materials used in the
1360 construction of a building, or any addition or improvement
1361 thereon, sales of machinery and equipment to be used therein, and
1362 sales of manufacturing or processing machinery and equipment which
1363 is permanently attached to the ground or to a permanent foundation
1364 and which is not by its nature intended to be housed within a
1365 building structure, not later than three (3) months after the
1366 initial start-up date, to permanent business enterprises engaging
1367 in manufacturing or processing in Tier Three areas (as such term
1368 is defined in Section 57-73-21), which businesses are certified by
1369 the Department of Revenue as being eligible for the exemption
1370 granted in this paragraph (q). The exemption provided in this
1371 paragraph (q) shall not apply to sales to any business enterprise
1372 that is a medical cannabis establishment as defined in the
1373 Mississippi Medical Cannabis Act.

1374 (r) (i) Sales of component materials used in the
1375 construction of a building, or any addition or improvement
1376 thereon, and sales of any machinery and equipment not later than
1377 three (3) months after the completion of the building, addition or
1378 improvement thereon, to be used therein, for any company
1379 establishing or transferring its national or regional headquarters
1380 from within or outside the State of Mississippi and creating a
1381 minimum of twenty (20) jobs at the new headquarters in this state.
1382 The exemption provided in this subparagraph (i) shall not apply to

1383 sales for any company that is a medical cannabis establishment as
1384 defined in the Mississippi Medical Cannabis Act. The Department
1385 of Revenue shall establish criteria and prescribe procedures to
1386 determine if a company qualifies as a national or regional
1387 headquarters for the purpose of receiving the exemption provided
1388 in this subparagraph (i).

1389 (ii) Sales of component materials used in the
1390 construction of a building, or any addition or improvement
1391 thereon, and sales of any machinery and equipment not later than
1392 three (3) months after the completion of the building, addition or
1393 improvement thereon, to be used therein, for any company expanding
1394 or making additions after January 1, 2013, to its national or
1395 regional headquarters within the State of Mississippi and creating
1396 a minimum of twenty (20) new jobs at the headquarters as a result
1397 of the expansion or additions. The exemption provided in this
1398 subparagraph (ii) shall not apply to sales for any company that is
1399 a medical cannabis establishment as defined in the Mississippi
1400 Medical Cannabis Act. The Department of Revenue shall establish
1401 criteria and prescribe procedures to determine if a company
1402 qualifies as a national or regional headquarters for the purpose
1403 of receiving the exemption provided in this subparagraph (ii).

1404 (s) The gross proceeds from the sale of semitrailers,
1405 trailers, boats, travel trailers, motorcycles, all-terrain cycles
1406 and rotary-wing aircraft if exported from this state within
1407 forty-eight (48) hours and registered and first used in another
1408 state.

1409 (t) Gross income from the storage and handling of
1410 natural gas in underground salt domes and in other underground
1411 reservoirs, caverns, structures and formations suitable for such
1412 storage.

1413 (u) Sales of machinery and equipment to nonprofit
1414 organizations if the organization:

1415 (i) Is tax exempt pursuant to Section 501(c)(4) of
1416 the Internal Revenue Code of 1986, as amended;

1417 (ii) Assists in the implementation of the
1418 contingency plan or area contingency plan, and which is created in
1419 response to the requirements of Title IV, Subtitle B of the Oil
1420 Pollution Act of 1990, Public Law 101-380; and

1421 (iii) Engages primarily in programs to contain,
1422 clean up and otherwise mitigate spills of oil or other substances
1423 occurring in the United States coastal and tidal waters.

1424 For purposes of this exemption, "machinery and equipment"
1425 means any ocean-going vessels, barges, booms, skimmers and other
1426 capital equipment used primarily in the operations of nonprofit
1427 organizations referred to herein.

1428 (v) Sales or leases of materials and equipment to
1429 approved business enterprises as provided under the Growth and
1430 Prosperity Act.

1431 (w) From and after July 1, 2001, sales of pollution
1432 control equipment to manufacturers or custom processors for
1433 industrial use. For the purposes of this exemption, "pollution
1434 control equipment" means equipment, devices, machinery or systems

1435 used or acquired to prevent, control, monitor or reduce air, water
1436 or groundwater pollution, or solid or hazardous waste as required
1437 by federal or state law or regulation.

