

By: Senator(s) Robertson

To: Finance

SENATE BILL NO. 2527

1 AN ACT TO ESTABLISH AN INCOME TAX CREDIT FOR MANUFACTURING
2 ENTERPRISES THAT HAVE OPERATED IN THIS STATE FOR NOT LESS THAN TWO
3 YEARS IN AN AMOUNT EQUAL TO A CERTAIN PERCENTAGE OF THE
4 ENTERPRISE'S INVESTMENT IN BUILDINGS OR EQUIPMENT; TO PROVIDE THAT
5 ANY SUCH TAX CREDIT CLAIMED BUT NOT USED IN ANY TAXABLE YEAR MAY
6 BE CARRIED FORWARD FOR FIVE YEARS FROM THE CLOSE OF THE TAX YEAR
7 IN WHICH THE ELIGIBLE INVESTMENT WAS MADE; TO PROVIDE THAT THE
8 CREDIT TAKEN IN ANY ONE TAX YEAR IS LIMITED TO AN AMOUNT NOT
9 GREATER THAN 50% OF THE TAXPAYER'S STATE INCOME TAX LIABILITY
10 WHICH IS ATTRIBUTABLE TO INCOME DERIVED FROM OPERATIONS IN THE
11 STATE FOR THAT YEAR; TO PROVIDE THAT THE MANUFACTURING ENTERPRISE
12 MUST INVEST AT LEAST \$1,000,000.00 TO BE ELIGIBLE FOR THE CREDIT;
13 TO PROVIDE THAT THE MAXIMUM CUMULATIVE CREDIT THAT MAY BE CLAIMED
14 BY A TAXPAYER FOR ANY ONE PROJECT IS LIMITED TO \$1,000,000.00; TO
15 PROVIDE FOR RECAPTURE OF THE CREDIT UNDER CERTAIN CIRCUMSTANCES;
16 TO AMEND SECTION 27-31-101, MISSISSIPPI CODE OF 1972, TO AUTHORIZE
17 THE BOARD OF SUPERVISORS OF COUNTIES AND THE GOVERNING AUTHORITIES
18 OF MUNICIPALITIES TO GRANT CERTAIN AD VALOREM TAX EXEMPTIONS TO
19 DATA/INFORMATION PROCESSING ENTERPRISES AND TECHNOLOGY INTENSIVE
20 ENTERPRISES MEETING MINIMUM CRITERIA ESTABLISHED BY THE
21 MISSISSIPPI DEVELOPMENT AUTHORITY; TO AMEND SECTION 27-65-17,
22 MISSISSIPPI CODE OF 1972, TO IMPOSE THE SALES TAX AT A REDUCED
23 RATE ON CERTAIN SALES OF MACHINERY AND MACHINE PARTS TO A
24 TECHNOLOGY INTENSIVE BUSINESS FOR PLANT USE; TO AMEND SECTION
25 27-65-19, MISSISSIPPI CODE OF 1972, TO REDUCE THE SALES TAX ON
26 CERTAIN FUELS SOLD TO OR USED BY TECHNOLOGY INTENSIVE ENTERPRISES;
27 TO AMEND SECTION 27-65-101, MISSISSIPPI CODE OF 1972, TO EXEMPT
28 FROM SALES TAXATION SALES OF COMPONENT MATERIALS USED IN THE
29 CONSTRUCTION OF A FACILITY, OR ANY ADDITION OR IMPROVEMENT TO SUCH
30 FACILITY, AND SALES OR LEASES OF MACHINERY AND EQUIPMENT TO BE
31 USED IN SUCH FACILITIES, ADDITIONS OR IMPROVEMENTS, TO PERMANENT
32 BUSINESS ENTERPRISES OPERATING A DATA/INFORMATION ENTERPRISE IN A
33 TIER THREE AREA MEETING MINIMUM CRITERIA ESTABLISHED BY THE
34 MISSISSIPPI DEVELOPMENT AUTHORITY; TO EXEMPT FROM SALES TAXATION
35 SALES OF COMPONENT MATERIALS USED IN THE CONSTRUCTION OF A
36 FACILITY, OR ANY ADDITION OR IMPROVEMENT TO SUCH FACILITY, AND
37 SALES OF MACHINERY AND EQUIPMENT TO BE USED IN SUCH FACILITIES,
38 ADDITIONS OR IMPROVEMENTS, TO TECHNOLOGY INTENSIVE ENTERPRISES FOR
39 INDUSTRIAL PURPOSES IN A TIER THREE AREA; TO REDUCE THE SALES
40 TAXATION ON SALES OF COMPONENT MATERIALS USED IN THE CONSTRUCTION
41 OF A FACILITY, OR ANY ADDITION OR IMPROVEMENT TO SUCH BUILDING,
42 AND SALES OR LEASES OF MACHINERY AND EQUIPMENT TO BE USED IN SUCH
43 BUILDINGS, ADDITIONS OR IMPROVEMENTS, TO PERMANENT BUSINESS
44 ENTERPRISES OPERATING A DATA/INFORMATION ENTERPRISE IN A TIER ONE
45 OR TIER TWO AREA MEETING MINIMUM CRITERIA ESTABLISHED BY THE
46 MISSISSIPPI DEVELOPMENT AUTHORITY; TO REDUCE THE SALES TAXATION ON
47 SALES OF COMPONENT MATERIALS USED IN THE CONSTRUCTION OF A
48 FACILITY, OR ANY ADDITION OR IMPROVEMENT TO SUCH FACILITY, AND
49 SALES OF MACHINERY AND EQUIPMENT, TO TECHNOLOGY INTENSIVE
50 ENTERPRISES FOR INDUSTRIAL PURPOSES IN A TIER ONE OR TIER TWO
51 AREA; TO AMEND SECTION 57-73-21, MISSISSIPPI CODE OF 1972, TO
52 REVISE THE AMOUNT OF THE JOB TAX CREDIT FOR CERTAIN PERMANENT

