

By: Senator(s) Robertson, Butler, Frazier,
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To: Finance

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2521

1 AN ACT TO AMEND SECTION 57-73-21, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE CHAIRMAN OF THE STATE TAX COMMISSION TO EXTEND
3 THE PERIOD OF TIME WITHIN WHICH THE JOBS TAX CREDIT FOR PERMANENT
4 BUSINESS ENTERPRISES MAY BE UTILIZED BY ENTERPRISES THAT ARE
5 UNABLE TO MAINTAIN THE REQUIRED NUMBER OF JOBS AS A DIRECT RESULT
6 OF CERTAIN DISASTERS; TO PROVIDE THAT THE PERIOD OF TIME FOR WHICH
7 THE REQUIREMENT MAY BE WAIVED SHALL NOT EXCEED TWO YEARS; AND FOR
8 RELATED PURPOSES.

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

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

12 [In cases involving business enterprises that received or
13 applied for the job tax credit authorized by this section prior to
14 January 1, 2005, this section shall read as follows:]

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

31 to each category, are designated Tier One areas. Counties
32 designated by the Tax Commission qualify for the appropriate tax
33 credit for jobs as provided in subsections (2), (3) and (4) of
34 this section. The designation by the Tax Commission is effective
35 for the tax years of permanent business enterprises which begin
36 after the date of designation. For companies which plan an
37 expansion in their labor forces, the Tax Commission shall
38 prescribe certification procedures to ensure that the companies
39 can claim credits in future years without regard to whether or not
40 a particular county is removed from the list of Tier Three or Tier
41 Two areas.

42 (2) Permanent business enterprises primarily engaged in
43 manufacturing, processing, warehousing, distribution, wholesaling
44 and research and development, or permanent business enterprises
45 designated by rule and regulation of the Mississippi Development
46 Authority as air transportation and maintenance facilities, final
47 destination or resort hotels having a minimum of one hundred fifty
48 (150) guest rooms, recreational facilities that impact tourism,
49 movie industry studios, telecommunications enterprises, data or
50 information processing enterprises or computer software
51 development enterprises or any technology intensive facility or
52 enterprise, in counties designated by the Tax Commission as Tier
53 Three areas are allowed a job tax credit for taxes imposed by
54 Section 27-7-5 equal to Two Thousand Dollars (\$2,000.00) annually
55 for each net new full-time employee job for five (5) years
56 beginning with years two (2) through six (6) after the creation of
57 the job; however, if the permanent business enterprise is located
58 in an area that has been declared by the Governor to be a disaster
59 area and as a direct result of the disaster the permanent business
60 enterprise is unable to maintain the required number of jobs, the
61 Chairman of the State Tax Commission may extend this time period
62 for not more two (2) years. The number of new full-time jobs must
63 be determined by comparing the monthly average number of full-time

64 employees subject to the Mississippi income tax withholding for
65 the taxable year with the corresponding period of the prior
66 taxable year. Only those permanent businesses that increase
67 employment by ten (10) or more in a Tier Three area are eligible
68 for the credit. Credit is not allowed during any of the five (5)
69 years if the net employment increase falls below ten (10). The
70 Tax Commission shall adjust the credit allowed each year for the
71 net new employment fluctuations above the minimum level of ten
72 (10).

73 (3) Permanent business enterprises primarily engaged in
74 manufacturing, processing, warehousing, distribution, wholesaling
75 and research and development, or permanent business enterprises
76 designated by rule and regulation of the Mississippi Development
77 Authority as air transportation and maintenance facilities, final
78 destination or resort hotels having a minimum of one hundred fifty
79 (150) guest rooms, recreational facilities that impact tourism,
80 movie industry studios, telecommunications enterprises, data or
81 information processing enterprises or computer software
82 development enterprises or any technology intensive facility or
83 enterprise, in counties that have been designated by the Tax
84 Commission as Tier Two areas are allowed a job tax credit for
85 taxes imposed by Section 27-7-5 equal to One Thousand Dollars
86 (\$1,000.00) annually for each net new full-time employee job for
87 five (5) years beginning with years two (2) through six (6) after
88 the creation of the job; however, if the permanent business
89 enterprise is located in an area that has been declared by the
90 Governor to be a disaster area and as a direct result of the
91 disaster the permanent business enterprise is unable to maintain
92 the required number of jobs, the Chairman of the State Tax
93 Commission may extend this time period for not more two (2) years.
94 The number of new full-time jobs must be determined by comparing
95 the monthly average number of full-time employees subject to
96 Mississippi income tax withholding for the taxable year with the

97 corresponding period of the prior taxable year. Only those
98 permanent businesses that increase employment by fifteen (15) or
99 more in Tier Two areas are eligible for the credit. The credit is
100 not allowed during any of the five (5) years if the net employment
101 increase falls below fifteen (15). The Tax Commission shall
102 adjust the credit allowed each year for the net new employment
103 fluctuations above the minimum level of fifteen (15).

