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To: Finance

SENATE BILL NO. 3070

1 AN ACT TO AMEND SECTION 27-65-101, MISSISSIPPI CODE OF 1972,
2 TO EXEMPT FROM SALES TAXATION SALES OF COMPONENT MATERIALS USED IN
3 THE REPLACEMENT OR REPAIR OF CERTAIN BUILDINGS DESTROYED OR
4 DAMAGED AS A RESULT OF A DISASTER DECLARED BY THE GOVERNOR AND
5 SALES OF CERTAIN MACHINERY OR EQUIPMENT USED TO REPLACE MACHINERY
6 OR EQUIPMENT DAMAGED OR DESTROYED AS A RESULT OF SUCH DISASTER;
7 AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 27-65-101, Mississippi Code of 1972, is
10 amended as follows:

11 27-65-101. (1) The exemptions from the provisions of this
12 chapter which are of an industrial nature or which are more
13 properly classified as industrial exemptions than any other
14 exemption classification of this chapter shall be confined to
15 those persons or property exempted by this section or by the
16 provisions of the Constitution of the United States or the State
17 of Mississippi. No industrial exemption as now provided by any
18 other section except Section 57-3-33 shall be valid as against the
19 tax herein levied. Any subsequent industrial exemption from the
20 tax levied hereunder shall be provided by amendment to this
21 section. No exemption provided in this section shall apply to
22 taxes levied by Section 27-65-15 or 27-65-21.

23 The tax levied by this chapter shall not apply to the
24 following:

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

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

32 (b) Sales of raw materials, catalysts, processing
33 chemicals, welding gases or other industrial processing gases
34 (except natural gas) to a manufacturer for use directly in
35 manufacturing or processing a product for sale or rental or
36 repairing or reconditioning vessels or barges of fifty (50) tons
37 load displacement and over. For the purposes of this exemption,
38 electricity used directly in the electrolysis process in the
39 production of sodium chlorate shall be considered a raw material.
40 This exemption shall not apply to any property used as fuel except
41 to the extent that such fuel comprises by-products which have no
42 market value.

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

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

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

54 (f) Sales of petroleum products to vessels or barges
55 for consumption in marine international commerce or interstate
56 transportation businesses.

57 (g) Sales and rentals of rail rolling stock (and
58 component parts thereof) for ultimate use in interstate commerce
59 and gross income from services with respect to manufacturing,
60 repairing, cleaning, altering, reconditioning or improving such
61 rail rolling stock (and component parts thereof).

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

68 (i) Sales of machinery or tools or repair parts
69 therefor or replacements thereof, fuel or supplies used directly
70 in manufacturing, converting or repairing ships, vessels or barges
71 of three thousand (3,000) tons load displacement and over, but not
72 to include office and plant supplies or other equipment not
73 directly used on the ship, vessel or barge being built, converted
74 or repaired. For purposes of this exemption, "ships, vessels or
75 barges" shall not include floating structures described in Section
76 27-65-18.

77 (j) Sales of tangible personal property to persons
78 operating ships in international commerce for use or consumption
79 on board such ships. This exemption shall be limited to cases in
80 which procedures satisfactory to the commissioner, ensuring
81 against use in this state other than on such ships, are
82 established.

83 (k) Sales of materials used in the construction of a
84 building, or any addition or improvement thereon, and sales of any
85 machinery and equipment not later than three (3) months after the
86 completion of construction of the building, or any addition
87 thereon, to be used therein, to qualified businesses, as defined
88 in Section 57-51-5, which are located in a county or portion
89 thereof designated as an enterprise zone pursuant to Sections
90 57-51-1 through 57-51-15.

91 (l) Sales of materials used in the construction of a
92 building, or any addition or improvement thereon, and sales of any
93 machinery and equipment not later than three (3) months after the
94 completion of construction of the building, or any addition

95 thereon, to be used therein, to qualified businesses, as defined
96 in Section 57-54-5.

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

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

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

106 (p) Sales of materials used in the construction of a
107 building, or any addition or improvement thereon, and sales of any
108 machinery and equipment not later than three (3) months after the
109 completion of construction of the building, or any addition
110 thereon, to be used therein, to qualified companies, certified as
111 such by the Mississippi Development Authority under Section
112 57-53-1.

113 (q) Sales of component materials used in the
114 construction of a building, or any addition or improvement
115 thereon, sales of machinery and equipment to be used therein, and
116 sales of manufacturing or processing machinery and equipment which
117 is permanently attached to the ground or to a permanent foundation
118 and which is not by its nature intended to be housed within a
119 building structure, not later than three (3) months after the
120 initial start-up date, to permanent business enterprises engaging
121 in manufacturing or processing in Tier Three areas (as such term
122 is defined in Section 57-73-21), which businesses are certified by
123 the State Tax Commission as being eligible for the exemption
124 granted in this paragraph (q).

