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To: Finance

SENATE BILL NO. 2979

1 AN ACT TO CREATE THE MISSISSIPPI BROADBAND TECHNOLOGY
2 DEVELOPMENT ACT; TO PROVIDE FOR A CREDIT AGAINST THE INCOME AND
3 FRANCHISE TAX LIABILITY OF TELECOMMUNICATION ENTERPRISES IN AN
4 AMOUNT EQUAL TO 5% OF THE COST OF EQUIPMENT USED IN THE DEPLOYMENT
5 OF BROADBAND TECHNOLOGIES IN TIER ONE AREAS, AN AMOUNT EQUAL TO
6 10% OF THE COST OF EQUIPMENT USED IN THE DEPLOYMENT OF BROADBAND
7 TECHNOLOGIES IN TIER TWO AREAS AND AN AMOUNT EQUAL TO THE 15% OF
8 THE COST OF EQUIPMENT USED IN THE DEPLOYMENT OF BROADBAND
9 TECHNOLOGIES IN TIER THREE AREAS; TO PROVIDE THAT SUCH CREDIT
10 SHALL BE ALLOWED COMMENCING WITH THE YEAR IN WHICH THE PROPERTY IS
11 PLACED IN SERVICE AND CONTINUE FOR NINE CONSECUTIVE YEARS
12 THEREAFTER; TO PROVIDE THAT THE AGGREGATE AMOUNT OF THE CREDIT
13 TAKEN IN ANY ONE TAX YEAR SHALL BE LIMITED TO AN AMOUNT NOT
14 GREATER THAN 50% OF THE TAXPAYER'S INCOME AND FRANCHISE TAX
15 LIABILITY; TO ALLOW CREDITS NOT USED IN ANY TAXABLE YEAR TO BE
16 CARRIED FORWARD FOR TEN YEARS FROM THE CLOSE OF THE TAX YEAR IN
17 WHICH THE CREDITS WERE EARNED; TO PROVIDE THAT EQUIPMENT USED IN
18 THE DEPLOYMENT OF BROADBAND TECHNOLOGIES SHALL BE EXEMPT FROM AD
19 VALOREM TAXATION; TO AMEND SECTION 27-65-101, MISSISSIPPI CODE OF
20 1972, TO PROVIDE THAT SALES OF EQUIPMENT TO TELECOMMUNICATION
21 ENTERPRISES THAT IS INSTALLED IN TIER ONE AREAS AND USED IN THE
22 DEPLOYMENT OF BROADBAND TECHNOLOGIES SHALL BE EXEMPT FROM 1/2 OF
23 THE SALES TAXES IMPOSED ON SUCH TRANSACTIONS; TO PROVIDE THAT
24 SALES OF EQUIPMENT TO TELECOMMUNICATION ENTERPRISES THAT IS
25 INSTALLED IN TIER TWO AND TIER THREE AREAS AND USED IN THE
26 DEPLOYMENT OF BROADBAND TECHNOLOGIES SHALL BE EXEMPT FROM THE
27 SALES TAXES IMPOSED ON SUCH TRANSACTIONS; AND FOR RELATED
28 PURPOSES.

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

30 **SECTION 1.** This act may be cited as the "Mississippi
31 Broadband Technology Development Act".

32 **SECTION 2.** (1) The Legislature finds that the long-standing
33 telecommunications policy of this state has been to ensure that
34 all citizens have access to telephone service. The increasing
35 reliance upon access to computer information services for jobs,
36 housing and other necessities requires that this concept be
37 broadened to include high-speed access to the Internet as well.

38 (2) The Legislature further finds that the ability of the
39 citizens in all parts of this state to access the Internet, also
40 known as the information superhighway, is an important component



41 in the ability of the state to remain competitive in the fields of
42 business and education, as well as the ability of government to
43 provide services to these people both now and in the future. The
44 ability of the citizens of Mississippi to access the full
45 potential of the Internet is predicated on having the most
46 advanced telecommunications infrastructure - the backbone to the
47 information superhighway.

