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COMMITTEE REPORT

February 23, 2011

**S. 533**

Introduced by Senators Coleman and Reese

S. Printed 2/23/11--S.

Read the first time February 9, 2011.

**THE COMMITTEE ON FINANCE**

To whom was referred a Bill (S. 533) to amend Section 12‑36‑2120, as amended, Code of Laws of South Carolina, 1976, relating to the requirements for a sales tax exemption of certain items, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, SECTION 1, page 1, by striking lines 37 and 38 and inserting:

/ the department of its intent to qualify and shall invest at least twenty million dollars in /

Renumber sections to conform.

Amend title to conform.

HUGH K. LEATHERMAN, SR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**REVENUE IMPACT 1/**

This bill is not expected to impact general fund sales and use tax revenue in FY2011-12.

**Explanation**

Currently, pursuant to Section 12-36-2120(78), a tax exempt organization that focuses its research on mitigating insurance losses due to catastrophic events by testing the effects of the natural hazards of wind, fire, flood, earthquake, and hail on architectural models will qualify for a sales and use tax exemption on the machinery and equipment, building and other raw materials, and electricity used to test the materials in the facility. There is one entity that has located and constructed a facility in South Carolina that qualifies for this sale tax exemption. This bill would amend Section 12-36-2121(78) to allow a qualifying organization to change the date the organization is required to begin capital investment in a testing facility “for the period beginning January 1, 2009”. The bill would also allow the qualifying investment of at least $20,000,000 in real or personal property at a single site in this State over a three-year period to begin at any time period after December 31, 2008. Also, all or a portion of the investment may occur before the taxpayer provides notice to the Department of Revenue that the organization has started construction on the facility. This changes the tolling date of the qualified investment to any time after December 31, 2008 up to and including the date the organization gives notice to the Department of Revenue of its intent to begin construction of the facility. The construction of this facility had started before the passage of Act 280 of 2010 and the research and testing facility completed construction and debuted in October 2010. Since the BEA has already deducted sales and use tax revenue from its general fund revenue for the facility in its February 9, 2011 estimate, this bill is not expected to impact sales and use tax revenue in FY2011-12.

*Approved By:*

William C. Gillespie

Board of Economic Advisors

1/ This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA, or Section 2-7-76 for a local revenue impact or Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.

**A** **BILL**

TO AMEND SECTION 12‑36‑2120, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE REQUIREMENTS FOR A SALES TAX EXEMPTION OF CERTAIN ITEMS FOR CERTAIN FACILITIES RESEARCHING AND TESTING THE IMPACT OF NATURAL DISASTERS, SO AS TO PROVIDE THAT THE QUALIFYING INVESTMENT OF AT LEAST TWENTY MILLION DOLLARS MAY BEGIN AT ANY TIME PERIOD AFTER JANUARY 1, 2009, AND ALL OR A PORTION MAY OCCUR BEFORE THE TAXPAYER NOTIFIES THE DEPARTMENT OF REVENUE OF ITS INTENTION.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 12‑36‑2120(78) of the 1976 Code, as added by Act 280 of 2010, is amended to read:

“(78) machinery and equipment, building and other raw materials, and electricity used in the operation of a facility owned by an organization which qualifies as a tax exempt organization pursuant to the Internal Revenue Code Section 501(c)(3) when the facility is principally used for researching and testing the impact of such natural hazards as wind, fire, water, earthquake, and hail on building materials used in residential, commercial, and agricultural buildings. To qualify for this exemption, the taxpayer shall notify the department of its intent to qualify and shall invest, for the period beginning January 1, 2009, at least twenty million dollars in real or personal property at a single site in this State over the three‑year period beginning on the date provided by the taxpayer to the department in its notices. The qualifying investment of at least twenty million dollars may begin at any time period after December 31, 2008, and all or a portion may occur before the taxpayer provides the notice. After the taxpayer notifies the department of its intent to qualify and use the exemption, the department shall issue an appropriate exemption certificate to the taxpayer to be used for qualifying purposes. Within six months of the third anniversary of the taxpayer’s first use of the exemption, the taxpayer shall notify the department in writing that it has met the twenty million dollar investment requirement or, that it has not met the twenty million dollar investment requirement. The department may assess any tax due on the machinery and equipment purchased tax free pursuant to this item but due the State as a result of the taxpayer’s failure to meet the twenty million dollar investment requirement. The running of the periods of limitations for assessment of taxes provided in Section 12‑54‑85 is suspended for the time period beginning with notice to the department before the taxpayer uses the exemption and ending with notice to the department that the taxpayer either has met or has not met the twenty million dollar investment requirement.”

SECTION 2. This act takes effect upon approval by the Governor and applies to any qualifying facility placed in service and to any portion of the requisite capital investment made after December 31, 2008.

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