

REPORT OF CONFERENCE COMMITTEE

MADAM PRESIDENT AND MR. SPEAKER:

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

S. B. No. 3026: Sales taxation; exempt repair and servicing of aircraft engaged in interstate commerce from.

We, therefore, respectfully submit the following report and recommendation:

1. That the House recede from its Amendment No. 1.
2. That the Senate and House adopt the following amendment:

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

14 **SECTION 1.** Section 27-65-23, Mississippi Code of 1972, is
15 amended as follows:
16 27-65-23. Upon every person engaging or continuing in any of
17 the following businesses or activities there is hereby levied,
18 assessed and shall be collected a tax equal to seven percent (7%)
19 of the gross income of the business, except as otherwise provided:
20 Air conditioning installation or repairs;
21 Automobile, aircraft, motorcycle, boat or any other
22 vehicle repairing or servicing, except the repairing or servicing
23 of aircraft not registered in Mississippi engaged exclusively in
24 the business of foreign or interstate transportation;
25 Billiards, pool or domino parlors;
26 Bowling or tenpin alleys;
27 Burglar and fire alarm systems or services;
28 Car washing--automatic, self-service, or manual;
29 Computer software sales and services;
30 Cotton compresses or cotton warehouses;
31 Custom creosoting or treating, custom planing, custom
32 sawing;
33 Custom meat processing;

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

66 Termite or pest control services;
67 Tin and sheet metal shops;
68 TV cable systems, subscription TV services, and other
69 similar activities;
70 Vulcanizing, repairing or recapping of tires or tubes;
71 Welding; and
72 Woodworking or wood turning shops.

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

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

82 Income from renting or leasing tangible personal property
83 used within this state shall be taxed at the same rates as sales
84 of the same property.

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

91 A lessor may deduct from the tax computed on the rental
92 income from tangible personal property a credit for sales or use
93 tax paid to this state at the time of purchase of the specific
94 personal property being leased or rented until such credit has
95 been exhausted.

96 Charges for custom processing and repairing services may be
97 excluded from gross taxable income when the property on which the

98 service was performed is delivered to the customer in another
99 state either by common carrier or in the seller's equipment.

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

107 **SECTION 2.** Section 27-65-101, Mississippi Code of 1972, as
108 amended by House Bill No. 1668, 2005 Regular Session, is amended
109 as follows:

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

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

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

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

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

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

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

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

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

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

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

167 (i) Sales of machinery or tools or repair parts
168 therefor or replacements thereof, fuel or supplies used directly
169 in manufacturing, converting or repairing ships, vessels or barges
170 of three thousand (3,000) tons load displacement and over, but not
171 to include office and plant supplies or other equipment not
172 directly used on the ship, vessel or barge being built, converted
173 or repaired. For purposes of this exemption, "ships, vessels or
174 barges" shall not include floating structures described in Section
175 27-65-18.

176 (j) Sales of tangible personal property to persons
177 operating ships in international commerce for use or consumption
178 on board such ships. This exemption shall be limited to cases in
179 which procedures satisfactory to the commissioner, ensuring
180 against use in this state other than on such ships, are
181 established.

182 (k) Sales of materials used in the construction of a
183 building, or any addition or improvement thereon, and sales of any
184 machinery and equipment not later than three (3) months after the
185 completion of construction of the building, or any addition
186 thereon, to be used therein, to qualified businesses, as defined
187 in Section 57-51-5, which are located in a county or portion
188 thereof designated as an enterprise zone pursuant to Sections
189 57-51-1 through 57-51-15.

190 (l) Sales of materials used in the construction of a
191 building, or any addition or improvement thereon, and sales of any
192 machinery and equipment not later than three (3) months after the

193 completion of construction of the building, or any addition
194 thereon, to be used therein, to qualified businesses, as defined
195 in Section 57-54-5.

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

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

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

205 (p) Sales of materials used in the construction of a
206 building, or any addition or improvement thereon, and sales of any
207 machinery and equipment not later than three (3) months after the
208 completion of construction of the building, or any addition
209 thereon, to be used therein, to qualified companies, certified as
210 such by the Mississippi Development Authority under Section
211 57-53-1.

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

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

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

240 (t) Gross income from the storage and handling of
241 natural gas in underground salt domes and in other underground
242 reservoirs, caverns, structures and formations suitable for such
243 storage.

244 (u) Sales of machinery and equipment to nonprofit
245 organizations if the organization:

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

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

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

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

259 (v) Sales or leases of materials and equipment to
260 approved business enterprises as provided under the Growth and
261 Prosperity Act.

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

269 (x) Sales or leases to a manufacturer of motor vehicles
270 operating a project that has been certified by the Mississippi
271 Major Economic Impact Authority as a project as defined in Section
272 57-75-5(f)(iv)1 of machinery and equipment; special tooling such
273 as dies, molds, jigs and similar items treated as special tooling
274 for federal income tax purposes; or repair parts therefor or
275 replacements thereof; repair services thereon; fuel, supplies,
276 electricity, coal and natural gas used directly in the manufacture
277 of motor vehicles or motor vehicle parts or used to provide
278 climate control for manufacturing areas.