1438 (x) Sales or leases to a manufacturer of motor vehicles
1439 or powertrain components operating a project that has been
1440 certified by the Mississippi Major Economic Impact Authority as a
1441 project as defined in Section 57-75-5(f)(iv)1, Section
1442 57-75-5(f)(xxi) or Section 57-75-5(f)(xxii) of machinery and
1443 equipment; special tooling such as dies, molds, jigs and similar
1444 items treated as special tooling for federal income tax purposes;
1445 or repair parts therefor or replacements thereof; repair services
1446 thereon; fuel, supplies, electricity, coal and natural gas used
1447 directly in the manufacture of motor vehicles or motor vehicle
1448 parts or used to provide climate control for manufacturing areas.

1449 (y) Sales or leases of component materials, machinery
1450 and equipment used in the construction of a building, or any
1451 addition or improvement thereon to an enterprise operating a
1452 project that has been certified by the Mississippi Major Economic
1453 Impact Authority as a project as defined in Section
1454 57-75-5(f)(iv)1, Section 57-75-5(f)(xxi), Section 57-75-5(f)(xxii)
1455 or Section 57-75-5(f)(xxviii) and any other sales or leases
1456 required to establish or operate such project.

1457 (z) Sales of component materials and equipment to a
1458 business enterprise as provided under Section 57-64-33.

1459 (aa) The gross income from the stripping and painting
1460 of commercial aircraft engaged in foreign or interstate
1461 transportation business.

1462 (bb) [Repealed]

1463 (cc) Sales or leases to an enterprise owning or
1464 operating a project that has been designated by the Mississippi
1465 Major Economic Impact Authority as a project as defined in Section
1466 57-75-5(f) (xviii) of machinery and equipment; special tooling such
1467 as dies, molds, jigs and similar items treated as special tooling
1468 for federal income tax purposes; or repair parts therefor or
1469 replacements thereof; repair services thereon; fuel, supplies,
1470 electricity, coal and natural gas used directly in the
1471 manufacturing/production operations of the project or used to
1472 provide climate control for manufacturing/production areas.

1473 (dd) Sales or leases of component materials, machinery
1474 and equipment used in the construction of a building, or any
1475 addition or improvement thereon to an enterprise owning or
1476 operating a project that has been designated by the Mississippi
1477 Major Economic Impact Authority as a project as defined in Section
1478 57-75-5(f) (xviii) and any other sales or leases required to
1479 establish or operate such project.

1480 (ee) Sales of parts used in the repair and servicing of
1481 aircraft not registered in Mississippi engaged exclusively in the
1482 business of foreign or interstate transportation to businesses
1483 engaged in aircraft repair and maintenance.

1484 (ff) Sales of component materials used in the
1485 construction of a facility, or any addition or improvement
1486 thereon, and sales or leases of machinery and equipment not later
1487 than three (3) months after the completion of construction of the
1488 facility, or any addition or improvement thereto, to be used in
1489 the building or any addition or improvement thereto, to a
1490 permanent business enterprise operating a data/information
1491 enterprise in Tier Three areas (as such areas are designated in
1492 accordance with Section 57-73-21), meeting minimum criteria
1493 established by the Mississippi Development Authority. The
1494 exemption provided in this paragraph (ff) shall not apply to sales
1495 to any business enterprise that is a medical cannabis
1496 establishment as defined in the Mississippi Medical Cannabis Act.

1497 (gg) Sales of component materials used in the
1498 construction of a facility, or any addition or improvement
1499 thereto, and sales of machinery and equipment not later than three
1500 (3) months after the completion of construction of the facility,
1501 or any addition or improvement thereto, to be used in the facility
1502 or any addition or improvement thereto, to technology intensive
1503 enterprises for industrial purposes in Tier Three areas (as such
1504 areas are designated in accordance with Section 57-73-21), as
1505 certified by the Department of Revenue. For purposes of this
1506 paragraph, an enterprise must meet the criteria provided for in
1507 Section 27-65-17(1) (f) in order to be considered a technology
1508 intensive enterprise.

