

By: Representative Whittington

To: Ways and Means

HOUSE BILL NO. 402

1 AN ACT TO PROVIDE AN INCOME TAX CREDIT FOR EMPLOYERS THAT
2 INCUR COSTS FOR THE PURPOSE OF PROMOTING EMPLOYEE PHYSICAL FITNESS
3 AND WELL-BEING; TO PROVIDE THE TYPE OF COSTS THAT QUALIFY FOR THE
4 INCOME TAX CREDIT; TO LIMIT THE AMOUNT OF THE TAX CREDIT TO THE
5 LESSER OF 10% OF THE COSTS INCURRED BY THE EMPLOYER FOR SUCH
6 PURPOSES OR 50% OF THE INCOME TAX IMPOSED UPON THE EMPLOYER FOR
7 THE TAXABLE YEAR; TO PROVIDE THAT ANY UNUSED PORTION OF THE INCOME
8 TAX CREDIT MAY BE CARRIED FORWARD FOR THE NEXT FIVE SUCCEEDING TAX
9 YEARS; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** (1) Subject to the provisions of this section,
12 for an employer that incurs costs for the purpose of promoting
13 employee physical fitness and well-being, a credit against the
14 taxes imposed by this chapter shall be allowed in the amount
15 provided in subsection (2) of this section. Eligible costs
16 include, but are not limited to, the net costs of constructing,
17 equipping, operating and/or maintaining a facility owned by the
18 employer such as a gymnasium, weight training room, aerobics
19 workout space, swimming pool, running track, or any indoor or
20 outdoor court, field or other site used for competitive sports
21 events or games, and which is used exclusively for the purpose of
22 promoting the physical fitness and well-being of the employer's
23 employees. Additional eligible costs include the costs of
24 employing a qualified person to conduct a class or classes on the
25 taxpayer's business premises offering (a) information and guidance
26 on subjects relating to personal and family health such as
27 nutrition, hygiene and methods of preventing, recognizing and
28 combating substance addiction or (b) instruction in and
29 opportunity for fitness enhancement activity such as dance or

30 other aerobic exercise, yoga, muscle stretching, or martial arts
31 routines.

32 (2) The income tax credit provided in subsection (1) of this
33 section shall not exceed the lesser of ten percent (10%) of the
34 costs incurred by the employer during the taxable year for
35 purposes described in subsection (1) of this section or fifty
36 percent (50%) of the income tax imposed upon the taxpayer for the
37 taxable year reduced by the sum of all other credits allowable to
38 such taxpayer under the state income tax laws, except credit for
39 tax payments made by or on behalf of the taxpayer. Any unused
40 portion of the credit may be carried forward for the next five (5)
41 succeeding tax years. The income tax credit provided under this
42 section shall be used only by the actual employer qualifying for
43 the credit.

44 (3) Amounts used by a taxpayer as a credit under this
45 section may not be used as a deduction by the taxpayer for state
46 income tax purposes.

47 **SECTION 2.** Section 1 of this act shall be codified as a
48 separate section in Chapter 7, Title 27, Mississippi Code of 1972.

49 **SECTION 3.** Nothing in this act shall affect or defeat any
50 claim, assessment, appeal, suit, right or cause of action for
51 taxes due or accrued under the income tax laws before the date on
52 which this act becomes effective, whether such claims,
53 assessments, appeals, suits or actions have been begun before the
54 date on which this act becomes effective or are begun thereafter;
55 and the provisions of the income tax laws are expressly continued
56 in full force, effect and operation for the purpose of the
57 assessment, collection and enrollment of liens for any taxes due
58 or accrued and the execution of any warrant under such laws before
59 the date on which this act becomes effective, and for the
60 imposition of any penalties, forfeitures or claims for failure to
61 comply with such laws.

62 **SECTION 4.** This act shall take effect and be in force from
63 and after January 1, 2005.