SENATE BILL NO. 3168

1   AN ACT TO AMEND SECTION 57-113-21, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE DEFINITIONS OF CERTAIN TERMS FOR PURPOSES OF THE
3 SALES, USE AND FRANCHISE TAX EXEMPTIONS FOR DATA CENTER
4 ENTERPRISES; TO AMEND SECTION 57-113-23, MISSISSIPPI CODE OF 1972,
5 TO REVISE THE REQUIRED CONTENTS OF THE APPLICATION TO BE SUBMITTED
6 BY BUSINESS ENTERPRISES SEEKING THE EXEMPTIONS; TO PROVIDE THAT A
7 BUSINESS ENTERPRISE SHALL AUTOMATICALLY BE ELIGIBLE FOR UP TO TWO
8 TEN-YEAR EXTENSIONS OF THE TAX EXEMPTIONS FOR A QUALIFYING
9 ADDITION OR EXPANSION, INCLUDING HARDWARE REPLACEMENT, TO A DATA
10 CENTER; TO AMEND SECTION 57-113-25, MISSISSIPPI CODE OF 1972, TO
11 PROVIDE THAT A BUSINESS ENTERPRISE HAS 60 DAYS FROM THE DATE OF
12 NOTICE OF NONCOMPLIANCE TO REMEDY THE NONCOMPLIANCE BEFORE
13 FORFEITING ITS TAX-EXEMPT STATUS, SUBJECT TO ANY PENALTIES
14 PROVIDED IN MISSISSIPPI DEVELOPMENT AUTHORITY RULES AND
15 REGULATIONS; TO PROVIDE THAT A BUSINESS ENTERPRISE SEEKING AN
16 EXTENSION OF THE TAX EXEMPTIONS BASED ON A QUALIFYING ADDITION OR
17 EXPANSION TO A DATA CENTER SHALL APPLY DIRECTLY TO THE DEPARTMENT
18 OF REVENUE; AND FOR RELATED PURPOSES.

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

20   **SECTION 1.** Section 57-113-21, Mississippi Code of 1972, is

21 amended as follows:

22   57-113-21. As used in this article:

23   (a) "Blockchain" means data that is shared across a

24 network to create a ledger of verified transactions or information

25 among network participants linked using cryptography to maintain

26 the integrity of the ledger and to execute other functions and

27 distributed among network participants in an automated fashion to

28 concurrently update network participants on the state of the

29 ledger and any other functions.

30   (** *b) "Business enterprise" means any for-profit

31 business ** * establishment, excluding any enterprise engaged in

32 digital asset mining, registered to do business in the state and

33 which is the owner, operator, tenant or affiliate of a data center

34 in this state with a minimum capital investment of:

35   (i) For a newly constructed data center, Two

36 Hundred Fifty Million Dollars ($250,000,000.00), which will create

37 at least thirty-five (35) new, full-time jobs with a minimum

38 average annual salary of one hundred twenty-five percent (125%) of

39 the average annual state wage; or

40   (ii) For an addition or expansion, including

41 hardware replacement, to a data center that met the criteria of

42 subparagraph (i) of this paragraph (b) when newly constructed, One

43 Hundred Million Dollars ($100,000,000.00).

44   (** *c) "Data center" means one or more buildings or

45 an array of interconnected buildings in one (1) physical location

46 or multiple physical locations that are owned, leased, occupied or

47 operated by a business enterprise that utilizes hardware,

48 software, technology, infrastructure and/or workforce, to store,

49 manage ** *, process or disseminate digital data.

50   (d) "Digital asset" means virtual currency,

51 cryptocurrencies, natively electronic assets, including

52 stablecoins and nonfungible tokens, and other digital-only assets

53 that confer economic, proprietary, or access rights or powers.

54   (e) "Digital asset mining" means the use of electricity

55 to power a computer for the purpose of securing a blockchain

56 network.

57   (**** **f) "MDA" means the Mississippi Development

58 Authority.

59   (**** **g) "State tax" means:

60   (i) Any sales and use tax imposed on the business

61 enterprise pursuant to law related to the purchase or lease of

62 component building materials and equipment for initial

63 construction of facilities or expansion of facilities that are

64 certified by the Mississippi Development Authority;

65   (ii) Any sales and use tax imposed by law on the

66 business enterprise pursuant to law related to the purchase of

67 replacement hardware, software or other necessary technology to

68 operate a data center;

69 **** *

70   (**** **iii) Franchise tax imposed pursuant to law

71 on the value of capital used, invested or employed by the business

72 enterprise certified by the Mississippi Development

73 Authority **** **; and

74   (iv) Any tax imposed on a data center pursuant to

75 law related to the purchase of electricity.