1509 (hh) Sales of component materials used in the
1510 replacement, reconstruction or repair of a building or facility
1511 that has been destroyed or sustained extensive damage as a result
1512 of a disaster declared by the Governor, sales of machinery and
1513 equipment to be used therein to replace machinery or equipment
1514 damaged or destroyed as a result of such disaster, including, but
1515 not limited to, manufacturing or processing machinery and
1516 equipment which is permanently attached to the ground or to a
1517 permanent foundation and which is not by its nature intended to be
1518 housed within a building structure, to enterprises or companies
1519 that were eligible for the exemptions authorized in paragraph (q),
1520 (r), (ff) or (gg) of this subsection during initial construction
1521 of the building that was destroyed or damaged, which enterprises
1522 or companies are certified by the Department of Revenue as being
1523 eligible for the exemption granted in this paragraph.

1524 (ii) Sales of software or software services transmitted
1525 by the Internet to a destination outside the State of Mississippi
1526 where the first use of such software or software services by the
1527 purchaser occurs outside the State of Mississippi.

1528 (jj) Gross income of public storage warehouses derived
1529 from the temporary storage of raw materials that are to be used in
1530 an eligible facility as defined in Section 27-7-22.35.

1531 (kk) Sales of component building materials and
1532 equipment for initial construction of facilities or expansion of
1533 facilities as authorized under Sections 57-113-1 through 57-113-7
1534 and Sections 57-113-21 through 57-113-27.

1535 (ll) Sales and leases of machinery and equipment
1536 acquired in the initial construction to establish facilities as
1537 authorized in Sections 57-113-1 through 57-113-7.

1538 (mm) Sales and leases of replacement hardware, software
1539 or other necessary technology to operate a data center as
1540 authorized under Sections 57-113-21 through 57-113-27.

1541 (nn) Sales of component materials used in the
1542 construction of a building, or any addition or improvement
1543 thereon, and sales or leases of machinery and equipment not later
1544 than three (3) months after the completion of the construction of
1545 the facility, to be used in the facility, to permanent business
1546 enterprises operating a facility producing renewable crude oil
1547 from biomass harvested or produced, in whole or in part, in
1548 Mississippi, which businesses meet minimum criteria established by
1549 the Mississippi Development Authority. As used in this paragraph,
1550 the term "biomass" shall have the meaning ascribed to such term in
1551 Section 57-113-1.

1552 (oo) Sales of supplies, equipment and other personal
1553 property to an organization that is exempt from taxation under
1554 Section 501(c)(3) of the Internal Revenue Code and is the host
1555 organization coordinating a professional golf tournament played or
1556 to be played in this state and the supplies, equipment or other
1557 personal property will be used for purposes related to the golf
1558 tournament and related activities.

1559 (pp) Sales of materials used in the construction of a
1560 health care industry facility, as defined in Section 57-117-3, or

1561 any addition or improvement thereon, and sales of any machinery
1562 and equipment not later than three (3) months after the completion
1563 of construction of the facility, or any addition thereon, to be
1564 used therein, to qualified businesses, as defined in Section
1565 57-117-3. This paragraph shall be repealed from and after July 1,
1566 2025.

1567 (qq) Sales or leases to a manufacturer of automotive
1568 parts operating a project that has been certified by the
1569 Mississippi Major Economic Impact Authority as a project as
1570 defined in Section 57-75-5(f) (xxviii) of machinery and equipment;
1571 or repair parts therefor or replacements thereof; repair services
1572 thereon; fuel, supplies, electricity, coal, nitrogen and natural
1573 gas used directly in the manufacture of automotive parts or used
1574 to provide climate control for manufacturing areas.

1575 (rr) Gross collections derived from guided tours on any
1576 navigable waters of this state, which include providing
1577 accommodations, guide services and/or related equipment operated
1578 by or under the direction of the person providing the tour, for
1579 the purposes of outdoor tourism. The exemption provided in this
1580 paragraph (rr) does not apply to the sale of tangible personal
1581 property by a person providing such tours.

1582 (ss) Retail sales of truck-tractors and semitrailers
1583 used in interstate commerce and registered under the International
1584 Registration Plan (IRP) or any similar reciprocity agreement or
1585 compact relating to the proportional registration of commercial
1586 vehicles entered into as provided for in Section 27-19-143.

1587 (tt) Sales exempt under the Facilitating Business Rapid
1588 Response to State Declared Disasters Act of 2015 (Sections
1589 27-113-1 through 27-113-9).

