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To: Finance

SENATE BILL NO. 2979
(As Sent to Governor)

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 TELECOMMUNICATIONS ENTERPRISES FOR
4 INVESTMENTS MADE AFTER JUNE 30, 2003, AND BEFORE JULY 1, 2013, IN
5 AN AMOUNT EQUAL TO 5% OF THE COST OF EQUIPMENT USED IN THE
6 DEPLOYMENT OF BROADBAND TECHNOLOGIES IN TIER ONE AREAS, AN AMOUNT
7 EQUAL TO 10% OF THE COST OF EQUIPMENT USED IN THE DEPLOYMENT OF
8 BROADBAND TECHNOLOGIES IN TIER TWO AREAS AND AN AMOUNT EQUAL TO
9 THE 15% OF THE COST OF EQUIPMENT USED IN THE DEPLOYMENT OF
10 BROADBAND TECHNOLOGIES IN TIER THREE AREAS; TO PROVIDE THAT SUCH
11 CREDIT SHALL BE ALLOWED COMMENCING WITH THE YEAR IN WHICH THE
12 PROPERTY IS PLACED IN SERVICE AND CONTINUE FOR NINE CONSECUTIVE
13 YEARS THEREAFTER; TO PROVIDE THAT THE AGGREGATE AMOUNT OF THE
14 CREDIT TAKEN IN ANY ONE TAX YEAR SHALL BE LIMITED TO AN AMOUNT NOT
15 GREATER THAN 50% OF THE TAXPAYER'S INCOME AND FRANCHISE TAX
16 LIABILITY; TO ALLOW CREDITS NOT USED IN ANY TAXABLE YEAR TO BE
17 CARRIED FORWARD FOR TEN YEARS FROM THE CLOSE OF THE TAX YEAR IN
18 WHICH THE CREDITS WERE EARNED; TO PROVIDE THAT EQUIPMENT USED IN
19 THE DEPLOYMENT OF BROADBAND TECHNOLOGIES BY A TELECOMMUNICATIONS
20 ENTERPRISE THAT IS PLACED IN SERVICE AFTER JUNE 30, 2003, AND
21 BEFORE JULY 1, 2013, SHALL BE EXEMPT FROM AD VALOREM TAXATION FOR
22 A PERIOD OF TEN YEARS AFTER THE DATE SUCH EQUIPMENT IS PLACED IN
23 SERVICE; TO AMEND SECTION 27-65-101, MISSISSIPPI CODE OF 1972, TO
24 PROVIDE THAT SALES OF EQUIPMENT TO TELECOMMUNICATIONS ENTERPRISES
25 AFTER JUNE 30, 2003, AND BEFORE JULY 1, 2013, THAT IS INSTALLED IN
26 TIER ONE AREAS AND USED IN THE DEPLOYMENT OF BROADBAND
27 TECHNOLOGIES SHALL BE EXEMPT FROM 1/2 OF THE SALES TAXES IMPOSED
28 ON SUCH TRANSACTIONS; TO PROVIDE THAT SALES OF EQUIPMENT TO
29 TELECOMMUNICATIONS ENTERPRISES AFTER JUNE 30, 2003, AND BEFORE
30 JULY 1, 2013, THAT IS INSTALLED IN TIER TWO AND TIER THREE AREAS
31 AND USED IN THE DEPLOYMENT OF BROADBAND TECHNOLOGIES SHALL BE
32 EXEMPT FROM THE SALES TAXES IMPOSED ON SUCH TRANSACTIONS; AND FOR
33 RELATED PURPOSES.

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

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

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



43 (2) The Legislature further finds that the ability of the
44 citizens in all parts of this state to access the Internet, also
45 known as the information superhighway, is an important component
46 in the ability of the state to remain competitive in the fields of
47 business and education, as well as the ability of government to
48 provide services to these people both now and in the future. The
49 ability of the citizens of Mississippi to access the full
50 potential of the Internet is predicated on having the most
51 advanced telecommunications infrastructure - the backbone to the
52 information superhighway.