48 (3) The Legislature further finds and declares that it is
49 the policy of the state to provide incentives for
50 "telecommunication enterprises" (as defined in Section
51 57-73-21(13)) to invest in the infrastructure needed to provide
52 broadband technology throughout the state to keep this state
53 competitive and to promote economic development within the state.

54 (4) The Legislature further finds that despite the
55 significant growth of computer ownership and usage, the growth has
56 occurred to a greater extent within developed areas within this
57 state, thereby leading to what has been termed a "digital divide"
58 between Tier One areas within the state and areas within this
59 state that are Tier Two and Tier Three areas (as such areas are
60 designated in accordance with Section 57-73-21(1)).

61 (5) The Legislature further finds that it is in the public
62 interest for people living in Tier Two areas and people living in
63 Tier Three areas of the state to have high-speed access to the
64 Internet and to adequate technology, infrastructure and advanced
65 telecommunications service.

66 (6) The Legislature further finds and declares that
67 additional incentives are warranted to encourage telecommunication
68 enterprises to invest in the infrastructure needed to provide
69 broadband technology in Tier Two and Tier Three areas of the
70 state.

71 **SECTION 3.** (1) For purposes of this section:

72 (a) "Telecommunication enterprises" shall have the
73 meaning ascribed to such term in Section 57-73-21(13);



74 (b) "Tier One areas" mean counties designated as Tier
75 One areas pursuant to Section 57-73-21(1);

76 (c) "Tier Two areas" mean counties designated as Tier
77 Two areas pursuant to Section 57-73-21(1);

78 (d) "Tier Three areas" mean counties designated as Tier
79 Three areas pursuant to Section 57-73-21(1); and

80 (e) "Equipment used in the deployment of broadband
81 technologies" means any equipment capable of being used for or in
82 connection with the transmission of information at a rate, prior
83 to taking into account the effects of any signal degradation, that
84 is not less than three hundred eighty (384) kilobits per second in
85 at least one direction, including, but not limited to,
86 asynchronous transfer mode switches, digital subscriber line
87 access multiplexers, routers, servers, multiplexers, fiber optics
88 and related equipment.

89 (2) With respect to the investment in each year by a
90 telecommunication enterprise, there shall be allowed annually as a
91 credit against the tax imposed by Chapters 7 and 13 of Title 27,
92 Mississippi Code of 1972, an amount equal to:

93 (a) Five percent (5%) of the cost of equipment used in
94 the deployment of broadband technologies in Tier One areas;

95 (b) Ten percent (10%) of the cost of equipment used in
96 the deployment of broadband technologies in Tier Two areas; and

97 (c) Fifteen percent (15%) of the cost of equipment used
98 in the deployment of broadband technologies in Tier Three areas.

99 (3) Such annual credits shall be allowed commencing with the
100 taxable year in which such property is placed in service and
101 continue for nine (9) consecutive years thereafter. The aggregate
102 credit established by this section taken in any one tax year shall
103 be limited to an amount not greater than fifty percent (50%) of
104 the taxpayer's tax liabilities under Chapters 7 and 13 of Title
105 27, Mississippi Code of 1972; however, any tax credit claimed
106 under this section, but not used in any taxable year, may be



107 carried forward for ten (10) consecutive years from the close of
108 the tax year in which the credits were earned.

109 **SECTION 4.** Equipment used in the deployment of broadband
110 technologies shall be exempt from ad valorem taxation. For
111 purposes of this section, "equipment used in the deployment of
112 broadband technologies" means any equipment capable of being used
113 for or in connection with the transmission of information at a
114 rate, prior to taking into account the effects of any signal
115 degradation, that is not less than three hundred eighty-four (384)
116 kilobits per second in at least one direction, including, but not
117 limited to, asynchronous transfer mode switches, digital
118 subscriber line access multiplexers, routers, servers,
119 multiplexers, fiber optics and related equipment.