1590 (uu) Sales or leases to an enterprise and its
1591 affiliates operating a project that has been certified by the
1592 Mississippi Major Economic Impact Authority as a project as
1593 defined in Section 57-75-5(f)(xxix) of:

1594 (i) All personal property and fixtures, including
1595 without limitation, sales or leases to the enterprise and its
1596 affiliates of:

1597 1. Manufacturing machinery and equipment;

1598 2. Special tooling such as dies, molds, jigs
1599 and similar items treated as special tooling for federal income
1600 tax purposes;

1601 3. Component building materials, machinery
1602 and equipment used in the construction of buildings, and any other
1603 additions or improvements to the project site for the project;

1604 4. Nonmanufacturing furniture, fixtures and
1605 equipment (inclusive of all communications, computer, server,
1606 software and other hardware equipment); and

1607 5. Fuel, supplies (other than
1608 nonmanufacturing consumable supplies and water), electricity,
1609 nitrogen gas and natural gas used directly in the
1610 manufacturing/production operations of such project or used to
1611 provide climate control for manufacturing/production areas of such
1612 project;

1613 (ii) All replacements of, repair parts for or
1614 services to repair items described in subparagraph (i)1, 2 and 3
1615 of this paragraph; and

1616 (iii) All services taxable pursuant to Section
1617 27-65-23 required to establish, support, operate, repair and/or
1618 maintain such project.

1619 (vv) Sales or leases to an enterprise operating a
1620 project that has been certified by the Mississippi Major Economic
1621 Impact Authority as a project as defined in Section
1622 57-75-5(f) (xxx) of:

1623 (i) Purchases required to establish and operate
1624 the project, including, but not limited to, sales of component
1625 building materials, machinery and equipment required to establish
1626 the project facility and any additions or improvements thereon;
1627 and

1628 (ii) Machinery, special tools (such as dies,
1629 molds, and jigs) or repair parts thereof, or replacements and
1630 lease thereof, repair services thereon, fuel, supplies and
1631 electricity, coal and natural gas used in the manufacturing
1632 process and purchased by the enterprise owning or operating the
1633 project for the benefit of the project.

1634 (ww) Sales of component materials used in the
1635 construction of a building, or any expansion or improvement
1636 thereon, sales of machinery and/or equipment to be used therein,
1637 and sales of processing machinery and equipment which is
1638 permanently attached to the ground or to a permanent foundation

1639 which is not by its nature intended to be housed in a building
1640 structure, no later than three (3) months after initial startup,
1641 expansion or improvement of a permanent enterprise solely engaged
1642 in the conversion of natural sand into proppants used in oil and
1643 gas exploration and development with at least ninety-five percent
1644 (95%) of such proppants used in the production of oil and/or gas
1645 from horizontally drilled wells and/or horizontally drilled
1646 recompletion wells as defined in Sections 27-25-501 and 27-25-701.

1647 (xx) (i) Sales or leases to an enterprise operating a
1648 project that has been certified by the Mississippi Major Economic
1649 Impact Authority as a project as defined in Section
1650 57-75-5(f)(xxxi), for a period ending no later than one (1) year
1651 following completion of the construction of the facility or
1652 facilities comprising such project of all personal property and
1653 fixtures, including without limitation, sales or leases to the
1654 enterprise and its affiliates of:

1655 1. Manufacturing machinery and equipment;

1656 2. Special tooling such as dies, molds, jigs
1657 and similar items treated as special tooling for federal income
1658 tax purposes;

1659 3. Component building materials, machinery
1660 and equipment used in the construction of buildings, and any other
1661 additions or improvements to the project site for the project;

1662 4. Nonmanufacturing furniture, fixtures and
1663 equipment (inclusive of all communications, computer, server,
1664 software and other hardware equipment);

1665 5. Replacements of, repair parts for or
1666 services to repair items described in this subparagraph (i)1, 2
1667 and 3; and

1668 6. All services taxable pursuant to Section
1669 27-65-23 required to establish, support, operate, repair and/or
1670 maintain such project; and

1671 (ii) Sales or leases to an enterprise operating a
1672 project that has been certified by the Mississippi Major Economic
1673 Impact Authority as a project as defined in Section
1674 57-75-5(f) (xxxi) of electricity, current, power, steam, coal,
1675 natural gas, liquefied petroleum gas or other fuel, biomass,
1676 nitrogen or other atmospheric or other industrial gases used
1677 directly by the enterprise in the manufacturing/production
1678 operations of its project or used to provide climate control for
1679 manufacturing/production areas (which manufacturing/production
1680 areas shall be apportioned based on square footage). As used in
1681 this paragraph, the term "biomass" shall have the meaning ascribed
1682 to such term in Section 57-113-1.

