

By: Representative Guice

To: Ways and Means

HOUSE BILL NO. 823

1 AN ACT TO AMEND SECTION 57-73-21, MISSISSIPPI CODE OF 1972,
2 TO INCLUDE CONSTRUCTION ENTERPRISES AS ENTERPRISES WHICH QUALIFY
3 FOR THE INCOME TAX JOBS CREDIT PROVIDED IN SUCH SECTION; AND FOR
4 RELATED PURPOSES.

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

6 **SECTION 1.** Section 57-73-21, Mississippi Code of 1972, is
7 amended as follows:

8 57-73-21. (1) Annually by December 31, using the most
9 current data available from the University Research Center,
10 Mississippi State Employment Security Commission and the United
11 States Department of Commerce, the State Tax Commission shall rank
12 and designate the state's counties as provided in this section.
13 The twenty-eight (28) counties in this state having a combination
14 of the highest unemployment rate and lowest per capita income for
15 the most recent thirty-six-month period, with equal weight being
16 given to each category, are designated Tier Three areas. The
17 twenty-seven (27) counties in the state with a combination of the
18 next highest unemployment rate and next lowest per capita income
19 for the most recent thirty-six-month period, with equal weight
20 being given to each category, are designated Tier Two areas. The
21 twenty-seven (27) counties in the state with a combination of the
22 lowest unemployment rate and the highest per capita income for the
23 most recent thirty-six-month period, with equal weight being given
24 to each category, are designated Tier One areas. Counties
25 designated by the Tax Commission qualify for the appropriate tax
26 credit for jobs as provided in subsections (2), (3) and (4) of
27 this section. The designation by the Tax Commission is effective
28 for the tax years of permanent business enterprises which begin

29 after the date of designation. For companies which plan an
30 expansion in their labor forces, the Tax Commission shall
31 prescribe certification procedures to ensure that the companies
32 can claim credits in future years without regard to whether or not
33 a particular county is removed from the list of Tier Three or Tier
34 Two areas.

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

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

87 (4) Permanent business enterprises primarily engaged in
88 manufacturing, construction, processing, warehousing,
89 distribution, wholesaling and research and development, or
90 permanent business enterprises designated by rule and regulation
91 of the Mississippi Development Authority as air transportation and
92 maintenance facilities, final destination or resort hotels having
93 a minimum of one hundred fifty (150) guest rooms, recreational

94 facilities that impact tourism, movie industry studios,
95 telecommunications enterprises, data or information processing
96 enterprises or computer software development enterprises or any
97 technology intensive facility or enterprise, in counties
98 designated by the Tax Commission as Tier One areas are allowed a
99 job tax credit for taxes imposed by Section 27-7-5 equal to Five
100 Hundred Dollars (\$500.00) annually for each net new full-time
101 employee job for five (5) years beginning with years two (2)
102 through six (6) after the creation of the job. The number of new
103 full-time jobs must be determined by comparing the monthly average
104 number of full-time employees subject to Mississippi income tax
105 withholding for the taxable year with the corresponding period of
106 the prior taxable year. Only those permanent businesses that
107 increase employment by twenty (20) or more in Tier One areas are
108 eligible for the credit. The credit is not allowed during any of
109 the five (5) years if the net employment increase falls below
110 twenty (20). The Tax Commission shall adjust the credit allowed
111 each year for the net new employment fluctuations above the
112 minimum level of 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 or an additional One
116 Thousand Dollars (\$1,000.00) credit for each net new full-time
117 employee who is paid a salary, excluding benefits which are not
118 subject to Mississippi income taxation, of at least one hundred
119 twenty-five percent (125%) of the average annual wage of the state
120 or an additional Two Thousand Dollars (\$2,000.00) credit for each
121 net new full-time employee who is paid a salary, excluding
122 benefits which are not subject to Mississippi income taxation, of
123 at least two hundred percent (200%) of the average annual wage of
124 the state, shall be allowed for any company establishing or
125 transferring its national or regional headquarters from within or
126 outside the State of Mississippi. A minimum of thirty-five (35)

127 jobs must be created to qualify for the additional credit. The
128 State Tax Commission shall establish criteria and prescribe
129 procedures to determine if a company qualifies as a national or
130 regional headquarters for purposes of receiving the credit awarded
131 in this subsection. As used in this subsection, the average
132 annual wage of the state is the most recently published average
133 annual wage as determined by the Mississippi Employment Security
134 Commission.

135 (6) In addition to the credits authorized in subsections
136 (2), (3), (4) and (5), any job requiring research and development
137 skills (chemist, engineer, etc.) shall qualify for an additional
138 One Thousand Dollars (\$1,000.00) credit for each net new full-time
139 employee.

140 (7) Tax credits for five (5) years for the taxes imposed by
141 Section 27-7-5 shall be awarded for additional net new full-time
142 jobs created by business enterprises qualified under subsections
143 (2), (3), (4), (5) and (6) of this section. The Tax Commission
144 shall adjust the credit allowed in the event of employment
145 fluctuations during the additional five (5) years of credit.

146 (8) The sale, merger, acquisition, reorganization,
147 bankruptcy or relocation from one county to another county within
148 the state of any business enterprise may not create new
149 eligibility in any succeeding business entity, but any unused job
150 tax credit may be transferred and continued by any transferee of
151 the business enterprise. The Tax Commission shall determine
152 whether or not qualifying net increases or decreases have occurred
153 or proper transfers of credit have been made and may require
154 reports, promulgate regulations, and hold hearings as needed for
155 substantiation and qualification.

156 (9) Any tax credit claimed under this section but not used
157 in any taxable year may be carried forward for five (5) years from
158 the close of the tax year in which the qualified jobs were
159 established but the credit established by this section taken in

any one (1) tax year must be limited to an amount not greater than fifty percent (50%) of the taxpayer's state income tax liability which is attributable to income derived from operations in the state for that year.

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

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

(12) The tax credits provided for in this section shall be in addition to any tax credits described in Sections 57-51-13(b), 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official action by the Department of Economic Development prior to July 1, 1989, to any business enterprise determined prior to July 1, 1989, by the Department of Economic Development to be a qualified business as defined in Section 57-51-5(f) or Section 57-54-5(d) or a qualified company as described in Section 57-53-1, as the case may be; however, from and after July 1, 1989, tax credits shall be allowed only under either this section or Sections 57-51-13(b), 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time employee.

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

192 included within the definition of the term "telecommunications
193 enterprises."

194 **SECTION 2.** Nothing in this act shall affect or defeat any
195 claim, assessment, appeal, suit, right or cause of action for
196 taxes due or accrued under the income tax laws before the date on
197 which this act becomes effective, whether such claims,
198 assessments, appeals, suits or actions have been begun before the
199 date on which this act becomes effective or are begun thereafter;
200 and the provisions of the income tax laws are expressly continued
201 in full force, effect and operation for the purpose of the
202 assessment, collection and enrollment of liens for any taxes due
203 or accrued and the execution of any warrant under such laws before
204 the date on which this act becomes effective, and for the
205 imposition of any penalties, forfeitures or claims for failure to
206 comply with such laws.

207 **SECTION 3.** This act shall take effect and be in force from
208 and after January 1, 2004.