76   **SECTION 2.** Section 57-113-23, Mississippi Code of 1972, is

77   amended as follows:

78   57-113-23. (1) Business enterprises, as defined in Section

79   57-113-21(b)(i), wishing to apply for the tax exemptions

80   authorized by this article shall make application to the MDA prior

81   to construction or acquisition of the buildings for the

82   location *** * *** of the business enterprise in this state. The

83   application, at a minimum, shall contain:

84   (a) An overview of the project that includes the

85   selected site, the number of jobs proposed, the length of time

86   necessary for the company to meet its investment and employment

87   requirements;

88   (b) A two-year business plan *** * ***;

89   *** * ***

90   (*** * ***c) An acknowledgment that the business entity

91   will be required to provide annual documentation to demonstrate

92   that the minimum investment and job *** * *** requirements are being

93   maintained; and

94   (*** * ***d) Such information as may be reasonably

95   requested by the MDA to determine eligibility for the exemption.

96   (2) Business enterprises, as defined in Section

97   57-113-21(b)(ii), shall automatically be eligible for up to two

98   (2) ten-year extensions of the tax exemptions authorized by this

99   article.

100   **SECTION 3.** Section 57-113-25, Mississippi Code of 1972, is

101 amended as follows:

102   57-113-25. (1) Upon approval of the application, the MDA

103 shall issue a certification designating the business enterprise,

104 as defined in Section 57-113-21(b)(i), as eligible for the tax

105 exemptions authorized by this article. This certification shall

106 document the date by which all commitments must be met.

107   (2) Upon the issuance of the certification, the business

108 enterprise, as defined in Section 57-113-21(b)(i), shall be exempt

109 from state taxes for a period of ten (10) years, subject to the

110 performance requirements set out in the agreement required by

111 subsection (3)(c) of this section.

112   (3) The following conditions, along with any other

113 conditions the MDA shall promulgate from time to time by rule or

114 regulation, shall apply to such exemptions:

115   (a) A business enterprise, as defined in Section

116 57-113-21(b)(i) or (ii), using any exemption provided under this

117 article *** * *** cannot *** * *** transfer its exemption to any other

118 person or business *** * *** without prior approval by the MDA;

119   (b) No approved business enterprise, as defined in

120 Section 57-113-21(b)(i) or (ii), may claim or use the exemption

121 granted under this article unless that business enterprise is in

122 full compliance with all state and local tax laws, and related

123 ordinances and resolutions. However, if an audit conducted by any

124 federal or state agency in the ordinary course of business reveals

125 any noncompliance by a business enterprise exempt from state taxes

126 under this article, the business enterprise shall have sixty (60)

127 days from the date of notice in which to remedy its noncompliance

128 before forfeiting its tax-exempt status, subject to any penalties

129 provided in MDA rules and regulations; and

130   (c) The business enterprise, as defined in Section

131 57-113-21(b)(i), must enter into an agreement with the MDA which

132 sets out, at a minimum, the performance requirements of the

133 approved business enterprise during the term of the exemption and

134 provisions for the recapture of all or a portion of the taxes

135 exempted if the performance requirements of the business

136 enterprise are not met.

137   (4) Upon certifying a business enterprise, as defined in

138 Section 57-113-21(b)(i), as eligible for the exemptions under this

139 article, the MDA shall forward the certification along with any

140 other necessary information to the Department of Revenue so that

141 the exemptions can be implemented. A business enterprise, as

142 defined in Section 57-113-21(b)(ii), shall apply directly to the

143 Department of Revenue for the extension of the exemptions and

144 shall provide any necessary information to the department. The

145 Department of Revenue shall promulgate rules and regulations, in

146 accordance with the Mississippi Administrative Procedures Law, for

147 the implementation of the state tax exemptions granted under this

148 article.

149   **SECTION 4.** This act shall take effect and be in force from

150 and after July 1, 2025, and shall stand repealed on June 30, 2025.

~ **OFFICIAL** ~

ST: Data center enterprises; revise certain definitions and other provisions relating to tax exemptions.