120 **SECTION 5.** Section 27-65-101, Mississippi Code of 1972, is
121 amended as follows:

122 27-65-101. (1) The exemptions from the provisions of this
123 chapter which are of an industrial nature or which are more
124 properly classified as industrial exemptions than any other
125 exemption classification of this chapter shall be confined to
126 those persons or property exempted by this section or by the
127 provisions of the Constitution of the United States or the State
128 of Mississippi. No industrial exemption as now provided by any
129 other section except Section 57-3-33 shall be valid as against the
130 tax herein levied. Any subsequent industrial exemption from the
131 tax levied hereunder shall be provided by amendment to this
132 section. No exemption provided in this section shall apply to
133 taxes levied by Section 27-65-15 or 27-65-21.

134 The tax levied by this chapter shall not apply to the
135 following:

136 (a) Sales of boxes, crates, cartons, cans, bottles and
137 other packaging materials to manufacturers and wholesalers for use
138 as containers or shipping materials to accompany goods sold by
139 said manufacturers or wholesalers where possession thereof will



140 pass to the customer at the time of sale of the goods contained
141 therein and sales to anyone of containers or shipping materials
142 for use in ships engaged in international commerce.

143 (b) Sales of raw materials, catalysts, processing
144 chemicals, welding gases or other industrial processing gases
145 (except natural gas) to a manufacturer for use directly in
146 manufacturing or processing a product for sale or rental or
147 repairing or reconditioning vessels or barges of fifty (50) tons
148 load displacement and over. This exemption shall not apply to any
149 property used as fuel except to the extent that such fuel
150 comprises by-products which have no market value.

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

155 (d) Sales to commercial fishermen of commercial fishing
156 boats of over five (5) tons load displacement and not more than
157 fifty (50) tons load displacement as registered with the United
158 States Coast Guard and licensed by the Mississippi Commission on
159 Marine Resources.

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

162 (f) Sales of petroleum products to vessels or barges
163 for consumption in marine international commerce or interstate
164 transportation businesses.

165 (g) Sales and rentals of rail rolling stock (and
166 component parts thereof) for ultimate use in interstate commerce
167 and gross income from services with respect to manufacturing,
168 repairing, cleaning, altering, reconditioning or improving such
169 rail rolling stock (and component parts thereof).

170 (h) Sales of raw materials, catalysts, processing
171 chemicals, welding gases or other industrial processing gases
172 (except natural gas) used or consumed directly in manufacturing,



173 repairing, cleaning, altering, reconditioning or improving such
174 rail rolling stock (and component parts thereof). This exemption
175 shall not apply to any property used as fuel.

176 (i) Sales of machinery or tools or repair parts
177 therefor or replacements thereof, fuel or supplies used directly
178 in manufacturing, converting or repairing ships of three thousand
179 (3,000) tons load displacement and over, but not to include office
180 and plant supplies or other equipment not directly used on the
181 ship being built, converted or repaired.

182 (j) Sales of tangible personal property to persons
183 operating ships in international commerce for use or consumption
184 on board such ships. This exemption shall be limited to cases in
185 which procedures satisfactory to the commissioner, ensuring
186 against use in this state other than on such ships, are
187 established.

188 (k) Sales of materials used in the construction of a
189 building, or any addition or improvement thereon, and sales of any
190 machinery and equipment not later than three (3) months after the
191 completion of construction of the building, or any addition
192 thereon, to be used therein, to qualified businesses, as defined
193 in Section 57-51-5, which are located in a county or portion
194 thereof designated as an enterprise zone pursuant to Sections
195 57-51-1 through 57-51-15.

196 (l) 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 businesses, as defined
201 in Section 57-54-5.

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

204 (n) The value of natural gas lawfully injected into the
205 earth for cycling, repressuring or lifting of oil, or lawfully



206 vented or flared in connection with the production of oil;
207 however, if any gas so injected into the earth is sold for such
208 purposes, then the gas so sold shall not be exempt.

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

211 (p) Sales of materials used in the construction of a
212 building, or any addition or improvement thereon, and sales of any
213 machinery and equipment not later than three (3) months after the
214 completion of construction of the building, or any addition
215 thereon, to be used therein, to qualified companies, certified as
216 such by the Mississippi Development Authority under Section
217 57-53-1.