1683 (2) Sales of component materials used in the construction of
1684 a building, or any addition or improvement thereon, sales of
1685 machinery and equipment to be used therein, and sales of
1686 manufacturing or processing machinery and equipment which is
1687 permanently attached to the ground or to a permanent foundation
1688 and which is not by its nature intended to be housed within a
1689 building structure, not later than three (3) months after the
1690 initial start-up date, to permanent business enterprises engaging

1691 in manufacturing or processing in Tier Two areas and Tier One
1692 areas (as such areas are designated in accordance with Section
1693 57-73-21), which businesses are certified by the Department of
1694 Revenue as being eligible for the exemption granted in this
1695 subsection, shall be exempt from one-half (1/2) of the taxes
1696 imposed on such transactions under this chapter. The exemption
1697 provided in this subsection (2) shall not apply to sales to any
1698 business enterprise that is a medical cannabis establishment as
1699 defined in the Mississippi Medical Cannabis Act.

1700 (3) Sales of component materials used in the construction of
1701 a facility, or any addition or improvement thereon, and sales or
1702 leases of machinery and equipment not later than three (3) months
1703 after the completion of construction of the facility, or any
1704 addition or improvement thereto, to be used in the building or any
1705 addition or improvement thereto, to a permanent business
1706 enterprise operating a data/information enterprise in Tier Two
1707 areas and Tier One areas (as such areas are designated in
1708 accordance with Section 57-73-21), which businesses meet minimum
1709 criteria established by the Mississippi Development Authority,
1710 shall be exempt from one-half (1/2) of the taxes imposed on such
1711 transaction under this chapter. The exemption provided in this
1712 subsection (3) shall not apply to sales to any business enterprise
1713 that is a medical cannabis establishment as defined in the
1714 Mississippi Medical Cannabis Act.

1715 (4) Sales of component materials used in the construction of
1716 a facility, or any addition or improvement thereto, and sales of

1717 machinery and equipment not later than three (3) months after the
1718 completion of construction of the facility, or any addition or
1719 improvement thereto, to be used in the building or any addition or
1720 improvement thereto, to technology intensive enterprises for
1721 industrial purposes in Tier Two areas and Tier One areas (as such
1722 areas are designated in accordance with Section 57-73-21), which
1723 businesses are certified by the Department of Revenue as being
1724 eligible for the exemption granted in this subsection, shall be
1725 exempt from one-half (1/2) of the taxes imposed on such
1726 transactions under this chapter. For purposes of this subsection,
1727 an enterprise must meet the criteria provided for in Section
1728 27-65-17(1)(f) in order to be considered a technology intensive
1729 enterprise.

1730 (5) (a) For purposes of this subsection:

1731 (i) "Telecommunications enterprises" shall have
1732 the meaning ascribed to such term in Section 57-73-21;

1733 (ii) "Tier One areas" mean counties designated as
1734 Tier One areas pursuant to Section 57-73-21;

1735 (iii) "Tier Two areas" mean counties designated as
1736 Tier Two areas pursuant to Section 57-73-21;

1737 (iv) "Tier Three areas" mean counties designated
1738 as Tier Three areas pursuant to Section 57-73-21; and

1739 (v) "Equipment used in the deployment of broadband
1740 technologies" means any equipment capable of being used for or in
1741 connection with the transmission of information at a rate, prior
1742 to taking into account the effects of any signal degradation, that

1743 is not less than three hundred eighty-four (384) kilobits per
1744 second in at least one (1) direction, including, but not limited
1745 to, asynchronous transfer mode switches, digital subscriber line
1746 access multiplexers, routers, servers, multiplexers, fiber optics
1747 and related equipment.

1748 (b) Sales of equipment to telecommunications
1749 enterprises after June 30, 2003, and before July 1, 2025, that is
1750 installed in Tier One areas and used in the deployment of
1751 broadband technologies shall be exempt from one-half (1/2) of the
1752 taxes imposed on such transactions under this chapter.