125 (r) Sales of component materials used in the
126 construction of a building, or any addition or improvement
127 thereon, and sales of any machinery and equipment not later than

128 three (3) months after the completion of the building, addition or
129 improvement thereon, to be used therein, for any company
130 establishing or transferring its national or regional headquarters
131 from within or outside the State of Mississippi and creating a
132 minimum of thirty-five (35) jobs at the new headquarters in this
133 state. The Tax Commission shall establish criteria and prescribe
134 procedures to determine if a company qualifies as a national or
135 regional headquarters for the purpose of receiving the exemption
136 provided in this paragraph.

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

141 (t) Gross income from the storage and handling of
142 natural gas in underground salt domes and in other underground
143 reservoirs, caverns, structures and formations suitable for such
144 storage.

145 (u) Sales of machinery and equipment to nonprofit
146 organizations if the organization:

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

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

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

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

160 (v) Sales or leases of materials and equipment to
161 approved business enterprises as provided under the Growth and
162 Prosperity Act.

163 (w) From and after July 1, 2001, sales of pollution
164 control equipment to manufacturers or custom processors for
165 industrial use. For the purposes of this exemption, "pollution
166 control equipment" means equipment, devices, machinery or systems
167 used or acquired to prevent, control, monitor or reduce air, water
168 or groundwater pollution, or solid or hazardous waste as required
169 by federal or state law or regulation.

170 (x) Sales or leases to a manufacturer of motor vehicles
171 operating a project that has been certified by the Mississippi
172 Major Economic Impact Authority as a project as defined in Section
173 57-75-5(f)(iv)1 of machinery and equipment; special tooling such
174 as dies, molds, jigs and similar items treated as special tooling
175 for federal income tax purposes; or repair parts therefor or
176 replacements thereof; repair services thereon; fuel, supplies,
177 electricity, coal and natural gas used directly in the manufacture
178 of motor vehicles or motor vehicle parts or used to provide
179 climate control for manufacturing areas.

180 (y) Sales or leases of component materials, machinery
181 and equipment used in the construction of a building, or any
182 addition or improvement thereon to an enterprise operating a
183 project that has been certified by the Mississippi Major Economic
184 Impact Authority as a project as defined in Section
185 57-75-5(f)(iv)1 and any other sales or leases required to
186 establish or operate such project.

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

189 (aa) The gross income from the stripping and painting
190 of commercial aircraft engaged in foreign or interstate
191 transportation business.

192 (bb) Sales of production items used in the production
193 of motion pictures such as film; videotape; component building
194 materials used in the construction of a set; makeup; fabric used
195 as or in the making of costumes; clothing, including, shoes,
196 accessories and jewelry used as wardrobes; materials used as set
197 dressing; materials used as props on a set or by an actor;
198 materials used in the creation of special effects; and expendable
199 items purchased for limited use by grip, electric and camera
200 departments such as tape, fasteners and compressed air. For the
201 purposes of this paragraph (bb), the term "motion picture" means a
202 nationally distributed feature-length film, video, television
203 series or commercial made in Mississippi, in whole or in part, for
204 theatrical or television viewing or as a television pilot. The
205 term "motion picture" shall not include the production of
206 television coverage of news and athletic events, or a film, video,
207 television series or commercial that contains any material or
208 performance defined in Section 97-29-103.

209 (cc) Sales or leases to an enterprise owning or
210 operating a project that has been designated by the Mississippi
211 Major Economic Impact Authority as a project as defined in Section
212 57-75-5(f)(xviii) of machinery and equipment; special tooling such
213 as dies, molds, jigs and similar items treated as special tooling
214 for federal income tax purposes; or repair parts therefor or
215 replacements thereof; repair services thereon; fuel, supplies,
216 electricity, coal and natural gas used directly in the
217 manufacturing/production operations of the project or used to
218 provide climate control for manufacturing/production areas.

219 (dd) Sales or leases of component materials, machinery
220 and equipment used in the construction of a building, or any
221 addition or improvement thereon to an enterprise owning or
222 operating a project that has been designated by the Mississippi
223 Major Economic Impact Authority as a project as defined in Section

224 57-75-5(f)(xviii) and any other sales or leases required to
225 establish or operate such project.

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

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

240 (gg) Sales of component materials used in the
241 construction of a facility, or any addition or improvement
242 thereto, and sales of machinery and equipment not later than three
243 (3) months after the completion of construction of the facility,
244 or any addition or improvement thereto, to be used in the facility
245 or any addition or improvement thereto, to technology intensive
246 enterprises for industrial purposes in Tier Three areas (as such
247 areas are designated in accordance with Section 57-73-21), as
248 certified by the State Tax Commission. For purposes of this
249 paragraph, an enterprise must meet the criteria provided for in
250 Section 27-65-17(1)(f) in order to be considered a technology
251 intensive enterprise.

