To: Finance

MISSISSIPPI LEGISLATURE
REGULAR SESSION 2016
By: Senator(s) Blount

SENATE BILL NO. 2242

1 AN ACT TO AUTHORIZE A JOB TAX CREDIT FOR SUPERMARKETS LOCATED
2 IN ECONOMICALLY DISTRESSED COMMUNITIES IN AN AMOUNT EQUAL TO 10%
3 OF THE PAYROLL OF THE SUPERMARKET; TO PROVIDE THAT THE AMOUNT OF
4 THE CREDIT TAKEN IN ANY ONE TAX YEAR SHALL BE LIMITED TO AN AMOUNT
5 NOT GREATER THAN 50% OF THE TAXPAYER'S STATE INCOME TAX LIABILITY
6 ATTRIBUTABLE TO INCOME DERIVED FROM OPERATIONS IN THE STATE FOR
7 THAT YEAR; TO PROVIDE THAT THE AGGREGATE AMOUNT OF TAX CREDITS
8 THAT MAY BE AWARDED UNDER THIS ACT IN ANY ONE CALENDAR YEAR SHALL
9 NOT EXCEED $4,000,000.00; TO AMEND SECTION 27-65-101, MISSISSIPPI
10 CODE OF 1972, TO EXEMPT FROM SALES TAXATION SALES OF MATERIALS
11 USED IN THE CONSTRUCTION OF A SUPERMARKET THAT IS LOCATED IN AN
12 AREA DESIGNATED AS AN ECONOMICALLY DISTRESSED COMMUNITY PURSUANT
13 TO THIS ACT, OR ANY ADDITION OR IMPROVEMENT THEREON, AND SALES OF
14 ANY MACHINERY AND EQUIPMENT NOT LATER THAN THREE MONTHS AFTER THE
15 COMPLETION OF CONSTRUCTION OF THE BUILDING, OR ANY ADDITION OR
16 IMPROVEMENT THEREON, TO BE USED IN THE SUPERMARKET; AND FOR
17 RELATED PURPOSES.
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19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:
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21 SECTION 1. (1) As used in this section:
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23 (a) "Supermarket" means establishments that are engaged
24 in activities designated as supermarkets and other grocery (except
25 convenience) stores (industry 445110) under the North American
26 Industry Classification System (NAICS).
27
28 (b) "Economically distressed community" means an area
29 within a municipality that contains groupings of census tracts
that include and are contiguous to the central business district, where within such census tract groupings at least thirty percent (30%) of the residents have incomes that are less than the national poverty level as published by the United States Census Bureau in the most recent decennial census for which data is available.

(2) The governing authorities of a municipality may designate an area within the municipality as an economically distressed community. Upon designation of an area within a municipality as an economically distressed community, the governing authorities of a municipality shall apply to the Department of Revenue for certification of the area as an economically distressed community. The application shall provide the information necessary to establish certification as an economically distressed community. The Department of Revenue shall certify an area as an economically distressed community if it finds that the designation meets the criteria provided for in subsection (1)(b) of this section.

(3) Supermarkets in areas within municipalities certified by the Department of Revenue as economically distressed communities shall be allowed a job tax credit for taxes imposed under this chapter equal to ten percent (10%) of the payroll of the supermarket.

(4) The amount of the credit taken in any one (1) tax year must be limited to an amount not greater than fifty percent (50%)
of the taxpayer's state income tax liability attributable to income derived from operations in the state for that year.

(5) The aggregate amount of tax credits that may be awarded under this section in any one (1) calendar year shall not exceed Four Million Dollars ($4,000,000.00).

SECTION 2. Section 27-65-101, Mississippi Code of 1972, is 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 said 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 or natural gas exploration or production, vessels or barges of fifty (50) tons load displacement and over, when the vessels or barges are sold by the manufacturer or builder thereof. In addition to other types of equipment, offshore drilling equipment for use in oil or natural gas exploration or production shall include aircraft used predominately to transport passengers or property to or from offshore oil or natural gas exploration or production platforms or vessels, and engines, accessories and spare parts for such aircraft.
(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, vessels or barges 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, vessel or barge being built, converted
or repaired. For purposes of this exemption, "ships, vessels or
barges" shall not include floating structures described in Section

(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 Department of Revenue as being eligible for the exemption
granted in this paragraph (q).