1753 (c) Sales of equipment to telecommunications
1754 enterprises after June 30, 2003, and before July 1, 2025, that is
1755 installed in Tier Two and Tier Three areas and used in the
1756 deployment of broadband technologies shall be exempt from the
1757 taxes imposed on such transactions under this chapter.

1758 (6) Sales of component materials used in the replacement,
1759 reconstruction or repair of a building that has been destroyed or
1760 sustained extensive damage as a result of a disaster declared by
1761 the Governor, sales of machinery and equipment to be used therein
1762 to replace machinery or equipment damaged or destroyed as a result
1763 of such disaster, including, but not limited to, manufacturing or
1764 processing machinery and equipment which is permanently attached
1765 to the ground or to a permanent foundation and which is not by its
1766 nature intended to be housed within a building structure, to
1767 enterprises that were eligible for the partial exemptions provided
1768 for in subsections (2), (3) and (4) of this section during initial

1769 construction of the building that was destroyed or damaged, which
1770 enterprises are certified by the Department of Revenue as being
1771 eligible for the partial exemption granted in this subsection,
1772 shall be exempt from one-half (1/2) of the taxes imposed on such
1773 transactions under this chapter.

1774 **SECTION 12.** Section 27-67-3, Mississippi Code of 1972, is
1775 brought forward as follows:

1776 27-67-3. Whenever used in this article, the words, phrases
1777 and terms shall have the meaning ascribed to them as follows:

1778 (a) "Tax Commission" or "department" means the
1779 Department of Revenue of the State of Mississippi.

1780 (b) "Commissioner" means the Commissioner of Revenue of
1781 the Department of Revenue.

1782 (c) "Person" means any individual, firm, partnership,
1783 joint venture, association, corporation, estate, trust, receiver,
1784 syndicate or any other group or combination acting as a unit and
1785 includes the plural as well as the singular in number. "Person"
1786 shall also include husband or wife, or both, where joint benefits
1787 are derived from the operation of a business taxed hereunder or
1788 where joint benefits are derived from the use of property taxed
1789 hereunder.

1790 (d) "Taxpayer" means any person liable for the payment
1791 of any tax hereunder, or liable for the collection and payment of
1792 the tax.

1793 (e) "Sale" or "purchase" means the exchange of
1794 properties for money or other consideration, and the barter of

1795 properties or products. Every closed transaction by which title
1796 to, or possession of, tangible personal property or specified
1797 digital products passes shall constitute a taxable event. A
1798 transaction whereby the possession of property or products is
1799 transferred but the seller retains title as security for payment
1800 of the selling price shall be deemed a sale.

1801 (f) "Purchase price" or "sales price" means the total
1802 amount for which tangible personal property or specified digital
1803 product is purchased or sold, valued in money, including
1804 installation and service charges, and freight charges to the point
1805 of use within this state, without any deduction for cost of
1806 property or products sold, expenses or losses, or taxes of any
1807 kind except those exempt by the sales tax law. "Purchase price"
1808 or "sales price" shall not include cash discounts allowed and
1809 taken or merchandise returned by customers when the total sales
1810 price is refunded either in cash or by credit, and shall not
1811 include amounts allowed for a trade-in of similar property or
1812 products. "Purchase price" or "sales price" does not include
1813 finance charges, carrying charges or any other addition to the
1814 selling price as a result of deferred payments by the purchaser.

1815 (g) "Lease" or "rent" means any agreement entered into
1816 for a consideration that transfers possession or control of
1817 tangible personal property or specified digital products to a
1818 person for use within this state.

1819 (h) "Value" means the estimated or assessed monetary
1820 worth of a thing or property. The value of property or products

1821 transferred into this state for sales promotion or advertising
1822 shall be an amount not less than the cost paid by the transferor
1823 or donor. The value of property or products which have been used
1824 in another state shall be determined by its cost less straight
1825 line depreciation provided that value shall never be less than
1826 twenty percent (20%) of the cost or other method acceptable to the
1827 commissioner. On property or products imported by the
1828 manufacturer thereof for rental or lease within this state, value
1829 shall be the manufactured cost of the property and freight to the
1830 place of use in Mississippi.

