

By: Senator(s) Clarke

To: Finance

SENATE BILL NO. 2347
(As Passed the Senate)

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, catalyts, 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. For purposes of this exemption, "ships, vessels or
73 barges" shall not include floating structures described in Section
74 27-65-18.

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

81 (k) Sales of materials used in the construction of a
82 building, or any addition or improvement thereon, and sales of any
83 machinery and equipment not later than three (3) months after the
84 completion of construction of the building, or any addition
85 thereon, to be used therein, to qualified businesses, as defined
86 in Section 57-51-5, which are located in a county or portion
87 thereof designated as an enterprise zone pursuant to Sections
88 57-51-1 through 57-51-15.

89 (l) Sales of materials used in the construction of a
90 building, or any addition or improvement thereon, and sales of any
91 machinery and equipment not later than three (3) months after the
92 completion of construction of the building, or any addition

93 thereon, to be used therein, to qualified businesses, as defined
94 in Section 57-54-5.

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

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

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

104 (p) Sales of materials used in the construction of a
105 building, or any addition or improvement thereon, and sales of any
106 machinery and equipment not later than three (3) months after the
107 completion of construction of the building, or any addition
108 thereon, to be used therein, to qualified companies, certified as
109 such by the Mississippi Development Authority under Section
110 57-53-1.

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

123 (r) Sales of component materials used in the
124 construction of a building, or any addition or improvement
125 thereon, and sales of any machinery and equipment not later than

126 three (3) months after the completion of the building, addition or
127 improvement thereon, to be used therein, for any company
128 establishing or transferring its national or regional headquarters
129 from within or outside the State of Mississippi and creating a
130 minimum of thirty-five (35) jobs at the new headquarters in this
131 state. The Tax Commission shall establish criteria and prescribe
132 procedures to determine if a company qualifies as a national or
133 regional headquarters for the purpose of receiving the exemption
134 provided in this paragraph.

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

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

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

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

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

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

176 (y) Sales or leases of component materials, machinery
177 and equipment used in the construction of a building, or any
178 addition or improvement thereon to an enterprise operating a
179 project that has been certified by the Mississippi Major Economic
180 Impact Authority as a project as defined in Section
181 57-75-5(f)(iv)1 and any other sales or leases required to
182 establish or operate such project.

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

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

188 (bb) Sales of production items used in the production
189 of motion pictures such as film; videotape; component building
190 materials used in the construction of a set; makeup; fabric used
191 as or in the making of costumes; clothing, including, shoes,

192 accessories and jewelry used as wardrobes; materials used as set
193 dressing; materials used as props on a set or by an actor;
194 materials used in the creation of special effects; and expendable
195 items purchased for limited use by grip, electric and camera
196 departments such as tape, fasteners and compressed air. For the
197 purposes of this paragraph (aa) the term "motion picture" means a
198 nationally distributed feature-length film, video, television
199 series or commercial made in Mississippi, in whole or in part, for
200 theatrical or television viewing or as a television pilot. The
201 term "motion picture" shall not include the production of
202 television coverage of news and athletic events, or a film, video,
203 television series or commercial that contains any material or
204 performance defined in Section 97-29-103.

205 (2) Sales of component materials used in the construction of
206 a building, or any addition or improvement thereon, sales of
207 machinery and equipment to be used therein, and sales of
208 manufacturing or processing machinery and equipment which is
209 permanently attached to the ground or to a permanent foundation
210 and which is not by its nature intended to be housed within a
211 building structure, not later than three (3) months after the
212 initial start-up date, to permanent business enterprises engaging
213 in manufacturing or processing in Tier Two areas and Tier One
214 areas (as such areas are designated in accordance with Section
215 57-73-21), which businesses are certified by the State Tax
216 Commission as being eligible for the exemption granted in this
217 paragraph, shall be exempt from one-half (1/2) of the taxes
218 imposed on such transactions under this chapter.

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

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

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

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

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

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

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

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

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