104 (4) Permanent business enterprises primarily engaged in
105 manufacturing, processing, warehousing, distribution, wholesaling
106 and research and development, or permanent business enterprises
107 designated by rule and regulation of the Mississippi Development
108 Authority as air transportation and maintenance facilities, final
109 destination or resort hotels having a minimum of one hundred fifty
110 (150) guest rooms, recreational facilities that impact tourism,
111 movie industry studios, telecommunications enterprises, data or
112 information processing enterprises or computer software
113 development enterprises or any technology intensive facility or
114 enterprise, in counties designated by the Tax Commission as Tier
115 One areas are allowed a job tax credit for taxes imposed by
116 Section 27-7-5 equal to Five Hundred Dollars (\$500.00) annually
117 for each net new full-time employee job for five (5) years
118 beginning with years two (2) through six (6) after the creation of
119 the job; however, if the permanent business enterprise is located
120 in an area that has been declared by the Governor to be a disaster
121 area and as a direct result of the disaster the permanent business
122 enterprise is unable to maintain the required number of jobs, the
123 Chairman of the State Tax Commission may extend this time period
124 for not more two (2) years. The number of new full-time jobs must
125 be determined by comparing the monthly average number of full-time
126 employees subject to Mississippi income tax withholding for the
127 taxable year with the corresponding period of the prior taxable
128 year. Only those permanent businesses that increase employment by
129 twenty (20) or more in Tier One areas are eligible for the credit.

130 The credit is not allowed during any of the five (5) years if the
131 net employment increase falls below twenty (20). The Tax
132 Commission shall adjust the credit allowed each year for the net
133 new employment fluctuations above the minimum level of twenty
134 (20).

135 (5) In addition to the credits authorized in subsections
136 (2), (3) and (4), an additional Five Hundred Dollars (\$500.00)
137 credit for each net new full-time employee or an additional One
138 Thousand Dollars (\$1,000.00) credit for each net new full-time
139 employee who is paid a salary, excluding benefits which are not
140 subject to Mississippi income taxation, of at least one hundred
141 twenty-five percent (125%) of the average annual wage of the state
142 or an additional Two Thousand Dollars (\$2,000.00) credit for each
143 net new full-time employee who is paid a salary, excluding
144 benefits which are not subject to Mississippi income taxation, of
145 at least two hundred percent (200%) of the average annual wage of
146 the state, shall be allowed for any company establishing or
147 transferring its national or regional headquarters from within or
148 outside the State of Mississippi. A minimum of thirty-five (35)
149 jobs must be created to qualify for the additional credit. The
150 State Tax Commission shall establish criteria and prescribe
151 procedures to determine if a company qualifies as a national or
152 regional headquarters for purposes of receiving the credit awarded
153 in this subsection. As used in this subsection, the average
154 annual wage of the state is the most recently published average
155 annual wage as determined by the Mississippi Department of
156 Employment Security.

157 (6) In addition to the credits authorized in subsections
158 (2), (3), (4) and (5), any job requiring research and development
159 skills (chemist, engineer, etc.) shall qualify for an additional
160 One Thousand Dollars (\$1,000.00) credit for each net new full-time
161 employee.

162 (7) In lieu of the tax credits provided in subsections (2)
163 through (6), any commercial or industrial property owner which
164 remediates contaminated property in accordance with Sections
165 49-35-1 through 49-35-25, is allowed a job tax credit for taxes
166 imposed by Section 27-7-5 equal to the amounts provided in
167 subsection (2), (3) or (4) for each net new full-time employee job
168 for five (5) years beginning with years two (2) through six (6)
169 after the creation of the job. The number of new full-time jobs
170 must be determined by comparing the monthly average number of
171 full-time employees subject to Mississippi income tax withholding
172 for the taxable year with the corresponding period of the prior
173 taxable year. This subsection shall be administered in the same
174 manner as subsections (2), (3) and (4), except the landowner shall
175 not be required to increase employment by the levels provided in
176 subsections (2), (3) and (4) to be eligible for the tax credit.