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

230 (r) Sales of component materials used in the
231 construction of a building, or any addition or improvement
232 thereon, and sales of any machinery and equipment not later than
233 three (3) months after the completion of the building, addition or
234 improvement thereon, to be used therein, for any company
235 establishing or transferring its national or regional headquarters
236 from within or outside the State of Mississippi and creating a
237 minimum of thirty-five (35) jobs at the new headquarters in this
238 state. The Tax Commission shall establish criteria and prescribe



239 procedures to determine if a company qualifies as a national or
240 regional headquarters for the purpose of receiving the exemption
241 provided in this paragraph.

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

246 (t) Gross income from the storage and handling of
247 natural gas in underground salt domes and in other underground
248 reservoirs, caverns, structures and formations suitable for such
249 storage.

250 (u) Sales of machinery and equipment to nonprofit
251 organizations if the organization: (i) is tax-exempt pursuant to
252 Section 501(c)(4) of the Internal Revenue Code of 1986, as
253 amended; (ii) assists in the implementation of the national
254 contingency plan or area contingency plan, and which is created in
255 response to the requirements of Title IV, Subtitle B of the Oil
256 Pollution Act of 1990, Public Law 101-380; and (iii) engages
257 primarily in programs to contain, clean up and otherwise mitigate
258 spills of oil or other substances occurring in the United States
259 coastal and tidal waters. For purposes of this exemption,
260 "machinery and equipment" means any ocean-going vessels, barges,
261 booms, skimmers and other capital equipment used primarily in the
262 operations of nonprofit organizations referred to herein.

263 (v) Sales of component materials and equipment to
264 approved business enterprises as provided under the Growth and
265 Prosperity Act.

266 (w) From and after July 1, 2001, sales of pollution
267 control equipment to manufacturers or custom processors for
268 industrial use. For the purposes of this exemption, "pollution
269 control equipment" means equipment, devices, machinery or systems
270 used or acquired to prevent, control, monitor or reduce air, water



271 or groundwater pollution, or solid or hazardous waste as required
272 by federal or state law or regulation.

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

283 (y) Sales or leases of component materials, machinery
284 and equipment used in the construction of a building, or any
285 addition or improvement thereon to an enterprise operating a
286 project that has been certified by the Mississippi Major Economic
287 Impact Authority as a project as defined in Section
288 57-75-5(f)(iv)1 and any other sales or leases required to
289 establish or operate such project.

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

292 (2) Sales of component materials used in the construction of
293 a building, or any addition or improvement thereon, sales of
294 machinery and equipment to be used therein, and sales of
295 manufacturing or processing machinery and equipment which is
296 permanently attached to the ground or to a permanent foundation
297 and which is not by its nature intended to be housed within a
298 building structure, not later than three (3) months after the
299 initial start-up date, to permanent business enterprises engaging
300 in manufacturing or processing in Tier Two areas and Tier One
301 areas (as such areas are designated in accordance with Section
302 57-73-21), which businesses are certified by the State Tax
303 Commission as being eligible for the exemption granted in this



304 paragraph, shall be exempt from one-half (1/2) of the taxes
305 imposed on such transactions under this chapter.

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

307 (i) "Telecommunication enterprises" shall have the
308 meaning ascribed to such term in Section 57-73-21(13);

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

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

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

315 (v) "Equipment used in the deployment of broadband
316 technologies" means any equipment capable of being used for or in
317 connection with the transmission of information at a rate, prior
318 to taking into account the effects of any signal degradation, that
319 is not less than three hundred eighty-four (384) kilobits per
320 second in at least one direction, including, but not limited to,
321 asynchronous transfer mode switches, digital subscriber line
322 access multiplexers, routers, servers, multiplexers, fiber optics
323 and related equipment.

324 (b) Sales of equipment to telecommunication enterprises
325 that is installed in Tier One areas and used in the deployment of
326 broadband technologies shall be exempt from one-half (1/2) of the
327 taxes imposed on such transactions under this chapter.

328 (c) Sales of equipment to telecommunication enterprises
329 that is installed in Tier Two and Tier Three areas and used in the
330 deployment of broadband technologies shall be exempt from the
331 taxes imposed on such transactions under this chapter.

332 **SECTION 6.** This act shall take effect and be in force from
333 and after July 1, 2003.

