

By: Senator(s) Robertson

To: Finance

SENATE BILL NO. 3186

1 AN ACT TO AMEND SECTION 27-65-17, MISSISSIPPI CODE OF 1972,
2 TO IMPOSE THE SALES TAX AT A REDUCED RATE ON CERTAIN SALES OF
3 MACHINERY AND MACHINE PARTS TO A HIGH TECHNOLOGY BUSINESS FOR
4 PLANT USE; TO AMEND SECTION 27-65-101, MISSISSIPPI CODE OF 1972,
5 TO EXEMPT FROM SALES TAXATION SALES OF CERTAIN COMPONENT MATERIALS
6 AND MACHINERY AND EQUIPMENT TO HIGH TECHNOLOGY BUSINESSES FOR
7 INDUSTRIAL PURPOSES; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 27-65-17, Mississippi Code of 1972, is
10 amended as follows:

11 27-65-17. (1) Upon every person engaging or continuing
12 within this state in the business of selling any tangible personal
13 property whatsoever there is hereby levied, assessed and shall be
14 collected a tax equal to seven percent (7%) of the gross proceeds
15 of the retail sales of the business, except as otherwise provided
16 herein.

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

19 Retail sales of farm implements sold to farmers and used
20 directly in the production of poultry, ratite, domesticated fish
21 as defined in Section 69-7-501, livestock, livestock products,
22 agricultural crops or ornamental plant crops or used for other
23 agricultural purposes shall be taxed at the rate of three percent
24 (3%) when used on the farm. The three percent (3%) rate shall
25 also apply to all equipment used in logging, pulpwood operations
26 or tree farming which is either (a) self-propelled or which is (b)
27 mounted so that it is (i) permanently attached to other equipment
28 which is self-propelled or (ii) permanently attached to other
29 equipment drawn by a vehicle which is self-propelled.

30 Except as otherwise provided in subsection (3) of this
31 section, retail sales of aircraft, automobiles, trucks,
32 truck-tractors, semitrailers and mobile homes shall be taxed at
33 the rate of three percent (3%).

34 Sales of manufacturing machinery or manufacturing machine
35 parts when made to a manufacturer or custom processor for plant
36 use only when the machinery and machine parts will be used
37 exclusively and directly within this state in manufacturing a
38 commodity for sale, rental or in processing for a fee shall be
39 taxed at the rate of one and one-half percent (1-1/2%).

40 Sales of machinery and machine parts when made to a high
41 technology business for plant use only when the machinery and
42 machine parts will be used exclusively and directly within this
43 state for industrial purposes, including, but not limited to,
44 manufacturing or research and development activities, shall be
45 taxed at the rate of one and one-half percent (1-1/2%).

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

50 Sales of tangible personal property to electric power
51 associations for use in the ordinary and necessary operation of
52 their generating or distribution systems shall be taxed at the
53 rate of one percent (1%).

54 Wholesale sales of beer shall be taxed at the rate of seven
55 percent (7%), and the retailer shall file a return and compute the
56 retail tax on retail sales but may take credit for the amount of
57 the tax paid to the wholesaler on the return covering the
58 subsequent sales of same property, provided adequate invoices and
59 records are maintained to substantiate the credit.

60 Wholesale sales of food and drink for human consumption to
61 full service vending machine operators to be sold through vending

62 machines located apart from and not connected with other taxable
63 businesses shall be taxed at the rate of eight percent (8%).

64 A manufacturer selling at retail in this state shall be
65 required to make returns of the gross proceeds of such sales and
66 pay the tax imposed in this section.

67 Any person exercising any privilege taxable under Section
68 27-65-15 and selling his natural resource products at wholesale or
69 to exempt persons shall pay the tax levied by such section in lieu
70 of the tax levied by this section.

71 (2) From and after January 1, 1995, retail sales of private
72 carriers of passengers and light carriers of property, as defined
73 in Section 27-51-101, shall be taxed an additional two percent
74 (2%).

75 (3) In lieu of the tax levied in subsection (1) of this
76 section, there is levied on retail sales of truck-tractors and
77 semitrailers used in interstate commerce and registered under the
78 International Registration Plan (IRP) or any similar reciprocity
79 agreement or compact relating to the proportional registration of
80 commercial vehicles entered into as provided for in Section
81 27-19-143, a tax at the rate of three percent (3%) of the portion
82 of the sale that is attributable to the usage of such
83 truck-tractor or semitrailer in Mississippi. The portion of the
84 retail sale that is attributable to the usage of such
85 truck-tractor or semitrailer in Mississippi is the retail sales
86 price of the truck-tractor or semitrailer multiplied by the
87 percentage of the total miles traveled by the vehicle that are
88 traveled in Mississippi. The tax levied pursuant to this
89 subsection (3) shall be collected by the State Tax Commission from
90 the purchaser of such truck-tractor or semitrailer at the time of
91 registration of such truck-tractor or semitrailer.

92 **SECTION 2.** Section 27-65-101, Mississippi Code of 1972, is
93 amended as follows:

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

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

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

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

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

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

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

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

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

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

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

(j) Sales of tangible personal property to persons operating ships in international commerce for use or consumption

on board such ships. This exemption shall be limited to cases in which procedures satisfactory to the commissioner, ensuring against use in this state other than on such ships, are established.

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

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

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

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

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

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

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

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

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

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

(t) Gross income from the storage and handling of natural gas in underground salt domes and in other underground

reservoirs, caverns, structures and formations suitable for such storage.

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

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

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

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

of motor vehicles or motor vehicle parts or used to provide climate control for manufacturing areas.

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

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

(aa) Sales of component materials used in the construction of a building, or any addition or improvement thereto, and sales of machinery and equipment not later than three (3) months after the completion of construction of the building, or any addition or improvement thereto, to be used in the building or any addition or improvement thereto, to qualified high technology businesses for industrial purposes, as certified by the State Tax Commission.

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

(3) (a) For purposes of this subsection:

(i) "Telecommunications enterprises" shall have the meaning ascribed to such term in Section 57-73-21(13);

(ii) "Tier One areas" mean counties designated as Tier One areas pursuant to Section 57-73-21(1);

(iii) "Tier Two areas" mean counties designated as Tier Two areas pursuant to Section 57-73-21(1);

(iv) "Tier Three areas" mean counties designated as Tier Three areas pursuant to Section 57-73-21(1); and

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

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

(c) Sales of equipment to telecommunications enterprises after June 30, 2003, and before July 1, 2013, that is installed in Tier Two and Tier Three areas and used in the deployment of broadband technologies shall be exempt from the taxes imposed on such transactions under this chapter.

SECTION 3. This act shall take effect and be in force from and after its passage.