

By: Carlton

To: Finance

SENATE BILL NO. 2673

1 AN ACT TO PROVIDE A CREDIT AGAINST STATE INCOME TAXES FOR  
2 TAXPAYERS MAKING EXPENDITURES FOR THE NEW CONSTRUCTION OR THE  
3 ACQUISITION AND REHABILITATION OF CERTAIN QUALIFIED LOW-INCOME  
4 HOUSING PROJECTS; TO LIMIT THE AMOUNT OF THE INCOME TAX CREDIT  
5 THAT MAY BE TAKEN BY A TAXPAYER; TO PROVIDE THAT THE MISSISSIPPI  
6 STATE TAX COMMISSION SHALL DETERMINE THE AMOUNT OF CREDIT THAT MAY  
7 BE CLAIMED BY A TAXPAYER; TO PROVIDE FOR THE APPLICATION OF THE  
8 CREDIT AGAINST INCOME TAX LIABILITY IN CASES OF CORPORATIONS,  
9 INDIVIDUALS AND CERTAIN OTHER BUSINESS ENTITIES; TO AMEND SECTION  
10 27-3-31, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS OF  
11 THIS ACT; AND FOR RELATED PURPOSES.

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

13 SECTION 1. (1) (a) Any taxpayer making expenditures for  
14 the new construction or the acquisition and rehabilitation of  
15 qualified low-income housing projects in the State of Mississippi  
16 shall be allowed a credit in the amount authorized in subsection  
17 (2) of this section against corporate and personal income tax  
18 imposed upon the taxpayer under the laws of this state. The  
19 amount of the credit shall be determined in accordance with  
20 subsection (2) of this section and computed in the same manner as  
21 the federal low-income housing credit allowed under 26 USCS  
22 Section 42, as amended, and the Treasury Regulations promulgated  
23 thereunder. For the purposes of this section, "qualified  
24 low-income housing project" shall have the same meaning as that  
25 ascribed to the term in 26 USCS Section 42, as amended.

26           (b) The credit provided for in this section shall not  
27 exceed the state income tax liability imposed upon the taxpayer  
28 for the taxable year in which the expenditures are made or for  
29 which the credit is claimed.

30           (2) (a) The Mississippi State Tax Commission shall  
31 authorize the amount of credit to be allocated to any project in  
32 accordance with the requirements of this section, based on the  
33 need of the project for the credit for economic feasibility.

34           (b) In order for a taxpayer to claim the credit  
35 provided for in this section, the qualified low-income housing  
36 project for which the credit is claimed must be located in the  
37 State of Mississippi and satisfy at least one (1) of the following  
38 requirements:

39           (i) The Mississippi State Tax Commission allocates  
40 a credit to the project for federal income tax purposes under 26  
41 USCS Section 42, as amended, and the Treasury Regulations  
42 promulgated thereunder; or

43           (ii) The project qualifies for a low-income  
44 housing credit under 26 USCS Section 42(h)(4), as amended, and the  
45 Treasury Regulations promulgated thereunder.

46           (c) The Mississippi State Tax Commission shall certify  
47 to the taxpayer the amount of the credit allocated to a project  
48 for each year of the credit period. For the purposes of this  
49 paragraph, the term "credit period" shall have the same meaning as  
50 that ascribed to the term in 26 USCS Section 42(f)(1), as amended.

51           (d) The aggregate credit dollar amount which the  
52 Mississippi State Tax Commission may allocate to a project for a  
53 calendar year shall be calculated in the same manner as the state  
54 housing credit ceiling applicable to the State of Mississippi for  
55 the applicable year under 26 USCS Section 42(h)(3), as amended,  
56 except that the portion of the formula contained in 26 USCS

57 Section 42(h)(3)(C)(i), as amended, shall be derived by  
58 multiplying Three Dollars (\$3.00), rather than One Dollar and  
59 Twenty-five Cents (\$1.25), by the state population.

60 (3) Notwithstanding any other provision of law to the  
61 contrary, the following rules shall govern the application of the  
62 credit provided for in this section:

63 (a) The credit for new construction or acquisition and  
64 rehabilitation expenditures made by a corporation shall be applied  
65 against the state income tax liability of the corporation.

66 (b) The credit for new construction or acquisition and  
67 rehabilitation expenditures made by an individual shall be applied  
68 against the state income tax liability of the individual.

69 (c) The credit for new construction or acquisition and  
70 rehabilitation expenditures made by a corporation for which a  
71 valid election as an S corporation under 26 USCS Section 1362(a),  
72 is in effect, shall be applied first against the corporate income  
73 tax liability of the corporation, and the remainder of the credit  
74 shall be allocated to the shareholder or shareholders of the  
75 corporation based on the proportion of their respective interests  
76 and applied against the state income tax liability of the  
77 shareholder or shareholders.

78 (d) The credit for new construction or acquisition and  
79 rehabilitation expenditures made by a partnership, partnership in  
80 commendam, registered limited liability partnership or limited  
81 liability company shall be allocated to the partners or members  
82 according to their distributive shares of the gross income of such  
83 business entity and applied against the state income tax liability  
84 of such partners or members.

