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To: Finance

SENATE BILL NO. 3070  
(As Sent to Governor)

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, as  
10 amended by Senate Bill No. 3215, 2007 Regular Session, is amended  
11 as follows:

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

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

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

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

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

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

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

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

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

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

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

69           (i) Sales of machinery or tools or repair parts  
70 therefor or replacements thereof, fuel or supplies used directly  
71 in manufacturing, converting or repairing ships, vessels or barges  
72 of three thousand (3,000) tons load displacement and over, but not  
73 to include office and plant supplies or other equipment not  
74 directly used on the ship, vessel or barge being built, converted  
75 or repaired. For purposes of this exemption, "ships, vessels or  
76 barges" shall not include floating structures described in Section  
77 27-65-18.

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

84           (k) Sales of materials used in the construction of a  
85 building, or any addition or improvement thereon, and sales of any  
86 machinery and equipment not later than three (3) months after the  
87 completion of construction of the building, or any addition  
88 thereon, to be used therein, to qualified businesses, as defined  
89 in Section 57-51-5, which are located in a county or portion  
90 thereof designated as an enterprise zone pursuant to Sections  
91 57-51-1 through 57-51-15.

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

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

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

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

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

107 (p) Sales of materials used in the construction of a  
108 building, or any addition or improvement thereon, and sales of any  
109 machinery and equipment not later than three (3) months after the  
110 completion of construction of the building, or any addition  
111 thereon, to be used therein, to qualified companies, certified as  
112 such by the Mississippi Development Authority under Section  
113 57-53-1.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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