177 (8) Tax credits for five (5) years for the taxes imposed by
178 Section 27-7-5 shall be awarded for additional net new full-time
179 jobs created by business enterprises qualified under subsections
180 (2), (3), (4), (5), (6) and (7) of this section. Except as
181 otherwise provided, the Tax Commission shall adjust the credit
182 allowed in the event of employment fluctuations during the
183 additional five (5) years of credit.

184 (9) The sale, merger, acquisition, reorganization,
185 bankruptcy or relocation from one county to another county within
186 the state of any business enterprise may not create new
187 eligibility in any succeeding business entity, but any unused job
188 tax credit may be transferred and continued by any transferee of
189 the business enterprise. The Tax Commission shall determine
190 whether or not qualifying net increases or decreases have occurred
191 or proper transfers of credit have been made and may require
192 reports, promulgate regulations, and hold hearings as needed for
193 substantiation and qualification.

194 (10) Any tax credit claimed under this section but not used
195 in any taxable year may be carried forward for five (5) years from
196 the close of the tax year in which the qualified jobs were
197 established but the credit established by this section taken in
198 any one (1) tax year must be limited to an amount not greater than
199 fifty percent (50%) of the taxpayer's state income tax liability
200 which is attributable to income derived from operations in the
201 state for that year. If the permanent business enterprise is
202 located in an area that has been declared by the Governor to be a
203 disaster area and as a direct result of the disaster the business
204 enterprise is unable to use the existing carryforward, the
205 Chairman of the State Tax Commission may extend the period that
206 the credit may be carried forward for a period of time not to
207 exceed two (2) years.

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

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

214 (13) The tax credits provided for in this section shall be
215 in addition to any tax credits described in Sections 57-51-13(b),
216 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official
217 action by the Department of Economic Development prior to July 1,
218 1989, to any business enterprise determined prior to July 1, 1989,
219 by the Department of Economic Development to be a qualified
220 business as defined in Section 57-51-5(f) or Section 57-54-5(d) or
221 a qualified company as described in Section 57-53-1, as the case
222 may be; however, from and after July 1, 1989, tax credits shall be
223 allowed only under either this section or Sections 57-51-13(b),
224 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time
225 employee.

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

238 **[In cases involving business enterprises that apply for the**
239 **job tax credit authorized by this section from and after January**
240 **1, 2005, this section shall read as follows:]**

241 57-73-21. (1) Annually by December 31, using the most
242 current data available from the University Research Center,
243 Mississippi Department of Employment Security and the United
244 States Department of Commerce, the State Tax Commission shall rank
245 and designate the state's counties as provided in this section.
246 The twenty-eight (28) counties in this state having a combination
247 of the highest unemployment rate and lowest per capita income for
248 the most recent thirty-six-month period, with equal weight being
249 given to each category, are designated Tier Three areas. The
250 twenty-seven (27) counties in the state with a combination of the
251 next highest unemployment rate and next lowest per capita income
252 for the most recent thirty-six-month period, with equal weight
253 being given to each category, are designated Tier Two areas. The
254 twenty-seven (27) counties in the state with a combination of the
255 lowest unemployment rate and the highest per capita income for the
256 most recent thirty-six-month period, with equal weight being given
257 to each category, are designated Tier One areas. Counties
258 designated by the Tax Commission qualify for the appropriate tax

259 credit for jobs as provided in this section. The designation by
260 the Tax Commission is effective for the tax years of permanent
261 business enterprises which begin after the date of designation.
262 For companies which plan an expansion in their labor forces, the
263 Tax Commission shall prescribe certification procedures to ensure
264 that the companies can claim credits in future years without
265 regard to whether or not a particular county is removed from the
266 list of Tier Three or Tier Two areas.

267 (2) Permanent business enterprises in counties designated by
268 the Tax Commission as Tier Three areas are allowed a job tax
269 credit for taxes imposed by Section 27-7-5 equal to ten percent
270 (10%) of the payroll of the enterprise for net new full-time
271 employee jobs for five (5) years beginning with years two (2)
272 through six (6) after the creation of the minimum number of jobs
273 required by this subsection; however, if the permanent business
274 enterprise is located in an area that has been declared by the
275 Governor to be a disaster area and as a direct result of the
276 disaster the permanent business enterprise is unable to maintain
277 the required number of jobs, the Chairman of the State Tax
278 Commission may extend this time period for not more two (2) years.
279 The number of new full-time jobs must be determined by comparing
280 the monthly average number of full-time employees subject to the
281 Mississippi income tax withholding for the taxable year with the
282 corresponding period of the prior taxable year. Only those
283 permanent business enterprises that increase employment by ten
284 (10) or more in a Tier Three area are eligible for the credit.
285 Credit is not allowed during any of the five (5) years if the net
286 employment increase falls below ten (10). The Tax Commission
287 shall adjust the credit allowed each year for the net new
288 employment fluctuations above the minimum level of ten (10).

