

By: Representative Morris

To: Ways and Means

HOUSE BILL NO. 1831

1 AN ACT TO AMEND SECTION 27-65-101, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE AN INDUSTRIAL SALES TAX EXEMPTION FOR SALES OF
3 EQUIPMENT TO TELECOMMUNICATIONS ENTERPRISES WHICH IS USED IN THE
4 DEPLOYMENT OF BROADBAND TECHNOLOGIES AND INSTALLED IN TIER THREE
5 AREAS AS DESIGNATED UNDER SECTION 57-73-21; AND FOR RELATED
6 PURPOSES.

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

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

10 27-65-101. (1) The exemptions from the provisions of this
11 chapter which are of an industrial nature or which are more
12 properly classified as industrial exemptions than any other
13 exemption classification of this chapter shall be confined to
14 those persons or property exempted by this section or by the
15 provisions of the Constitution of the United States or the State
16 of Mississippi. No industrial exemption as now provided by any
17 other section except Section 57-3-33 shall be valid as against the
18 tax herein levied. Any subsequent industrial exemption from the
19 tax levied hereunder shall be provided by amendment to this
20 section. No exemption provided in this section shall apply to
21 taxes levied by Section 27-65-15 or 27-65-21.

22 The tax levied by this chapter shall not apply to the
23 following:

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



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

31 (b) Sales of raw materials, catalysts, processing
32 chemicals, welding gases or other industrial processing gases
33 (except natural gas) to a manufacturer for use directly in
34 manufacturing or processing a product for sale or rental or
35 repairing or reconditioning vessels or barges of fifty (50) tons
36 load displacement and over. This exemption shall not apply to any
37 property used as fuel except to the extent that such fuel
38 comprises by-products which have no market value.

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

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

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

50 (f) Sales of petroleum products to vessels or barges
51 for consumption in marine international commerce or interstate
52 transportation businesses.

53 (g) Sales and rentals of rail rolling stock (and
54 component parts thereof) for ultimate use in interstate commerce
55 and gross income from services with respect to manufacturing,
56 repairing, cleaning, altering, reconditioning or improving such
57 rail rolling stock (and component parts thereof).

58 (h) Sales of raw materials, catalysts, processing
59 chemicals, welding gases or other industrial processing gases
60 (except natural gas) used or consumed directly in manufacturing,
61 repairing, cleaning, altering, reconditioning or improving such



62 rail rolling stock (and component parts thereof). This exemption
63 shall not apply to any property used as fuel.

64 (i) Sales of machinery or tools or repair parts
65 therefor or replacements thereof, fuel or supplies used directly
66 in manufacturing, converting or repairing ships of three thousand
67 (3,000) tons load displacement and over, but not to include office
68 and plant supplies or other equipment not directly used on the
69 ship being built, converted or repaired.

70 (j) Sales of tangible personal property to persons
71 operating ships in international commerce for use or consumption
72 on board such ships. This exemption shall be limited to cases in
73 which procedures satisfactory to the commissioner, ensuring
74 against use in this state other than on such ships, are
75 established.

76 (k) Sales of materials used in the construction of a
77 building, or any addition or improvement thereon, and sales of any
78 machinery and equipment not later than three (3) months after the
79 completion of construction of the building, or any addition
80 thereon, to be used therein, to qualified businesses, as defined
81 in Section 57-51-5, which are located in a county or portion
82 thereof designated as an enterprise zone pursuant to Sections
83 57-51-1 through 57-51-15.

84 (l) Sales of materials used in the construction of a
85 building, or any addition or improvement thereon, and sales of any
86 machinery and equipment not later than three (3) months after the
87 completion of construction of the building, or any addition
88 thereon, to be used therein, to qualified businesses, as defined
89 in Section 57-54-5.

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

92 (n) The value of natural gas lawfully injected into the
93 earth for cycling, repressuring or lifting of oil, or lawfully
94 vented or flared in connection with the production of oil;



95 however, if any gas so injected into the earth is sold for such
96 purposes, then the gas so sold shall not be exempt.

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

99 (p) Sales of materials used in the construction of a
100 building, or any addition or improvement thereon, and sales of any
101 machinery and equipment not later than three (3) months after the
102 completion of construction of the building, or any addition
103 thereon, to be used therein, to qualified companies, certified as
104 such by the Mississippi Development Authority under Section
105 57-53-1.

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

118 (r) Sales of component materials used in the
119 construction of a building, or any addition or improvement
120 thereon, and sales of any machinery and equipment not later than
121 three (3) months after the completion of the building, addition or
122 improvement thereon, to be used therein, for any company
123 establishing or transferring its national or regional headquarters
124 from within or outside the State of Mississippi and creating a
125 minimum of thirty-five (35) jobs at the new headquarters in this
126 state. The Tax Commission shall establish criteria and prescribe
127 procedures to determine if a company qualifies as a national or



128 regional headquarters for the purpose of receiving the exemption
129 provided in this paragraph.