1831 (i) "Tangible personal property" means personal
1832 property perceptible to the human senses or by chemical analysis,
1833 as opposed to real property or intangibles. "Tangible personal
1834 property" shall include printed, mimeographed, multigraphed
1835 matter, or material reproduced in any other manner, and books,
1836 catalogs, manuals, publications or similar documents covering the
1837 services of collecting, compiling or analyzing information of any
1838 kind or nature. However, reports representing the work of persons
1839 such as lawyers, accountants, engineers and similar professionals
1840 shall not be included. "Tangible personal property" shall also
1841 include tangible advertising or sales promotion materials such as,
1842 but not limited to, displays, brochures, signs, catalogs, price
1843 lists, point of sale advertising materials and technical manuals.
1844 Tangible personal property shall also include computer software
1845 programs.

1846 (j) "Person doing business in this state," "person
1847 maintaining a place of business within this state," or any similar
1848 term means any person having within this state an office, a
1849 distribution house, a salesroom or house, a warehouse, or any
1850 other place of business, or owning personal property located in
1851 this state used by another person, or installing personal property
1852 in this state. This definition also includes any person selling
1853 or taking orders for any tangible personal property, either
1854 personally, by mail or through an employee representative,
1855 salesman, commission agent, canvasser, solicitor or independent
1856 contractor or by any other means from within the state. "Person
1857 doing business in this state" also includes any marketplace
1858 facilitator, marketplace seller, or remote seller with sales that
1859 exceed Two Hundred Fifty Thousand Dollars (\$250,000.00) in any
1860 consecutive twelve-month period. A sale made through a
1861 marketplace facilitator is a sale of the marketplace facilitator
1862 and not the sale of a marketplace seller for purposes of
1863 determining whether a person exceeds Two Hundred Fifty Thousand
1864 Dollars (\$250,000.00) in sales.

1865 Any person doing business under the terms of this article by
1866 reason of coming under any one or more of the qualifying
1867 provisions listed above shall be considered as doing business on
1868 all transactions involving sales to persons within this state.

1869 (k) "Use" or "consumption" means the first use or
1870 intended use within this state of tangible personal property or
1871 specified digital product and shall include rental or loan by

1872 owners or use by lessees or other persons receiving benefits from
1873 use of the property or product. "Use" or "consumption" shall
1874 include the benefit realized or to be realized by persons
1875 importing or causing to be imported into this state tangible
1876 advertising or sales promotion materials.

1877 (l) "Storage" means keeping tangible personal property
1878 or specified digital product in this state for subsequent use or
1879 consumption in this state.

1880 (m) "Specified digital products" shall have the meaning
1881 ascribed to such term in Section 27-65-26.

1882 (n) "Marketplace facilitator" means any person who
1883 facilitates a retail sale by a seller by:

1884 (i) Listing or advertising for sale by the
1885 retailer in any forum, tangible personal property, services or
1886 digital goods that are subject to tax under this chapter; and

1887 (ii) Either directly or indirectly through
1888 agreements or arrangements with third parties collecting payment
1889 from the customer and transmitting that payment to the retailer
1890 regardless of whether the marketplace provider receives
1891 compensation or other consideration in exchange for its service.

1892 (o) "Marketplace seller" means a seller that makes
1893 sales through any physical or electronic marketplace owned,
1894 operated, or controlled by a marketplace facilitator, even if such
1895 seller would not have been required to collect and remit sales tax
1896 had the sale not been made through such marketplace.

1897 (p) "Remote seller" means a person, other than a
1898 marketplace facilitator, that does not maintain a place of
1899 business in this state and that through a forum sells tangible
1900 personal property, taxable services or specified digital products,
1901 the sale or use of which is subject to the tax imposed by this
1902 chapter.

1903 **SECTION 13.** This act shall take effect and be in force from
1904 and after July 1, 2023, and shall stand repealed on June 30, 2023.

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

1 AN ACT TO AMEND SECTIONS 27-67-5, 27-67-7 AND 27-67-11,
2 MISSISSIPPI CODE OF 1972, TO MAKE MINOR TECHNICAL CHANGES; TO
3 BRING FORWARD SECTIONS 27-65-3, 27-65-7, 27-65-9, 27-65-17,
4 27-65-19, 27-65-23, 27-65-93, 27-65-101 AND 27-67-3, MISSISSIPPI
5 CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR
6 RELATED PURPOSES.

SS36\HB968A.J

Eugene S. Clarke
Secretary of the Senate