(r) (i) 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 twenty (20) jobs at the new headquarters in this state.
The Department of Revenue 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 subparagraph (i).

(ii) 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 expanding
or making additions after January 1, 2013, to its national or
regional headquarters within the State of Mississippi and creating
a minimum of twenty (20) new jobs at the headquarters as a result
of the expansion or additions. The Department of Revenue 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 subparagraph (ii).

(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 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 or leases of 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 or powertrain components 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, Section 57-75-5(f)(xxi) or Section 57-75-5(f)(xxii) 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), Section 57-75-5(f)(xxi), Section 57-75-5(f)(xxii) or Section 57-75-5(f)(xxviii) 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) The gross income from the stripping and painting of commercial aircraft engaged in foreign or interstate transportation business.

(bb) [Repealed]

(cc) Sales or leases to an enterprise owning or operating a project that has been designated by the Mississippi Major Economic Impact Authority as a project as defined in Section 57-75-5(f)(xviii) 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 manufacturing/production operations of the project or used to provide climate control for manufacturing/production areas.

(dd) 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 owning or
operating a project that has been designated by the Mississippi Major Economic Impact Authority as a project as defined in Section 57-75-5(f)(xviii) and any other sales or leases required to establish or operate such project.

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

(ff) Sales of component materials used in the construction of a facility, or any addition or improvement thereon, and sales or leases of machinery and equipment not later than three (3) months after the completion of construction of the facility, or any addition or improvement thereto, to be used in the building or any addition or improvement thereto, to a permanent business enterprise operating a data/information enterprise in Tier Three areas (as such areas are designated in accordance with Section 57-73-21), meeting minimum criteria established by the Mississippi Development Authority.

(gg) Sales of component materials used in the construction of a facility, 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 facility, or any addition or improvement thereto, to be used in the facility or any addition or improvement thereto, to technology intensive enterprises for industrial purposes in Tier Three areas (as such
areas are designated in accordance with Section 57-73-21), as
certified by the Department of Revenue. For purposes of this
paragraph, an enterprise must meet the criteria provided for in
Section 27-65-17(1)(f) in order to be considered a technology
intensive enterprise.

(hh) Sales of component materials used in the
replacement, reconstruction or repair of a building or facility
that has been destroyed or sustained extensive damage as a result
of a disaster declared by the Governor, sales of machinery and
equipment to be used therein to replace machinery or equipment
damaged or destroyed as a result of such disaster, including, but
not limited to, 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, to enterprises or companies
that were eligible for the exemptions authorized in paragraph (q),
(r), (ff) or (gg) of this subsection during initial construction
of the building that was destroyed or damaged, which enterprises
or companies are certified by the Department of Revenue as being
eligible for the exemption granted in this paragraph.

(ii) Sales of software or software services transmitted
by the Internet to a destination outside the State of Mississippi
where the first use of such software or software services by the
purchaser occurs outside the State of Mississippi.
(jj) Gross income of public storage warehouses derived from the temporary storage of raw materials that are to be used in an eligible facility as defined in Section 27-7-22.35.

(kk) Sales of component building materials and equipment for initial construction of facilities or expansion of facilities as authorized under Sections 57-113-1 through 57-113-7 and Sections 57-113-21 through 57-113-27.

(ll) Sales and leases of machinery and equipment acquired in the initial construction to establish facilities as authorized in Sections 57-113-1 through 57-113-7.

(mm) Sales and leases of replacement hardware, software or other necessary technology to operate a data center as authorized under Sections 57-113-21 through 57-113-27.