252 (hh) Sales of component materials used in the
253 replacement, reconstruction or repair of a building or facility
254 that has been destroyed or sustained extensive damage as a result
255 of a disaster declared by the Governor, sales of machinery and
256 equipment to be used therein to replace machinery or equipment

257 damaged or destroyed as a result of such disaster, including, but
258 not limited to, manufacturing or processing machinery and
259 equipment which is permanently attached to the ground or to a
260 permanent foundation and which is not by its nature intended to be
261 housed within a building structure, to enterprises or companies
262 that were eligible for the exemptions authorized in paragraph (q),
263 (r), (ff) or (gg) of this subsection during initial construction
264 of the building that was destroyed or damaged, which enterprises
265 or companies are certified by the State Tax Commission as being
266 eligible for the exemption granted in this paragraph.

267 (2) Sales of component materials used in the construction of
268 a building, or any addition or improvement thereon, sales of
269 machinery and equipment to be used therein, and sales of
270 manufacturing or processing machinery and equipment which is
271 permanently attached to the ground or to a permanent foundation
272 and which is not by its nature intended to be housed within a
273 building structure, not later than three (3) months after the
274 initial start-up date, to permanent business enterprises engaging
275 in manufacturing or processing in Tier Two areas and Tier One
276 areas (as such areas are designated in accordance with Section
277 57-73-21), which businesses are certified by the State Tax
278 Commission as being eligible for the exemption granted in this
279 paragraph, shall be exempt from one-half (1/2) of the taxes
280 imposed on such transactions under this chapter.

281 (3) Sales of component materials used in the construction of
282 a facility, or any addition or improvement thereon, and sales or
283 leases of machinery and equipment not later than three (3) months
284 after the completion of construction of the facility, or any
285 addition or improvement thereto, to be used in the building or any
286 addition or improvement thereto, to a permanent business
287 enterprise operating a data/information enterprise in Tier Two
288 areas and Tier One areas (as such areas are designated in
289 accordance with Section 57-73-21), which businesses meet minimum

290 criteria established by the Mississippi Development Authority,
291 shall be exempt from one-half (1/2) of the taxes imposed on such
292 transaction under this chapter.

293 (4) Sales of component materials used in the construction of
294 a facility, or any addition or improvement thereto, and sales of
295 machinery and equipment not later than three (3) months after the
296 completion of construction of the facility, or any addition or
297 improvement thereto, to be used in the building or any addition or
298 improvement thereto, to technology intensive enterprises for
299 industrial purposes in Tier Two areas and Tier One areas (as such
300 areas are designated in accordance with Section 57-73-21), which
301 businesses are certified by the State Tax Commission as being
302 eligible for the exemption granted in this paragraph, shall be
303 exempt from one-half (1/2) of the taxes imposed on such
304 transactions under this chapter. For purposes of this subsection,
305 an enterprise must meet the criteria provided for in Section
306 27-65-17(1)(f) in order to be considered a technology intensive
307 enterprise.

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

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

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

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

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

317 (v) "Equipment used in the deployment of broadband
318 technologies" means any equipment capable of being used for or in
319 connection with the transmission of information at a rate, prior
320 to taking into account the effects of any signal degradation, that
321 is not less than three hundred eighty-four (384) kilobits per
322 second in at least one direction, including, but not limited to,

323 asynchronous transfer mode switches, digital subscriber line
324 access multiplexers, routers, servers, multiplexers, fiber optics
325 and related equipment.

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

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

336 (6) Sales of component materials used in the replacement,
337 reconstruction or repair of a building that has been destroyed or
338 sustained extensive damage as a result of a disaster declared by
339 the Governor, sales of machinery and equipment to be used therein
340 to replace machinery or equipment damaged or destroyed as a result
341 of such disaster, including, but not limited to, manufacturing or
342 processing machinery and equipment which is permanently attached
343 to the ground or to a permanent foundation and which is not by its
344 nature intended to be housed within a building structure, to
345 enterprises that were eligible for the partial exemptions provided
346 for in subsections (2), (3) and (4) of this section during initial
347 construction of the building that was destroyed or damaged, which
348 enterprises are certified by the State Tax Commission as being
349 eligible for the partial exemption granted in this subsection,
350 shall be exempt from one-half (1/2) of the taxes imposed on such
351 transactions under this chapter.

352 **SECTION 2.** This act shall take effect and be in force from
353 and after July 1, 2007.