53 BUSINESS ENTERPRISES TO PROVIDE THAT THE AMOUNT OF THE CREDIT
54 SHALL BE A CERTAIN PERCENTAGE OF SUCH ENTERPRISE'S PAYROLL; AND
55 FOR RELATED PURPOSES.

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

57 **SECTION 1.** (1) As used in this section:

58 (a) "Manufacturing enterprise" means an enterprise
59 that:

60 (i) Falls within the definition of the term
61 "manufacturer" in Section 27-65-11; and

62 (ii) Has operated in this state for not less than
63 two (2) years prior to application for the credit authorized by
64 this section; and

65 (b) "Eligible investment" means an investment of at
66 least One Million Dollars (\$1,000,000.00) in buildings or
67 equipment for the manufacturing enterprise.

68 (2) A manufacturing enterprise is allowed a manufacturing
69 investment tax credit for taxes imposed by Section 27-7-5 equal to
70 five percent (5%) of the eligible investments made by the
71 manufacturing enterprise.

72 (3) Any tax credit claimed under this section but not used
73 in any taxable year may be carried forward for five (5) years from
74 the close of the tax year in which the eligible investment was
75 made, but the credit established by this section taken in any one
76 tax year shall not exceed fifty percent (50%) of the taxpayer's
77 state income tax liability which is attributable to income derived
78 from operations in the state for that year reduced by the sum of
79 all other income tax credits allowable to the taxpayer, except
80 credit for tax payments made by or on behalf of the taxpayer.

81 (4) The maximum credit that may be claimed by a taxpayer on
82 any project shall be limited to One Million Dollars
83 (\$1,000,000.00).

84 (5) The credit received under this section is subject to
85 recapture if the property for which the tax credit was received is
86 disposed of, or convert to, other than business use. The amount

87 of the credit subject to recapture is one hundred percent (100%)
88 of the credit in the first year and fifty percent (50%) of the
89 credit in the second year. This subsection shall not apply in
90 cases in which an entire facility is sold.

91 (6) The sale, merger, acquisition, reorganization,
92 bankruptcy or relocation from one county to another county within
93 the state of any manufacturing enterprise may not create new
94 eligibility in any succeeding business entity, but any unused
95 manufacturing investment tax credit may be transferred and
96 continued by any transferee of the enterprise. The State Tax
97 Commission shall determine whether or not qualifying net increases
98 or decreases have occurred or proper transfers of credit have been
99 made and may require reports, promulgate regulations, and hold
100 hearings as needed for substantiation and qualification.

101 (7) No manufacturing enterprise for the transportation,
102 handling, storage, processing or disposal of hazardous waste is
103 eligible to receive the tax credits provided in this section.

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

107 **SECTION 2.** Section 27-31-101, Mississippi Code of 1972, is
108 amended as follows:

109 27-31-101. (1) County boards of supervisors and municipal
110 authorities are hereby authorized and empowered, in their
111 discretion, to grant exemptions from ad valorem taxation, except
112 state ad valorem taxation. * * * However, the governing
113 authorities shall not exempt ad valorem taxes for school district
114 purposes on tangible property used in, or necessary to, the
115 operation of the manufacturers and other new enterprises * * *
116 enumerated by classes in this section, except to the extent
117 authorized in Sections 27-31-104 and 27-31-105(2), nor shall they
118 exempt from ad valorem taxes the products of the manufacturers or
119 other new enterprises or automobiles and trucks belonging to

120 the * * * manufacturers or other new enterprises operating on and
121 over the highways of the State of Mississippi. The time of such
122 exemption shall be for a period not to exceed a total of ten (10)
123 years which shall begin on the date of completion of the new
124 enterprise for which the exemption is granted; however, boards of
125 supervisors and municipal authorities, in lieu of granting the
126 exemption for one (1) period of ten (10) years, may grant the
127 exemption in a period of less than ten (10) years. When the
128 initial exemption period granted is less than ten (10) years, the
129 boards of supervisors and municipal authorities may grant a
130 subsequent consecutive period or periods to follow the initial
131 period of exemption, provided that the total of all periods of
132 exemption shall not exceed ten (10) years. The date of completion
133 of the new enterprise, from which the initial period of exemption
134 shall begin, shall be the date on which operations of the new
135 enterprise begin. Any request for an exemption must be made in
136 writing by June 1 of the year immediately following the year in
137 which the date of completion of a new enterprise occurs.