279 (y) Sales or leases of component materials, machinery
280 and equipment used in the construction of a building, or any
281 addition or improvement thereon to an enterprise operating a
282 project that has been certified by the Mississippi Major Economic
283 Impact Authority as a project as defined in Section
284 57-75-5(f)(iv)1 and any other sales or leases required to
285 establish or operate such project.

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

288 (aa) The gross income from the stripping and painting
289 of commercial aircraft engaged in foreign or interstate
290 transportation business.

291 (bb) Sales of production items used in the production
292 of motion pictures such as film; videotape; component building
293 materials used in the construction of a set; makeup; fabric used
294 as or in the making of costumes; clothing, including, shoes,
295 accessories and jewelry used as wardrobes; materials used as set
296 dressing; materials used as props on a set or by an actor;
297 materials used in the creation of special effects; and expendable
298 items purchased for limited use by grip, electric and camera
299 departments such as tape, fasteners and compressed air. For the
300 purposes of this paragraph (bb) the term "motion picture" means a
301 nationally distributed feature-length film, video, television
302 series or commercial made in Mississippi, in whole or in part, for
303 theatrical or television viewing or as a television pilot. The
304 term "motion picture" shall not include the production of
305 television coverage of news and athletic events, or a film, video,
306 television series or commercial that contains any material or
307 performance defined in Section 97-29-103.

308 (cc) Sales or leases to an enterprise owning or
309 operating a project that has been designated by the Mississippi
310 Major Economic Impact Authority as a project as defined in Section
311 57-75-5(f)(xviii) of machinery and equipment; special tooling such
312 as dies, molds, jigs and similar items treated as special tooling
313 for federal income tax purposes; or repair parts therefor or
314 replacements thereof; repair services thereon; fuel, supplies,
315 electricity, coal and natural gas used directly in the
316 manufacturing/production operations of the project or used to
317 provide climate control for manufacturing/production areas.

318 (dd) Sales or leases of component materials, machinery
319 and equipment used in the construction of a building, or any
320 addition or improvement thereon to an enterprise owning or
321 operating a project that has been designated by the Mississippi
322 Major Economic Impact Authority as a project as defined in Section
323 57-75-5(f)(xviii) and any other sales or leases required to
324 establish or operate such project.

325 (ee) Sales of parts used in the repair and servicing of
326 aircraft not registered in Mississippi engaged exclusively in the
327 business of foreign or interstate transportation to businesses
328 engaged in aircraft repair and maintenance.

329 (2) Sales of component materials used in the construction of
330 a building, or any addition or improvement thereon, sales of
331 machinery and equipment to be used therein, and sales of
332 manufacturing or processing machinery and equipment which is
333 permanently attached to the ground or to a permanent foundation
334 and which is not by its nature intended to be housed within a
335 building structure, not later than three (3) months after the
336 initial start-up date, to permanent business enterprises engaging
337 in manufacturing or processing in Tier Two areas and Tier One
338 areas (as such areas are designated in accordance with Section
339 57-73-21), which businesses are certified by the State Tax
340 Commission as being eligible for the exemption granted in this
341 paragraph, shall be exempt from one-half (1/2) of the taxes
342 imposed on such transactions under this chapter.

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

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

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

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

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

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

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

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

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

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 27-65-23, MISSISSIPPI CODE OF 1972,
2 TO REMOVE THE REPAIRING AND SERVICING OF AIRCRAFT NOT REGISTERED
3 IN MISSISSIPPI ENGAGED EXCLUSIVELY IN FOREIGN OR INTERSTATE
4 COMMERCE FROM THE ACTIVITIES TAXED UNDER THE SALES TAX LAW; TO
5 AMEND SECTION 27-65-101, MISSISSIPPI CODE OF 1972, TO EXEMPT FROM
6 SALES TAXATION SALES OF PARTS USED IN THE REPAIR AND MAINTENANCE
7 OF AIRCRAFT NOT REGISTERED IN MISSISSIPPI ENGAGED EXCLUSIVELY IN
8 FOREIGN OR INTERSTATE COMMERCE TO BUSINESSES ENGAGED IN AIRCRAFT
9 REPAIR AND MAINTENANCE; TO PROVIDE THAT SALES OF CERTAIN TANGIBLE

10 PERSONAL PROPERTY USED DIRECTLY IN THE MANUFACTURING, CONVERTING
11 OR REPAIRING OF VESSELS OR BARGES SHALL BE EXEMPT FROM SALES
12 TAXATION; AND FOR RELATED PURPOSES.

CONFEREES FOR THE SENATE

X (SIGNED)
Robertson

X (SIGNED)
Hewes

X (SIGNED)
Clarke

CONFEREES FOR THE HOUSE

X (SIGNED)
Watson

X (SIGNED)
Morris

X (SIGNED)
Clarke