53 (3) The Legislature further finds and declares that it is
54 the policy of the state to provide incentives for
55 "telecommunications enterprises" (as defined in Section
56 57-73-21(13)) to invest in the infrastructure needed to provide
57 broadband technology throughout the state to keep this state
58 competitive and to promote economic development within the state.

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

66 (5) The Legislature further finds that it is in the public
67 interest for people living in Tier Two areas and people living in
68 Tier Three areas of the state to have high-speed access to the
69 Internet and to adequate technology, infrastructure and advanced
70 telecommunications service.

71 (6) The Legislature further finds and declares that
72 additional incentives are warranted to encourage
73 telecommunications enterprises to invest in the infrastructure
74 needed to provide broadband technology in Tier Two and Tier Three
75 areas of the state.



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

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

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

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

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

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

94 (2) With respect to the investment in each year by a
95 telecommunications enterprise after June 30, 2003, and before July
96 1, 2013, there shall be allowed annually as a credit against the
97 aggregate tax imposed by Chapters 7 and 13 of Title 27,
98 Mississippi Code of 1972, an amount equal to:

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

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

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

105 (3) Such annual credits shall be allowed commencing with the
106 taxable year in which such property is placed in service and
107 continue for nine (9) consecutive years thereafter. The aggregate
108 credit established by this section taken in any one tax year shall



109 be limited to an amount not greater than fifty percent (50%) of
110 the taxpayer's tax liabilities under Chapters 7 and 13 of Title
111 27, Mississippi Code of 1972; however, any tax credit claimed
112 under this section, but not used in any taxable year, may be
113 carried forward for ten (10) consecutive years from the close of
114 the tax year in which the credits were earned.

115 (4) The maximum aggregate amount of credits that may be
116 claimed under this section shall not exceed the original
117 investment made by a telecommunications enterprise in the
118 qualifying equipment used in the deployment of broadband
119 technologies.

120 (5) For purposes of this section, the tier in which
121 broadband technology is deployed shall be determined in the year
122 in which such technology is deployed in a county and such tier
123 shall not change if the county is later designated in another
124 tier.

125 **SECTION 4.** Equipment used in the deployment of broadband
126 technologies by a telecommunications enterprise (as defined in
127 Section 57-73-21(13)), that is placed in service after June 30,
128 2003, and before July 1, 2013, shall be exempt from ad valorem
129 taxation for a period of ten (10) years after the date such
130 equipment is placed in service. For purposes of this section,
131 "equipment used in the deployment of broadband technologies" means
132 any equipment capable of being used for or in connection with the
133 transmission of information at a rate, prior to taking into
134 account the effects of any signal degradation, that is not less
135 than three hundred eighty-four (384) kilobits per second in at
136 least one direction, including, but not limited to, asynchronous
137 transfer mode switches, digital subscriber line access
138 multiplexers, routers, servers, multiplexers, fiber optics and
139 related equipment.



140 **SECTION 5.** Section 27-65-101, Mississippi Code of 1972, as
141 amended by Senate Bill No. 2287, 2003 Regular Session, is amended
142 as follows:

143 27-65-101. (1) The exemptions from the provisions of this
144 chapter which are of an industrial nature or which are more
145 properly classified as industrial exemptions than any other
146 exemption classification of this chapter shall be confined to
147 those persons or property exempted by this section or by the
148 provisions of the Constitution of the United States or the State
149 of Mississippi. No industrial exemption as now provided by any
150 other section except Section 57-3-33 shall be valid as against the
151 tax herein levied. Any subsequent industrial exemption from the
152 tax levied hereunder shall be provided by amendment to this
153 section. No exemption provided in this section shall apply to
154 taxes levied by Section 27-65-15 or 27-65-21.

