

By: Senator(s) Robertson, Hewes

To: Finance

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 3026

1 AN ACT TO AMEND SECTION 27-65-23, MISSISSIPPI CODE OF 1972,
2 TO REMOVE THE REPAIRING AND SERVICING OF AIRCRAFT ENGAGED IN
3 FOREIGN OR INTERSTATE COMMERCE FROM THE ACTIVITIES TAXED UNDER THE
4 SALES TAX LAW; TO AMEND SECTION 27-65-101, MISSISSIPPI CODE OF
5 1972, TO EXEMPT FROM SALES TAXATION SALES OF PARTS USED IN THE
6 REPAIR AND MAINTENANCE OF AIRCRAFT ENGAGED IN FOREIGN OR
7 INTERSTATE COMMERCE TO BUSINESSES ENGAGED IN AIRCRAFT REPAIR AND
8 MAINTENANCE; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 27-65-23, Mississippi Code of 1972, is
11 amended as follows:

12 27-65-23. Upon every person engaging or continuing in any of
13 the following businesses or activities there is hereby levied,
14 assessed and shall be collected a tax equal to seven percent (7%)
15 of the gross income of the business, except as otherwise provided:

- 16 Air conditioning installation or repairs;
- 17 Automobile, aircraft, motorcycle, boat or any other
- 18 vehicle repairing or servicing, except the repairing or servicing
- 19 of aircraft engaged in foreign or interstate transportation;
- 20 Billiards, pool or domino parlors;
- 21 Bowling or tenpin alleys;
- 22 Burglar and fire alarm systems or services;
- 23 Car washing--automatic, self-service, or manual;
- 24 Computer software sales and services;
- 25 Cotton compresses or cotton warehouses;
- 26 Custom creosoting or treating, custom planing, custom
- 27 sawing;
- 28 Custom meat processing;
- 29 Electricians, electrical work, wiring, all repairs or
- 30 installation of electrical equipment;

31 Elevator or escalator installing, repairing or
32 servicing;
33 Film developing or photo finishing;
34 Foundries, machine or general repairing;
35 Furniture repairing or upholstering;
36 Grading, excavating, ditching, dredging or landscaping;
37 Hotels, motels, tourist courts or camps, trailer parks;
38 Insulating services or repairs;
39 Jewelry or watch repairing;
40 Laundering, cleaning, pressing or dyeing;
41 Marina services;
42 Mattress renovating;
43 Office and business machine repairing;
44 Parking garages and lots;
45 Plumbing or pipe fitting;
46 Public storage warehouses (There shall be no tax levied
47 on gross income of a public storage warehouse derived from the
48 temporary storage of tangible personal property in this state
49 pending shipping or mailing of the property to another state);
50 Refrigerating equipment repairs;
51 Radio or television installing, repairing, or servicing;
52 Renting or leasing personal property used within this
53 state;
54 Services performed in connection with geophysical
55 surveying, exploring, developing, drilling, producing,
56 distributing, or testing of oil, gas, water and other mineral
57 resources;
58 Shoe repairing;
59 Storage lockers;
60 Telephone answering or paging services;
61 Termite or pest control services;
62 Tin and sheet metal shops;

63 TV cable systems, subscription TV services, and other
64 similar activities;

65 Vulcanizing, repairing or recapping of tires or tubes;
66 Welding; and

67 Woodworking or wood turning shops.

68 Income from services taxed herein performed for electric
69 power associations in the ordinary and necessary operation of
70 their generating or distribution systems shall be taxed at the
71 rate of one percent (1%).

72 Income from services taxed herein performed on materials for
73 use in track or track structures to a railroad whose rates are
74 fixed by the Interstate Commerce Commission or the Mississippi
75 Public Service Commission shall be taxed at the rate of three
76 percent (3%).

77 Income from renting or leasing tangible personal property
78 used within this state shall be taxed at the same rates as sales
79 of the same property.

80 Persons doing business in this state who rent transportation
81 equipment with a situs within or without the state to common,
82 contract or private commercial carriers are taxed on that part of
83 the income derived from use within this state. If specific
84 accounting is impracticable, a formula may be used with approval
85 of the commissioner.

86 A lessor may deduct from the tax computed on the rental
87 income from tangible personal property a credit for sales or use
88 tax paid to this state at the time of purchase of the specific
89 personal property being leased or rented until such credit has
90 been exhausted.

91 Charges for custom processing and repairing services may be
92 excluded from gross taxable income when the property on which the
93 service was performed is delivered to the customer in another
94 state either by common carrier or in the seller's equipment.

95 When a taxpayer performs unitary services covered by this
96 section, which are performed both in intrastate and interstate
97 commerce, the commissioner is hereby invested with authority to
98 formulate in each particular case and to fix for such taxpayer in
99 each instance formulae of apportionment which will apportion to
100 this state, for taxation, that portion of the services which are
101 performed within the State of Mississippi.

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

104 27-65-101. (1) The exemptions from the provisions of this
105 chapter which are of an industrial nature or which are more
106 properly classified as industrial exemptions than any other
107 exemption classification of this chapter shall be confined to
108 those persons or property exempted by this section or by the
109 provisions of the Constitution of the United States or the State
110 of Mississippi. No industrial exemption as now provided by any
111 other section except Section 57-3-33 shall be valid as against the
112 tax herein levied. Any subsequent industrial exemption from the
113 tax levied hereunder shall be provided by amendment to this
114 section. No exemption provided in this section shall apply to
115 taxes levied by Section 27-65-15 or 27-65-21.