289 (3) Permanent business enterprises in counties that have
290 been designated by the Tax Commission as Tier Two areas are
291 allowed a job tax credit for taxes imposed by Section 27-7-5 equal

292 to five percent (5%) of the payroll of the enterprise for net new
293 full-time employee jobs for five (5) years beginning with years
294 two (2) through six (6) after the creation of the minimum number
295 of jobs required by this subsection; however, if the permanent
296 business enterprise is located in an area that has been declared
297 by the Governor to be a disaster area and as a direct result of
298 the disaster the permanent business enterprise is unable to
299 maintain the required number of jobs, the Chairman of the State
300 Tax Commission may extend this time period for not more two (2)
301 years. The number of new full-time jobs must be determined by
302 comparing the monthly average number of full-time employees
303 subject to Mississippi income tax withholding for the taxable year
304 with the corresponding period of the prior taxable year. Only
305 those permanent business enterprises that increase employment by
306 fifteen (15) or more in Tier Two areas are eligible for the
307 credit. The credit is not allowed during any of the five (5)
308 years if the net employment increase falls below fifteen (15).
309 The Tax Commission shall adjust the credit allowed each year for
310 the net new employment fluctuations above the minimum level of
311 fifteen (15).

312 (4) Permanent business enterprises in counties designated by
313 the Tax Commission as Tier One areas are allowed a job tax credit
314 for taxes imposed by Section 27-7-5 equal to two and one-half
315 percent (2.5%) of the payroll of the enterprise for net new
316 full-time employee jobs for five (5) years beginning with years
317 two (2) through six (6) after the creation of the minimum number
318 of jobs required by this subsection; however, if the permanent
319 business enterprise is located in an area that has been declared
320 by the Governor to be a disaster area and as a direct result of
321 the disaster the permanent business enterprise is unable to
322 maintain the required number of jobs, the Chairman of the State
323 Tax Commission may extend this time period for not more two (2)
324 years. The number of new full-time jobs must be determined by

325 comparing the monthly average number of full-time employees
326 subject to Mississippi income tax withholding for the taxable year
327 with the corresponding period of the prior taxable year. Only
328 those permanent business enterprises that increase employment by
329 twenty (20) or more in Tier One areas are eligible for the credit.
330 The credit is not allowed during any of the five (5) years if the
331 net employment increase falls below twenty (20). The Tax
332 Commission shall adjust the credit allowed each year for the net
333 new employment fluctuations above the minimum level of twenty
334 (20).

335 (5) In addition to the other credits authorized in this
336 section, an additional Five Hundred Dollars (\$500.00) credit for
337 each net new full-time employee or an additional One Thousand
338 Dollars (\$1,000.00) credit for each net new full-time employee who
339 is paid a salary, excluding benefits which are not subject to
340 Mississippi income taxation, of at least one hundred twenty-five
341 percent (125%) of the average annual wage of the state or an
342 additional Two Thousand Dollars (\$2,000.00) credit for each net
343 new full-time employee who is paid a salary, excluding benefits
344 which are not subject to Mississippi income taxation, of at least
345 two hundred percent (200%) of the average annual wage of the
346 state, shall be allowed for any company establishing or
347 transferring its national or regional headquarters from within or
348 outside the State of Mississippi. A minimum of thirty-five (35)
349 jobs must be created to qualify for the additional credit. The
350 State Tax Commission shall establish criteria and prescribe
351 procedures to determine if a company qualifies as a national or
352 regional headquarters for purposes of receiving the credit awarded
353 in this subsection. As used in this subsection, the average
354 annual wage of the state is the most recently published average
355 annual wage as determined by the Mississippi Department of
356 Employment Security.

357 (6) In addition to the other credits authorized in this
358 section, any job requiring research and development skills
359 (chemist, engineer, etc.) shall qualify for an additional One
360 Thousand Dollars (\$1,000.00) credit for each net new full-time
361 employee.