155 The tax levied by this chapter shall not apply to the
156 following:

157 (a) Sales of boxes, crates, cartons, cans, bottles and
158 other packaging materials to manufacturers and wholesalers for use
159 as containers or shipping materials to accompany goods sold by
160 said manufacturers or wholesalers where possession thereof will
161 pass to the customer at the time of sale of the goods contained
162 therein and sales to anyone of containers or shipping materials
163 for use in ships engaged in international commerce.

164 (b) Sales of raw materials, catalysts, processing
165 chemicals, welding gases or other industrial processing gases
166 (except natural gas) to a manufacturer for use directly in
167 manufacturing or processing a product for sale or rental or
168 repairing or reconditioning vessels or barges of fifty (50) tons
169 load displacement and over. For the purposes of this exemption,
170 electricity used directly in the electrolysis process in the
171 production of sodium chlorate shall be considered a raw material.
172 This exemption shall not apply to any property used as fuel except



173 to the extent that such fuel comprises by-products which have no
174 market value.

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

179 (d) Sales to commercial fishermen of commercial fishing
180 boats of over five (5) tons load displacement and not more than
181 fifty (50) tons load displacement as registered with the United
182 States Coast Guard and licensed by the Mississippi Commission on
183 Marine Resources.

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

186 (f) Sales of petroleum products to vessels or barges
187 for consumption in marine international commerce or interstate
188 transportation businesses.

189 (g) Sales and rentals of rail rolling stock (and
190 component parts thereof) for ultimate use in interstate commerce
191 and gross income from services with respect to manufacturing,
192 repairing, cleaning, altering, reconditioning or improving such
193 rail rolling stock (and component parts thereof).

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

200 (i) Sales of machinery or tools or repair parts
201 therefor or replacements thereof, fuel or supplies used directly
202 in manufacturing, converting or repairing ships of three thousand
203 (3,000) tons load displacement and over, but not to include office
204 and plant supplies or other equipment not directly used on the
205 ship being built, converted or repaired.



206 (j) Sales of tangible personal property to persons
207 operating ships in international commerce for use or consumption
208 on board such ships. This exemption shall be limited to cases in
209 which procedures satisfactory to the commissioner, ensuring
210 against use in this state other than on such ships, are
211 established.

212 (k) Sales of materials used in the construction of a
213 building, or any addition or improvement thereon, and sales of any
214 machinery and equipment not later than three (3) months after the
215 completion of construction of the building, or any addition
216 thereon, to be used therein, to qualified businesses, as defined
217 in Section 57-51-5, which are located in a county or portion
218 thereof designated as an enterprise zone pursuant to Sections
219 57-51-1 through 57-51-15.

220 (l) Sales of materials used in the construction of a
221 building, or any addition or improvement thereon, and sales of any
222 machinery and equipment not later than three (3) months after the
223 completion of construction of the building, or any addition
224 thereon, to be used therein, to qualified businesses, as defined
225 in Section 57-54-5.

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

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

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

235 (p) Sales of materials used in the construction of a
236 building, or any addition or improvement thereon, and sales of any
237 machinery and equipment not later than three (3) months after the
238 completion of construction of the building, or any addition



239 thereon, to be used therein, to qualified companies, certified as
240 such by the Mississippi Development Authority under Section
241 57-53-1.

242 (q) Sales of component materials used in the
243 construction of a building, or any addition or improvement
244 thereon, sales of machinery and equipment to be used therein, and
245 sales of manufacturing or processing machinery and equipment which
246 is permanently attached to the ground or to a permanent foundation
247 and which is not by its nature intended to be housed within a
248 building structure, not later than three (3) months after the
249 initial start-up date, to permanent business enterprises engaging
250 in manufacturing or processing in Tier Three areas (as such term
251 is defined in Section 57-73-21), which businesses are certified by
252 the State Tax Commission as being eligible for the exemption
253 granted in this paragraph (q).