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

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

125 (b) Sales of raw materials, catalysts, processing
126 chemicals, welding gases or other industrial processing gases
127 (except natural gas) to a manufacturer for use directly in

128 manufacturing or processing a product for sale or rental or
129 repairing or reconditioning vessels or barges of fifty (50) tons
130 load displacement and over. For the purposes of this exemption,
131 electricity used directly in the electrolysis process in the
132 production of sodium chlorate shall be considered a raw material.
133 This exemption shall not apply to any property used as fuel except
134 to the extent that such fuel comprises by-products which have no
135 market value.

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

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

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

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

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

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

161 (i) Sales of machinery or tools or repair parts
162 therefor or replacements thereof, fuel or supplies used directly
163 in manufacturing, converting or repairing ships of three thousand
164 (3,000) tons load displacement and over, but not to include office
165 and plant supplies or other equipment not directly used on the
166 ship being built, converted or repaired.

167 (j) Sales of tangible personal property to persons
168 operating ships in international commerce for use or consumption
169 on board such ships. This exemption shall be limited to cases in
170 which procedures satisfactory to the commissioner, ensuring
171 against use in this state other than on such ships, are
172 established.

173 (k) Sales of materials used in the construction of a
174 building, or any addition or improvement thereon, and sales of any
175 machinery and equipment not later than three (3) months after the
176 completion of construction of the building, or any addition
177 thereon, to be used therein, to qualified businesses, as defined
178 in Section 57-51-5, which are located in a county or portion
179 thereof designated as an enterprise zone pursuant to Sections
180 57-51-1 through 57-51-15.

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

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

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

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

196 (p) Sales of materials used in the construction of a
197 building, or any addition or improvement thereon, and sales of any
198 machinery and equipment not later than three (3) months after the
199 completion of construction of the building, or any addition
200 thereon, to be used therein, to qualified companies, certified as
201 such by the Mississippi Development Authority under Section
202 57-53-1.

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

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

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

231 (t) Gross income from the storage and handling of
232 natural gas in underground salt domes and in other underground
233 reservoirs, caverns, structures and formations suitable for such
234 storage.

235 (u) Sales of machinery and equipment to nonprofit
236 organizations if the organization:

237 (i) Is tax-exempt pursuant to Section 501(c)(4) of
238 the Internal Revenue Code of 1986, as amended;

239 (ii) Assists in the implementation of the national
240 contingency plan or area contingency plan, and which is created in
241 response to the requirements of Title IV, Subtitle B of the Oil
242 Pollution Act of 1990, Public Law 101-380; and

243 (iii) Engages primarily in programs to contain,
244 clean up and otherwise mitigate spills of oil or other substances
245 occurring in the United States coastal and tidal waters.

246 For purposes of this exemption, "machinery and equipment"
247 means any ocean-going vessels, barges, booms, skimmers and other
248 capital equipment used primarily in the operations of nonprofit
249 organizations referred to herein.

250 (v) Sales or leases of materials and equipment to
251 approved business enterprises as provided under the Growth and
252 Prosperity Act.

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

260 (x) Sales or leases to a manufacturer of motor vehicles
261 operating a project that has been certified by the Mississippi
262 Major Economic Impact Authority as a project as defined in Section
263 57-75-5(f)(iv)1 of machinery and equipment; special tooling such
264 as dies, molds, jigs and similar items treated as special tooling
265 for federal income tax purposes; or repair parts therefor or
266 replacements thereof; repair services thereon; fuel, supplies,
267 electricity, coal and natural gas used directly in the manufacture
268 of motor vehicles or motor vehicle parts or used to provide
269 climate control for manufacturing areas.

270 (y) Sales or leases of component materials, machinery
271 and equipment used in the construction of a building, or any
272 addition or improvement thereon to an enterprise operating a
273 project that has been certified by the Mississippi Major Economic
274 Impact Authority as a project as defined in Section
275 57-75-5(f)(iv)1 and any other sales or leases required to
276 establish or operate such project.

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

279 (aa) The gross income from the stripping and painting
280 of commercial aircraft engaged in foreign or interstate
281 transportation business.

282 (bb) Sales of production items used in the production
283 of motion pictures such as film; videotape; component building
284 materials used in the construction of a set; makeup; fabric used
285 as or in the making of costumes; clothing, including, shoes,
286 accessories and jewelry used as wardrobes; materials used as set
287 dressing; materials used as props on a set or by an actor;
288 materials used in the creation of special effects; and expendable
289 items purchased for limited use by grip, electric and camera
290 departments such as tape, fasteners and compressed air. For the
291 purposes of this paragraph * * * the term "motion picture" means a
292 nationally distributed feature-length film, video, television

293 series or commercial made in Mississippi, in whole or in part, for
294 theatrical or television viewing or as a television pilot. The
295 term "motion picture" shall not include the production of
296 television coverage of news and athletic events, or a film, video,
297 television series or commercial that contains any material or
298 performance defined in Section 97-29-103.

299 (cc) Sales of parts used in the repair and servicing of
300 aircraft engaged in foreign or interstate commerce to businesses
301 engaged in aircraft repair and maintenance.

302 (2) Sales of component materials used in the construction of
303 a building, or any addition or improvement thereon, sales of
304 machinery and equipment to be used therein, and sales of
305 manufacturing or processing machinery and equipment which is
306 permanently attached to the ground or to a permanent foundation
307 and which is not by its nature intended to be housed within a
308 building structure, not later than three (3) months after the
309 initial start-up date, to permanent business enterprises engaging
310 in manufacturing or processing in Tier Two areas and Tier One
311 areas (as such areas are designated in accordance with Section
312 57-73-21), which businesses are certified by the State Tax
313 Commission as being eligible for the exemption granted in this
314 paragraph, shall be exempt from one-half (1/2) of the taxes
315 imposed on such transactions under this chapter.

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

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

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

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

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

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

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

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

344 **SECTION 3.** This act shall take effect and be in force from
345 and after July 1, 2005.