362 (7) In lieu of the other tax credits provided in this
363 section, any commercial or industrial property owner which
364 remediates contaminated property in accordance with Sections
365 49-35-1 through 49-35-25, is allowed a job tax credit for taxes
366 imposed by Section 27-7-5 equal to the percentage of payroll
367 provided in subsection (2), (3) or (4) of this section for net new
368 full-time employee jobs for five (5) years beginning with years
369 two (2) through six (6) after the creation of the jobs. The
370 number of new full-time jobs must be determined by comparing the
371 monthly average number of full-time employees subject to
372 Mississippi income tax withholding for the taxable year with the
373 corresponding period of the prior taxable year. This subsection
374 shall be administered in the same manner as subsections (2), (3)
375 and (4), except the landowner shall not be required to increase
376 employment by the levels provided in subsections (2), (3) and (4)
377 to be eligible for the tax credit.

378 (8) (a) Tax credits for five (5) years for the taxes
379 imposed by Section 27-7-5 shall be awarded for increases in the
380 annual payroll for net new full-time jobs created by business
381 enterprises qualified under this section. The Tax Commission
382 shall adjust the credit allowed in the event of payroll
383 fluctuations during the additional five (5) years of credit.

384 (b) Tax credits for five (5) years for the taxes
385 imposed by Section 27-7-5 shall be awarded for additional net new
386 full-time jobs created by business enterprises qualified under
387 subsections (5) and (6) of this section. The Tax Commission shall
388 adjust the credit allowed in the event of employment fluctuations
389 during the additional five (5) years of credit.

390 (9) The sale, merger, acquisition, reorganization,
391 bankruptcy or relocation from one county to another county within
392 the state of any business enterprise may not create new
393 eligibility in any succeeding business entity, but any unused job
394 tax credit may be transferred and continued by any transferee of
395 the business enterprise. The Tax Commission shall determine
396 whether or not qualifying net increases or decreases have occurred
397 or proper transfers of credit have been made and may require
398 reports, promulgate regulations, and hold hearings as needed for
399 substantiation and qualification.

400 (10) Any tax credit claimed under this section but not used
401 in any taxable year may be carried forward for five (5) years from
402 the close of the tax year in which the qualified jobs were
403 established but the credit established by this section taken in
404 any one tax year must be limited to an amount not greater than
405 fifty percent (50%) of the taxpayer's state income tax liability
406 which is attributable to income derived from operations in the
407 state for that year. If the permanent business enterprise is
408 located in an area that has been declared by the Governor to be a
409 disaster area and as a direct result of the disaster the business
410 enterprise is unable to use the existing carryforward, the
411 Chairman of the State Tax Commission may extend the period that
412 the credit may be carried forward for a period of time not to
413 exceed two (2) years.

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

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

420 (13) As used in this section:

421 (a) "Business enterprises" means entities primarily
422 engaged in:

423 (i) Manufacturing, processing, warehousing,
424 distribution, wholesaling and research and development, or

425 (ii) Permanent business enterprises designated by
426 rule and regulation of the Mississippi Development Authority as
427 air transportation and maintenance facilities, final destination
428 or resort hotels having a minimum of one hundred fifty (150) guest
429 rooms, recreational facilities that impact tourism, movie industry
430 studios, telecommunications enterprises, data or information
431 processing enterprises or computer software development
432 enterprises or any technology intensive facility or enterprise.

433 (b) "Telecommunications enterprises" means entities
434 engaged in the creation, display, management, storage, processing,
435 transmission or distribution for compensation of images, text,
436 voice, video or data by wire or by wireless means, or entities
437 engaged in the construction, design, development, manufacture,
438 maintenance or distribution for compensation of devices, products,
439 software or structures used in the above activities. Companies
440 organized to do business as commercial broadcast radio stations,
441 television stations or news organizations primarily serving
442 in-state markets shall not be included within the definition of
443 the term "telecommunications enterprises."

444 (14) The tax credits provided for in this section shall be
445 in addition to any tax credits described in Sections 57-51-13(b),
446 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official
447 action by the Department of Economic Development prior to July 1,
448 1989, to any business enterprise determined prior to July 1, 1989,
449 by the Department of Economic Development to be a qualified
450 business as defined in Section 57-51-5(f) or Section 57-54-5(d) or
451 a qualified company as described in Section 57-53-1, as the case
452 may be; however, from and after July 1, 1989, tax credits shall be
453 allowed only under either this section or Sections 57-51-13(b),
454 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time
455 employee.

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