254 (r) Sales of component materials used in the
255 construction of a building, or any addition or improvement
256 thereon, and sales of any machinery and equipment not later than
257 three (3) months after the completion of the building, addition or
258 improvement thereon, to be used therein, for any company
259 establishing or transferring its national or regional headquarters
260 from within or outside the State of Mississippi and creating a
261 minimum of thirty-five (35) jobs at the new headquarters in this
262 state. The Tax Commission shall establish criteria and prescribe
263 procedures to determine if a company qualifies as a national or
264 regional headquarters for the purpose of receiving the exemption
265 provided in this paragraph.

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

270 (t) Gross income from the storage and handling of
271 natural gas in underground salt domes and in other underground



272 reservoirs, caverns, structures and formations suitable for such
273 storage.

274 (u) Sales of machinery and equipment to nonprofit
275 organizations if the organization: (i) is tax-exempt pursuant to
276 Section 501(c)(4) of the Internal Revenue Code of 1986, as
277 amended; (ii) assists in the implementation of the national
278 contingency plan or area contingency plan, and which is created in
279 response to the requirements of Title IV, Subtitle B of the Oil
280 Pollution Act of 1990, Public Law 101-380; and (iii) engages
281 primarily in programs to contain, cleanup and otherwise mitigate
282 spills of oil or other substances occurring in the United States
283 coastal and tidal waters. For purposes of this exemption,
284 "machinery and equipment" means any ocean-going vessels, barges,
285 booms, skimmers and other capital equipment used primarily in the
286 operations of nonprofit organizations referred to herein.

287 (v) Sales of component materials and equipment to
288 approved business enterprises as provided under the Growth and
289 Prosperity Act.

290 (w) From and after July 1, 2001, sales of pollution
291 control equipment to manufacturers or custom processors for
292 industrial use. For the purposes of this exemption, "pollution
293 control equipment" means equipment, devices, machinery or systems
294 used or acquired to prevent, control, monitor or reduce air, water
295 or groundwater pollution, or solid or hazardous waste as required
296 by federal or state law or regulation.

297 (x) Sales or leases to a manufacturer of motor vehicles
298 operating a project that has been certified by the Mississippi
299 Major Economic Impact Authority as a project as defined in Section
300 57-75-5(f)(iv)1 of machinery and equipment; special tooling such
301 as dies, molds, jigs and similar items treated as special tooling
302 for federal income tax purposes; or repair parts therefor or
303 replacements thereof; repair services thereon; fuel, supplies,
304 electricity, coal and natural gas used directly in the manufacture



305 of motor vehicles or motor vehicle parts or used to provide
306 climate control for manufacturing areas.

307 (y) Sales or leases of component materials, machinery
308 and equipment used in the construction of a building, or any
309 addition or improvement thereon to an enterprise operating a
310 project that has been certified by the Mississippi Major Economic
311 Impact Authority as a project as defined in Section
312 57-75-5(f)(iv)1 and any other sales or leases required to
313 establish or operate such project.

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

316 (2) Sales of component materials used in the construction of
317 a building, or any addition or improvement thereon, sales of
318 machinery and equipment to be used therein, and sales of
319 manufacturing or processing machinery and equipment which is
320 permanently attached to the ground or to a permanent foundation
321 and which is not by its nature intended to be housed within a
322 building structure, not later than three (3) months after the
323 initial start-up date, to permanent business enterprises engaging
324 in manufacturing or processing in Tier Two areas and Tier One
325 areas (as such areas are designated in accordance with Section
326 57-73-21), which businesses are certified by the State Tax
327 Commission as being eligible for the exemption granted in this
328 paragraph, shall be exempt from one-half (1/2) of the taxes
329 imposed on such transactions under this chapter.

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

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

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

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



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

339 (v) "Equipment used in the deployment of broadband
340 technologies" means any equipment capable of being used for or in
341 connection with the transmission of information at a rate, prior
342 to taking into account the effects of any signal degradation, that
343 is not less than three hundred eighty-four (384) kilobits per
344 second in at least one direction, including, but not limited to,
345 asynchronous transfer mode switches, digital subscriber line
346 access multiplexers, routers, servers, multiplexers, fiber optics
347 and related equipment.

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

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

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