85           (e) The credit authorized in this section shall be  
86 allowed only for new construction or acquisition and  
87 rehabilitation expenditures placed in service on or after January  
88 1, 2000. For the purposes of this paragraph, the term "placed in  
89 service" shall have the same meaning as that used in 26 USCS  
90 Section 42, as amended, and the Treasury Regulations promulgated  
91 thereunder.

92           SECTION 2. Section 27-3-31, Mississippi Code of 1972, is  
93 amended as follows:[WAN1]

94           27-3-31. It shall specifically be the duty of the State Tax  
95 Commission, and it shall have power and authority:

96           (a) To adopt, amend or repeal those rules or  
97 regulations necessary to implement the duties assigned to the  
98 commission in this section.

99           (b) Each commissioner and authorized agent, and the  
100 secretary of the commission is empowered to administer and certify  
101 oaths.

102           (c) To confer with and advise assessing officers,  
103 boards of supervisors and other county officers as to their duties  
104 relative to taxation under the law; and to advise them in the  
105 collection, filing and preservation of data relative to matters of  
106 assessment.

107           (d) To prepare and have printed in pamphlet form full  
108 instructions governing the duties of and the application of the  
109 revenue laws of the state to county tax assessors, the clerk and  
110 members of the boards of supervisors, and to promptly advise such  
111 officers of all decisions of the Supreme Court relating to matters  
112 of revenue and taxation when such decisions affect the duties of

113 such officers.

114           (e) To become familiar with property values and general  
115 conditions in the counties of the state and to direct the  
116 collection and preservation of data and information pertaining to  
117 the quantity and value of property in each county in the state,  
118 subject to assessment, necessary to enable the commission to  
119 determine the assessed value of classes of property and whether  
120 assessments comply with acceptable performance standards as  
121 required by Section 27-35-113.

122           (f) To direct the collection, preparation and  
123 preservation of data and information pertaining to the quantity,  
124 value and location of property belonging to railroads, persons,  
125 corporations and associations which is required to be assessed by  
126 the State Tax Commission.

127           (g) To supervise and direct the preparation of forms  
128 for the assessment of property of railroads and public service  
129 corporations assessed by the commission, and the filing of their  
130 rolls or schedules of assessment.

131           (h) To determine the location of all property subject  
132 to assessment by the commission in the various counties of the  
133 state, the municipalities and taxing districts therein, and to  
134 ascertain and report as far as practicable the value and ownership  
135 of all such property.

136           (i) To keep informed of the work of the assessors and  
137 supervisors of the various counties of the state as required by  
138 Section 27-3-51, and to have charge of the details necessary to  
139 the equalization by the commission of assessments among the  
140 various counties pursuant to Section 27-35-113.

141           (j) To prepare all forms for tax lists, assessment  
142 rolls and perform other duties relating thereto.

143           (k) To prepare data and statistics relating to property  
144 assessments which are deemed advisable for publication or which  
145 may be required by the Legislature.

146           (l) To confer with assessors, supervisors and other  
147 local taxing officials who may have business with the commission.

148           (m) To consider and approve or disapprove all orders of  
149 boards of supervisors making increases and decreases in  
150 assessments and orders of boards of supervisors granting homestead  
151 exemptions.

152           (n) To have jurisdiction of all taxpayer appeals from  
153 decisions on the chairman of the commission to the entire  
154 commission, to arrange the time and place of hearing and appeals,  
155 and to provide for the preparation and presentation to the full  
156 commission of all evidence, documents and other matters necessary  
157 and proper for a decision on the matters and questions involved in  
158 the appeal.

159           (o) To direct and supervise the preparation of any  
160 record to be filed in any court of the state.

161           (p) To attend to all appeals from decisions of the  
162 State Tax Commission to the courts, and cooperate with the  
163 Attorney General and district attorneys to the end that the  
164 interests of the state shall be presented fairly and properly to  
165 the courts, without undue delay.

166           (q) To administer and enforce the "Local Option  
167 Alcoholic Beverage Control Law," being Section 67-1-1 et seq.,  
168 except as provided in Section 67-1-23.

169           (r) To adopt and enforce rules and regulations  
170 prescribing the manner and method by which tax returns and  
171 documents may be filed with the commission as provided under  
172 Section 27-3-83.

173           (s) To authorize and certify to taxpayers the amount of  
174 income tax credits allocated to qualified low-income housing  
175 projects under Section 1 of Senate Bill No. 2673, 2000 Regular  
176 Session.

177           SECTION 3. Nothing in this act shall affect or defeat any  
178 claim, assessment, appeal, suit, right or cause of action for  
179 taxes due or accrued under the income tax laws before the date on  
180 which this act becomes effective, whether such claims,  
181 assessments, appeals, suits or actions have been begun before the  
182 date on which this act becomes effective or are begun thereafter;  
183 and the provisions of the income tax laws are expressly continued  
184 in full force, effect and operation for the purpose of the  
185 assessment, collection and enrollment of liens for any taxes due  
186 or accrued and the execution of any warrant under such laws before  
187 the date on which this act becomes effective, and for the  
188 imposition of any penalties, forfeitures or claims for failure to  
189 comply with such laws.

190           SECTION 4. This act shall take effect and be in force from  
191 and after July 1, 2000.