

By: Senator(s) Smith

To: Finance

SENATE BILL NO. 3099

1 AN ACT TO AMEND SECTION 57-73-21, MISSISSIPPI CODE OF 1972,
2 TO MAKE PERMANENT BUSINESS ENTERPRISES DESIGNATED BY THE
3 DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT AS DATA OR
4 INFORMATION PROCESSING OR COMPUTER SOFTWARE DEVELOPMENT
5 ENTERPRISES ELIGIBLE FOR A JOBS TAX CREDIT UNDER THE ECONOMIC
6 DEVELOPMENT REFORM ACT; AND FOR RELATED PURPOSES.

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

8 SECTION 1. Section 57-73-21, Mississippi Code of 1972, is
9 amended as follows:

10 57-73-21. (1) Annually by December 31, using the most
11 current data available from the University Research Center,
12 Mississippi State Employment Security Commission and the United
13 States Department of Commerce, the State Tax Commission shall rank
14 and designate the state's counties as provided in this section.
15 The twenty-eight (28) counties in this state having a combination
16 of the highest unemployment rate and lowest per capita income for
17 the most recent thirty-six-month period, with equal weight being
18 given to each category, are designated less developed areas. The
19 twenty-seven (27) counties in the state with a combination of the
20 next highest unemployment rate and next lowest per capita income
21 for the most recent thirty-six-month period, with equal weight
22 being given to each category, are designated moderately developed
23 areas. The twenty-seven (27) counties in the state with a
24 combination of the lowest unemployment rate and the highest per
25 capita income for the most recent thirty-six-month period, with
26 equal weight being given to each category, are designated
27 developed areas. Counties designated by the Tax Commission
28 qualify for the appropriate tax credit for jobs as provided in

29 subsections (2), (3) and (4) of this section. The designation by
30 the Tax Commission is effective for the tax years of permanent
31 business enterprises which begin after the date of designation.
32 For companies which plan an expansion in their labor forces, the
33 Tax Commission shall prescribe certification procedures to ensure
34 that the companies can claim credits in future years without
35 regard to whether or not a particular county is removed from the
36 list of less developed or moderately developed areas.

37 (2) Permanent business enterprises primarily engaged in
38 manufacturing, processing, warehousing, distribution, wholesaling
39 and research and development, or permanent business enterprises
40 designated by rule and regulation of the Department of Economic
41 and Community Development as air transportation and maintenance
42 facilities, final destination or resort hotels having a minimum of
43 one hundred fifty (150) guest rooms, recreational facilities that
44 impact tourism, movie industry studios, * * * telecommunications
45 enterprises, data or information processing enterprises or
46 computer software development enterprises, in counties designated
47 by the Tax Commission as less developed areas are allowed a job
48 tax credit for taxes imposed by Section 27-7-5 equal to Two
49 Thousand Dollars (\$2,000.00) annually for each net new full-time
50 employee job for five (5) years beginning with years two (2)
51 through six (6) after the creation of the job. The number of new
52 full-time jobs must be determined by comparing the monthly average
53 number of full-time employees subject to the Mississippi income
54 tax withholding for the taxable year with the corresponding period
55 of the prior taxable year. Only those permanent businesses that
56 increase employment by ten (10) or more in a less developed area
57 are eligible for the credit. Credit is not allowed during any of
58 the five (5) years if the net employment increase falls below ten
59 (10). The Tax Commission shall adjust the credit allowed each
60 year for the net new employment fluctuations above the minimum
61 level of ten (10).

62 (3) Permanent business enterprises primarily engaged in
63 manufacturing, processing, warehousing, distribution, wholesaling
64 and research and development, or permanent business enterprises
65 designated by rule and regulation of the Department of Economic

66 and Community Development as air transportation and maintenance
67 facilities, final destination or resort hotels having a minimum of
68 one hundred fifty (150) guest rooms, recreational facilities that
69 impact tourism, movie industry studios, * * * telecommunications
70 enterprises, data or information processing enterprises or
71 computer software development enterprises, in counties that have
72 been designated by the Tax Commission as moderately developed
73 areas are allowed a job tax credit for taxes imposed by Section
74 27-7-5 equal to One Thousand Dollars (\$1,000.00) annually for each
75 net new full-time employee job for five (5) years beginning with
76 years two (2) through six (6) after the creation of the job. The
77 number of new full-time jobs must be determined by comparing the
78 monthly average number of full-time employees subject to
79 Mississippi income tax withholding for the taxable year with the
80 corresponding period of the prior taxable year. Only those
81 permanent businesses that increase employment by fifteen (15) or
82 more in areas that have not been designated less developed areas
83 are eligible for the credit. The credit is not allowed during any
84 of the five (5) years if the net employment increase falls below
85 fifteen (15). The Tax Commission shall adjust the credit allowed
86 each year for the net new employment fluctuations above the
87 minimum level of fifteen (15).