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

134 (t) Gross income from the storage and handling of
135 natural gas in underground salt domes and in other underground
136 reservoirs, caverns, structures and formations suitable for such
137 storage.

138 (u) Sales of machinery and equipment to nonprofit
139 organizations if the organization: (i) is tax-exempt pursuant to
140 Section 501(c)(4) of the Internal Revenue Code of 1986, as
141 amended; (ii) assists in the implementation of the national
142 contingency plan or area contingency plan, and which is created in
143 response to the requirements of Title IV, Subtitle B of the Oil
144 Pollution Act of 1990, Public Law 101-380; and (iii) engages
145 primarily in programs to contain, clean up and otherwise mitigate
146 spills of oil or other substances occurring in the United States
147 coastal and tidal waters. For purposes of this exemption,
148 "machinery and equipment" means any ocean-going vessels, barges,
149 booms, skimmers and other capital equipment used primarily in the
150 operations of nonprofit organizations referred to herein.

151 (v) Sales of component materials and equipment to
152 approved business enterprises as provided under the Growth and
153 Prosperity Act.

154 (w) From and after July 1, 2001, sales of pollution
155 control equipment to manufacturers or custom processors for
156 industrial use. For the purposes of this exemption, "pollution
157 control equipment" means equipment, devices, machinery or systems
158 used or acquired to prevent, control, monitor or reduce air, water
159 or groundwater pollution, or solid or hazardous waste as required
160 by federal or state law or regulation.



161 (x) Sales or leases to a manufacturer of motor vehicles
162 operating a project that has been certified by the Mississippi
163 Major Economic Impact Authority as a project as defined in Section
164 57-75-5(f)(iv)1 of machinery and equipment; special tooling such
165 as dies, molds, jigs and similar items treated as special tooling
166 for federal income tax purposes; or repair parts therefor or
167 replacements thereof; repair services thereon; fuel, supplies,
168 electricity, coal and natural gas used directly in the manufacture
169 of motor vehicles or motor vehicle parts or used to provide
170 climate control for manufacturing areas.

171 (y) Sales or leases of component materials, machinery
172 and equipment used in the construction of a building, or any
173 addition or improvement thereon to an enterprise operating a
174 project that has been certified by the Mississippi Major Economic
175 Impact Authority as a project as defined in Section
176 57-75-5(f)(iv)1 and any other sales or leases required to
177 establish or operate such project.

178 (z) Sales to telecommunications enterprises (as defined
179 in Section 57-73-21(13)) of equipment used in the deployment of
180 broadband technologies and which is installed in Tier Three areas
181 (as designated under Section 57-73-21). For the purposes of this
182 exemption, the term "equipment used in the deployment of broadband
183 technologies" means any equipment with the capability to transmit,
184 before taking into account the effects of any signal degradation,
185 using a packet-switched or successor technology, information at a
186 rate that is not less than three hundred eighty-four (384)
187 kilobits per second in at least one direction. Such term
188 includes, but is not limited to, asynchronous transfer mode
189 switches, digital subscriber line access multiplexers, routers,
190 servers, multiplexers, fiber optics and related equipment.

191 (2) Sales of component materials used in the construction of
192 a building, or any addition or improvement thereon, sales of
193 machinery and equipment to be used therein, and sales of



194 manufacturing or processing machinery and equipment which is
195 permanently attached to the ground or to a permanent foundation
196 and which is not by its nature intended to be housed within a
197 building structure, not later than three (3) months after the
198 initial start-up date, to permanent business enterprises engaging
199 in manufacturing or processing in Tier Two areas and Tier One
200 areas (as such areas are designated in accordance with Section
201 57-73-21), which businesses are certified by the State Tax
202 Commission as being eligible for the exemption granted in this
203 paragraph, shall be exempt from one-half (1/2) of the taxes
204 imposed on such transactions under this chapter.

205 **SECTION 2.** Nothing in this act shall affect or defeat any
206 claim, assessment, appeal, suit, right or cause of action for
207 taxes due or accrued under the sales tax laws before the date on
208 which this act becomes effective, whether such claims,
209 assessments, appeals, suits or actions have been begun before the
210 date on which this act becomes effective or are begun thereafter;
211 and the provisions of the sales tax laws are expressly continued
212 in full force, effect and operation for the purpose of the
213 assessment, collection and enrollment of liens for any taxes due
214 or accrued and the execution of any warrant under such laws before
215 the date on which this act becomes effective, and for the
216 imposition of any penalties, forfeitures or claims for failure to
217 comply with such laws.

218 **SECTION 3.** This act shall take effect and be in force from
219 and after July 1, 2002.