(nn) Sales of component materials used in the construction of a building, or any addition or improvement thereon, and sales or leases of machinery and equipment not later than three (3) months after the completion of the construction of the facility, to be used in the facility, to permanent business enterprises operating a facility producing renewable crude oil from biomass harvested or produced, in whole or in part, in Mississippi, which businesses meet minimum criteria established by the Mississippi Development Authority. As used in this paragraph, the term "biomass" shall have the meaning ascribed to such term in Section 57-113-1.
(oo) Sales of supplies, equipment and other personal property to an organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and is the host organization coordinating a professional golf tournament played or to be played in this state and the supplies, equipment or other personal property will be used for purposes related to the golf tournament and related activities.

(pp) Sales of materials used in the construction of a health care industry facility, as defined in Section 57-117-3, 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 facility, or any addition thereon, to be used therein, to qualified businesses, as defined in Section 57-117-3. This paragraph shall be repealed from and after July 1, 2022.

(qq) Sales or leases to a manufacturer of automotive parts 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)(xxviii) of machinery and equipment; or repair parts therefor or replacements thereof; repair services thereon; fuel, supplies, electricity, coal, nitrogen and natural gas used directly in the manufacture of automotive parts or used to provide climate control for manufacturing areas.

(rr) Gross collections derived from guided tours on any navigable waters of this state, which include providing
accommodations, guide services and/or related equipment operated
by or under the direction of the person providing the tour, for
the purposes of outdoor tourism. The exemption provided in this
paragraph (rr) does not apply to the sale of tangible personal
property by a person providing such tours.

(ss) Retail sales of truck-tractors and semitrailers
used in interstate commerce and registered under the International
Registration Plan (IRP) or any similar reciprocity agreement or
compact relating to the proportional registration of commercial
vehicles entered into as provided for in Section 27-19-143.

(tt) Sales exempt under the Facilitating Business Rapid
Response to State Declared Disasters Act of 2015 (Sections
27-113-1 through 27-113-9).

(uu) Sales of materials used in the construction of a
supermarket (as defined in Section 1 of this act) that is located
in an area designated as an economically distressed community
pursuant to Section 1 of this act, 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 or improvement thereon, to be used in
the supermarket.

(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 Department of Revenue as being eligible for the exemption granted in this subsection, shall be exempt from one-half (1/2) of the taxes imposed on such transactions under this chapter.

(3) Sales of component materials used in the construction of a facility, or any addition or improvement thereon, and sales or leases of machinery and equipment not later than three (3) months after the completion of construction of the facility, or any addition or improvement thereto, to be used in the building or any addition or improvement thereto, to a permanent business enterprise operating a data/information enterprise in Tier Two areas and Tier One areas (as such areas are designated in accordance with Section 57-73-21), which businesses meet minimum criteria established by the Mississippi Development Authority, shall be exempt from one-half (1/2) of the taxes imposed on such transaction under this chapter.

(4) Sales of component materials used in the construction of a facility, 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 facility, or any addition or
improvement thereto, to be used in the building or any addition or
improvement thereto, to technology intensive enterprises for
industrial purposes 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 Department of Revenue as being
eligible for the exemption granted in this subsection, shall be
exempt from one-half (1/2) of the taxes imposed on such
transactions under this chapter. For purposes of this subsection,
an enterprise must meet the criteria provided for in Section
27-65-17(1)(f) in order to be considered a technology intensive
enterprise.

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

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

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

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

(iv) "Tier Three areas" mean counties designated as
as Tier Three areas pursuant to Section 57-73-21; 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 (1) 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, 2020, 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, 2020, 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.

(6) Sales of component materials used in the replacement, reconstruction or repair of a building that has been destroyed or sustained extensive damage as a result of a disaster declared by the Governor, sales of machinery and equipment to be used therein to replace machinery or equipment damaged or destroyed as a result of such disaster, including, but not limited to, 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, to enterprises that were eligible for the partial exemptions provided
for in subsections (2), (3) and (4) of this section during initial construction of the building that was destroyed or damaged, which enterprises are certified by the Department of Revenue as being eligible for the partial exemption granted in this subsection, shall be exempt from one-half (1/2) of the taxes imposed on such transactions under this chapter.

SECTION 3. Section 1 of this act shall be codified in Chapter 7, Title 27, Mississippi Code of 1972.

SECTION 4. This act shall take effect and be in force from and after July 1, 2016.