Senate Amendments to House Bill No. 1239

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:

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 and any enterprise that has entered or will

33 enter an agreement under the Mississippi Major Economic Impact Act

34 (MMEIA), registered to do business in the state and which is the

35 owner, operator, tenant or affiliate of a data center in this

36 state with a minimum capital investment of:

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

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

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

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

41 the average annual state wage; or

42   (ii) For an addition or expansion, including

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

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

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

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

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

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

49 operated by a business enterprise that utilizes hardware,

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

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

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

53 cryptocurrencies, natively electronic assets, including

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

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

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

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

58 network.

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

60 Authority.

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

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

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

64   component building materials and equipment for initial

65   construction of facilities or expansion of facilities that are

66   certified by the Mississippi Development Authority;

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

68   business enterprise pursuant to law related to the purchase of

69   replacement hardware, software or other necessary technology to

70   operate a data center;

71   ** * ***

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

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

74   enterprise certified by the Mississippi Development

75   Authority ** * **; and

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

77   law related to the purchase of electricity.

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

79   amended as follows:

80   57-113-23. (1) Business enterprises, as defined in Section

81   57-113-21(b)(i), wishing to apply for the tax exemptions

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

83   to construction or acquisition of the buildings for the

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

85   application, at a minimum, shall contain:

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

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

88 necessary for the company to meet its investment and employment

89 requirements;

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

91 * * *

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

93 will be required to provide annual documentation to demonstrate

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

95 maintained; and

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

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

98   (2) Business enterprises, as defined in Section

99 57-113-21(b)(ii), shall automatically be eligible for up to two

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

101 article.

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

103 amended as follows:

104   57-113-25. (1) Upon approval of the application, the MDA

105 shall issue a certification designating the business enterprise,

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

107 exemptions authorized by this article. This certification shall

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

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

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

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

112 performance requirements set out in the agreement required by

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

114   (3) The following conditions, along with any other
115 conditions the MDA shall promulgate from time to time by rule or
116 regulation, shall apply to such exemptions:

117   (a) A business enterprise, as defined in Section
118 57-113-21(b)(i) or (ii), using any exemption provided under this
119 article * * * cannot * * * transfer its exemption to any other
120 person or business * * * without prior approval by the MDA;

121   (b) No approved business enterprise, as defined in
122 Section 57-113-21(b)(i) or (ii), may claim or use the exemption
123 granted under this article unless that business enterprise is in
124 full compliance with all state and local tax laws, and related
125 ordinances and resolutions. However, if an audit conducted by any
126 federal or state agency in the ordinary course of business reveals
127 any noncompliance by a business enterprise exempt from state taxes
128 under this article, the business enterprise shall have sixty (60)
129 days from the date of notice in which to remedy its noncompliance
130 before forfeiting its tax-exempt status, subject to any penalties
131 provided in MDA rules and regulations; and

132   (c) The business enterprise, as defined in Section
133 57-113-21(b)(i), must enter into an agreement with the MDA which
134 sets out, at a minimum, the performance requirements of the
135 approved business enterprise during the term of the exemption and
136 provisions for the recapture of all or a portion of the taxes
137 exempted if the performance requirements of the business
138 enterprise are not met.

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

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

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

142 other necessary information to the Department of Revenue so that

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

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

145 Department of Revenue for the extension of the exemptions and

146 shall provide any necessary information to the department. The

147 Department of Revenue shall promulgate rules and regulations, in

148 accordance with the Mississippi Administrative Procedures Law, for

149 the implementation of the state tax exemptions granted under this

150 article.

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

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

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

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.

Amanda White
Secretary of the Senate