88 (4) Permanent business enterprises primarily engaged in
89 manufacturing, processing, warehousing, distribution, wholesaling
90 and research and development, or permanent business enterprises
91 designated by rule and regulation of the Department of Economic
92 and Community Development as air transportation and maintenance
93 facilities, final destination or resort hotels having a minimum of
94 one hundred fifty (150) guest rooms, recreational facilities that
95 impact tourism, movie industry studios, * * * telecommunications
96 enterprises, data or information processing enterprises or
97 computer software development enterprises, in counties designated
98 by the Tax Commission as developed areas are allowed a job tax

99 credit for taxes imposed by Section 27-7-5 equal to Five Hundred
100 Dollars (\$500.00) annually for each net new full-time employee job
101 for five (5) years beginning with years two (2) through six (6)
102 after the creation of the job. The number of new full-time jobs
103 must be determined by comparing the monthly average number of
104 full-time employees subject to Mississippi income tax withholding
105 for the taxable year with the corresponding period of the prior
106 taxable year. Only those permanent businesses that increase
107 employment by twenty (20) or more in developed areas are eligible
108 for the credit. The credit is not allowed during any of the five
109 (5) years if the net employment increase falls below twenty (20).
110 The Tax Commission shall adjust the credit allowed each year for
111 the net new employment fluctuations above the minimum level of
112 twenty (20).

113 (5) In addition to the credits authorized in subsections
114 (2), (3) and (4), an additional Five Hundred Dollars (\$500.00)
115 credit for each net new full-time employee shall be allowed for
116 any company establishing or transferring its national or regional
117 headquarters from within or outside the State of Mississippi. A
118 minimum of thirty-five (35) jobs must be created to qualify for
119 the additional credit. The State Tax Commission shall establish
120 criteria and prescribe procedures to determine if a company
121 qualifies as a national or regional headquarters for purposes of
122 receiving the credit awarded in this subsection.

123 (6) In addition to the credits authorized in subsections
124 (2), (3), (4) and (5), any job requiring research and development
125 skills (chemist, engineer, etc.) shall qualify for an additional
126 Five Hundred Dollars (\$500.00) credit for each net new full-time
127 employee.

128 (7) Tax credits for five (5) years for the taxes imposed by
129 Section 27-7-5 shall be awarded for additional net new full-time
130 jobs created by business enterprises qualified under subsections
131 (2), (3), (4), (5) and (6) of this section. The Tax Commission

132 shall adjust the credit allowed in the event of employment
133 fluctuations during the additional five (5) years of credit.

134 (8) The sale, merger, acquisition, reorganization,
135 bankruptcy or relocation from one county to another county within
136 the state of any business enterprise may not create new
137 eligibility in any succeeding business entity, but any unused job
138 tax credit may be transferred and continued by any transferee of
139 the business enterprise. The Tax Commission shall determine
140 whether or not qualifying net increases or decreases have occurred
141 or proper transfers of credit have been made and may require
142 reports, promulgate regulations, and hold hearings as needed for
143 substantiation and qualification.

144 (9) Any tax credit claimed under this section but not used
145 in any taxable year may be carried forward for five (5) years from
146 the close of the tax year in which the qualified jobs were
147 established but the credit established by this section taken in
148 any one (1) tax year must be limited to an amount not greater than
149 fifty percent (50%) of the taxpayer's state income tax liability
150 which is attributable to income derived from operations in the
151 state for that year.

152 (10) No business enterprise for the transportation,
153 handling, storage, processing or disposal of hazardous waste is
154 eligible to receive the tax credits provided in this section.

155 (11) The credits allowed under this section shall not be
156 used by any business enterprise or corporation other than the
157 business enterprise actually qualifying for the credits.

158 (12) The tax credits provided for in this section shall be
159 in addition to any tax credits described in Sections 57-51-13(b),
160 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official
161 action by the Department of Economic Development prior to July 1,
162 1989, to any business enterprise determined prior to July 1, 1989,
163 by the Department of Economic Development to be a qualified
164 business as defined in Section 57-51-5(f) or Section 57-54-5(d) or

165 a qualified company as described in Section 57-53-1, as the case
166 may be; however, from and after July 1, 1989, tax credits shall be
167 allowed only under either this section or Sections 57-51-13(b),
168 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time
169 employee.

170 (13) As used in this section, the term "telecommunications
171 enterprises" means entities engaged in the creation, display,
172 management, storage, processing, transmission or distribution for
173 compensation of images, text, voice, video or data by wire or by
174 wireless means, or entities engaged in the construction, design,
175 development, manufacture, maintenance or distribution for
176 compensation of devices, products, software or structures used in
177 the above activities. Companies organized to do business as
178 commercial broadcast radio stations, television stations or news
179 organizations primarily serving in-state markets shall not be
180 included within the definition of the term "telecommunications
181 enterprises."

182 SECTION 2. Nothing in this act shall affect or defeat any
183 claim, assessment, appeal, suit, right or cause of action for
184 taxes due or accrued under the income tax laws before the date on
185 which this act becomes effective, whether such claims,
186 assessments, appeals, suits or actions have been begun before the
187 date on which this act becomes effective or are begun thereafter;
188 and the provisions of the income tax laws are expressly continued
189 in full force, effect and operation for the purpose of the
190 assessment, collection and enrollment of liens for any taxes due
191 or accrued and the execution of any warrant under such laws before
192 the date on which this act becomes effective, and for the
193 imposition of any penalties, forfeitures or claims for failure to
194 comply with such laws.

195 SECTION 3. This act shall take effect and be in force from
196 and after January 1, 1999.