

By: Senator(s) Clarke

To: Finance

## SENATE BILL NO. 2347

1 AN ACT TO AMEND SECTION 27-65-101, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT SALES OF CERTAIN TANGIBLE PERSONAL PROPERTY USED  
3 DIRECTLY IN THE MANUFACTURING, CONVERTING OR REPAIRING OF VESSELS  
4 OR BARGES SHALL BE EXEMPT FROM SALES TAXATION; AND FOR RELATED  
5 PURPOSES.

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

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

9 27-65-101. (1) The exemptions from the provisions of this  
10 chapter which are of an industrial nature or which are more  
11 properly classified as industrial exemptions than any other  
12 exemption classification of this chapter shall be confined to  
13 those persons or property exempted by this section or by the  
14 provisions of the Constitution of the United States or the State  
15 of Mississippi. No industrial exemption as now provided by any  
16 other section except Section 57-3-33 shall be valid as against the  
17 tax herein levied. Any subsequent industrial exemption from the  
18 tax levied hereunder shall be provided by amendment to this  
19 section. No exemption provided in this section shall apply to  
20 taxes levied by Section 27-65-15 or 27-65-21.

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

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

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

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

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

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

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

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

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

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

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

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

79           (k) Sales of materials used in the construction of a  
80 building, or any addition or improvement thereon, and sales of any  
81 machinery and equipment not later than three (3) months after the  
82 completion of construction of the building, or any addition  
83 thereon, to be used therein, to qualified businesses, as defined  
84 in Section 57-51-5, which are located in a county or portion  
85 thereof designated as an enterprise zone pursuant to Sections  
86 57-51-1 through 57-51-15.

87           (l) Sales of materials used in the construction of a  
88 building, or any addition or improvement thereon, and sales of any  
89 machinery and equipment not later than three (3) months after the  
90 completion of construction of the building, or any addition  
91 thereon, to be used therein, to qualified businesses, as defined  
92 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

126 establishing or transferring its national or regional headquarters  
127 from within or outside the State of Mississippi and creating a  
128 minimum of thirty-five (35) jobs at the new headquarters in this  
129 state. The Tax Commission shall establish criteria and prescribe  
130 procedures to determine if a company qualifies as a national or  
131 regional headquarters for the purpose of receiving the exemption  
132 provided in this paragraph.

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

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

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

154           (v) Sales or leases of materials and equipment to  
155 approved business enterprises as provided under the Growth and  
156 Prosperity Act.

157           (w) From and after July 1, 2001, sales of pollution  
158 control equipment to manufacturers or custom processors for

159 industrial use. For the purposes of this exemption, "pollution  
160 control equipment" means equipment, devices, machinery or systems  
161 used or acquired to prevent, control, monitor or reduce air, water  
162 or groundwater pollution, or solid or hazardous waste as required  
163 by federal or state law or regulation.

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

174 (y) Sales or leases of component materials, machinery  
175 and equipment used in the construction of a building, or any  
176 addition or improvement thereon to an enterprise operating a  
177 project that has been certified by the Mississippi Major Economic  
178 Impact Authority as a project as defined in Section  
179 57-75-5(f)(iv)1 and any other sales or leases required to  
180 establish or operate such project.

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

183 (aa) The gross income from the stripping and painting  
184 of commercial aircraft engaged in foreign or interstate  
185 transportation business.

186 (bb) Sales of production items used in the production  
187 of motion pictures such as film; videotape; component building  
188 materials used in the construction of a set; makeup; fabric used  
189 as or in the making of costumes; clothing, including, shoes,  
190 accessories and jewelry used as wardrobes; materials used as set  
191 dressing; materials used as props on a set or by an actor;

materials used in the creation of special effects; and expendable items purchased for limited use by grip, electric and camera departments such as tape, fasteners and compressed air. For the purposes of this paragraph (aa) the term "motion picture" means a nationally distributed feature-length film, video, television series or commercial made in Mississippi, in whole or in part, for theatrical or television viewing or as a television pilot. The term "motion picture" shall not include the production of television coverage of news and athletic events, or a film, video, television series or commercial that contains any material or performance defined in Section 97-29-103.

(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);

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

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

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

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

245 **SECTION 2.** This act shall take effect and be in force from  
246 and after July 1, 2005.