

By: Senator(s) Harkins

To: Finance

SENATE BILL NO. 3106

1 AN ACT TO AMEND SECTION 57-113-21, MISSISSIPPI CODE OF 1972,
 2 TO REVISE THE DEFINITIONS OF "BUSINESS ENTERPRISE," "DATA CENTER"
 3 AND "STATE TAX" FOR PURPOSES OF THE SALES, USE, INCOME AND
 4 FRANCHISE TAX EXEMPTIONS FOR DATA CENTER ENTERPRISES; TO AMEND
 5 SECTION 57-113-23, MISSISSIPPI CODE OF 1972, TO REVISE THE
 6 REQUIRED CONTENTS OF THE APPLICATION TO BE SUBMITTED BY BUSINESS
 7 ENTERPRISES SEEKING THE EXEMPTIONS; TO AMEND SECTION 57-113-25,
 8 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A BUSINESS ENTERPRISE
 9 SHALL HAVE 60 DAYS FROM THE DATE OF NOTICE OF NONCOMPLIANCE IN
 10 WHICH TO REMEDY SUCH NONCOMPLIANCE BEFORE FORFEITING ITS
 11 TAX-EXEMPT STATUS, SUBJECT TO ANY PENALTIES PROVIDED IN
 12 MISSISSIPPI DEVELOPMENT AUTHORITY RULES AND REGULATIONS; AND FOR
 13 RELATED PURPOSES.

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

15 **SECTION 1.** Section 57-113-21, Mississippi Code of 1972, is
 16 amended as follows:

17 57-113-21. As used in this article:

18 (a) "Business enterprise" means any for-profit
 19 business * * * establishment registered to do business in the
 20 state and which is the owner, operator, tenant or affiliate of a
 21 data center in this state with a minimum investment of Five
 22 Hundred Million Dollars (\$500,000,000.00) and that creates at
 23 least fifty (50) new, full-time jobs with a minimum average annual



24 salary of one hundred twenty-five percent (125%) of the average
25 annual state wage.

26 (b) "Data center" means one or more buildings or an
27 array of interconnected buildings in one (1) physical location or
28 multiple physical locations that are owned, leased, occupied or
29 operated by a business enterprise that utilizes hardware,
30 software, technology, infrastructure and/or workforce, to store,
31 manage, process or * * * disseminate digital data.

32 (c) "MDA" means the Mississippi Development Authority.

33 (d) "State tax" means:

34 (i) Any sales and use tax imposed on the business
35 enterprise pursuant to law related to the purchase or lease of
36 component building materials and equipment for initial
37 construction of facilities or expansion of facilities that are
38 certified by the Mississippi Development Authority;

39 (ii) Any sales and use tax imposed by law on the
40 business enterprise pursuant to law related to the purchase of
41 replacement hardware, software or other necessary technology to
42 operate a data center;

43 (iii) All income tax imposed pursuant to law on
44 income earned by the business enterprise certified by the
45 Mississippi Development Authority; * * *

46 (iv) Franchise tax imposed pursuant to law on the
47 value of capital used, invested or employed by the business



48 enterprise certified by the Mississippi Development
49 Authority * * *; and

50 (v) Any tax imposed on a data center pursuant to
51 law related to the purchase of electricity.

52 **SECTION 2.** Section 57-113-23, Mississippi Code of 1972, is
53 amended as follows:

54 57-113-23. Business enterprises wishing to apply for the tax
55 exemptions authorized by this article shall make application to
56 the MDA prior to construction or acquisition of the buildings for
57 the location or expansion of the business enterprise in this
58 state. The application, at a minimum, shall contain:

59 (a) An overview of the project that includes the
60 selected site, the number of jobs proposed, the length of time
61 necessary for the company to meet its investment and employment
62 requirements;

63 (b) A two-year business plan * * *;

64 * * *

65 (* * *c) An acknowledgment that the business entity
66 will be required to provide annual documentation to demonstrate
67 that the minimum investment and job requirements * * * are being
68 maintained; and

69 (* * *d) Such information as may be reasonably
70 requested by the MDA to determine eligibility for the exemption.

71 **SECTION 3.** Section 57-113-25, Mississippi Code of 1972, is
72 amended as follows:



73 57-113-25. (1) Upon approval of the application, the MDA
74 shall issue a certification designating the business enterprise as
75 eligible for the tax exemptions authorized by this article. This
76 certification shall document the date by which all commitments
77 must be met.

78 (2) Upon the issuance of the certification, the business
79 enterprise shall be exempt from state taxes for a period of ten
80 (10) years, subject to the performance requirements set out in the
81 agreement required by subsection (3)(c) of this section.

82 (3) The following conditions, along with any other
83 conditions the MDA shall promulgate from time to time by rule or
84 regulation, shall apply to such exemptions:

85 (a) A business enterprise using any exemption provided
86 under this article * * * cannot transfer its exemption to any
87 other person or business * * * without prior approval by the MDA;

88 (b) No approved business enterprise may claim or use
89 the exemption granted under this article unless that business
90 enterprise is in full compliance with all state and local tax
91 laws, and related ordinances and resolutions; however, if an audit
92 conducted by any federal or state agency in the ordinary course of
93 business reveals any noncompliance by a business enterprise exempt
94 from state taxes under this article, the business enterprise shall
95 have sixty (60) days from the date of notice in which to remedy
96 its noncompliance before forfeiting its tax-exempt status, subject
97 to any penalties provided in MDA rules and regulations; and



98 (c) The business enterprise must enter into an
99 agreement with the MDA which sets out, at a minimum, the
100 performance requirements of the approved business enterprise
101 during the term of the exemption and provisions for the recapture
102 of all or a portion of the taxes exempted if the performance
103 requirements of the business enterprise are not met.

104 (4) Upon certifying a business enterprise as eligible for
105 the exemptions under this article, the MDA shall forward the
106 certification along with any other necessary information to the
107 Department of Revenue so that the exemptions can be implemented.
108 The Department of Revenue shall promulgate rules and regulations,
109 in accordance with the Mississippi Administrative Procedures Law,
110 for the implementation of the state tax exemptions granted under
111 this article.

112 **SECTION 4.** This act shall take effect and be in force from
113 and after July 1, 2024, and shall stand repealed on June 30, 2024.