138 * * *

139 (2) Any board of supervisors or municipal authority which
140 has granted an exemption for a period of less than ten (10) years
141 may grant subsequent periods of exemption to run consecutively
142 with the initial exemption period, or a subsequently granted
143 exemption period, but in no case shall the total of the exemption
144 periods granted for a new enterprise exceed ten (10) years. Any
145 consecutive period of exemption shall be granted by entry of an
146 order by the board or the authority granting the consecutive
147 exemption on its minutes, reflecting the granting of the
148 consecutive exemption period and the dates upon which such
149 consecutive exemption period begins and expires. The entry of
150 this order granting the consecutive period of exemption shall be
151 made before the expiration of the exemption period immediately
152 preceding the consecutive exemption period being granted.

153 (3) The new enterprises which may be exempt are enumerated
154 as and limited to the following, as determined by the State Tax
155 Commission:

156 (a) Warehouse and/or distribution centers;

157 (b) Manufacturing, processors and refineries;

158 (c) Research facilities;

159 (d) Corporate regional and national headquarters

160 meeting minimum criteria established by the Mississippi

161 Development Authority;

162 (e) Movie industry studios meeting minimum criteria

163 established by the Mississippi Development Authority;

164 (f) Air transportation and maintenance facilities

165 meeting minimum criteria established by the Mississippi

166 Development Authority;

167 (g) Recreational facilities that impact tourism meeting

168 minimum criteria established by the Mississippi Development

169 Authority; * * *

170 (h) Data/information processing enterprises or

171 facilities meeting minimum criteria established by the Mississippi

172 Development Authority;

173 (i) Technology intensive enterprises or facilities

174 meeting criteria established by the Mississippi Development

175 Authority; and

176 (j) Telecommunications enterprises meeting minimum

177 criteria established by the Mississippi Development Authority.

178 The term "telecommunications enterprises" means entities engaged

179 in the creation, display, management, storage, processing,

180 transmission or distribution for compensation of images, text,

181 voice, video or data by wire or by wireless means, or entities

182 engaged in the construction, design, development, manufacture,

183 maintenance or distribution for compensation of devices, products,

184 software or structures used in the above activities. Companies

185 organized to do business as commercial broadcast radio stations,

186 television stations or news organizations primarily serving
187 in-state markets shall not be included within the definition of
188 the term "telecommunications enterprises."

189 **SECTION 3.** Section 27-65-17, Mississippi Code of 1972, is
190 amended as follows:

191 27-65-17. (1) (a) Except as otherwise provided in this
192 section, upon every person engaging or continuing within this
193 state in the business of selling any tangible personal property
194 whatsoever there is hereby levied, assessed and shall be collected
195 a tax equal to seven percent (7%) of the gross proceeds of the
196 retail sales of the business * * *.

197 (b) Retail sales of farm tractors shall be taxed at the
198 rate of one percent (1%) when made to farmers for agricultural
199 purposes.

200 (c) Retail sales of farm implements sold to farmers and
201 used directly in the production of poultry, ratite, domesticated
202 fish as defined in Section 69-7-501, livestock, livestock
203 products, agricultural crops or ornamental plant crops or used for
204 other agricultural purposes shall be taxed at the rate of three
205 percent (3%) when used on the farm. The three percent (3%) rate
206 shall also apply to all equipment used in logging, pulpwood
207 operations or tree farming which is either:

208 (i) Self-propelled, or * * *

209 (ii) Mounted so that it is * * * permanently
210 attached to other equipment which is self-propelled or * * *
211 permanently attached to other equipment drawn by a vehicle which
212 is self-propelled.

213 (d) Except as otherwise provided in subsection (3) of
214 this section, retail sales of aircraft, automobiles, trucks,
215 truck-tractors, semitrailers and mobile homes shall be taxed at
216 the rate of three percent (3%).

217 (e) Sales of manufacturing machinery or manufacturing
218 machine parts when made to a manufacturer or custom processor for

219 plant use only when the machinery and machine parts will be used
220 exclusively and directly within this state in manufacturing a
221 commodity for sale, rental or in processing for a fee shall be
222 taxed at the rate of one and one-half percent (1-1/2%).

223 (f) Sales of machinery and machine parts when made to a
224 technology intensive enterprise for plant use only when the
225 machinery and machine parts will be used exclusively and directly
226 within this state for industrial purposes, including, but not
227 limited to, manufacturing or research and development activities,
228 shall be taxed at the rate of one and one-half percent (1-1/2%).
229 In order to be considered a technology intensive enterprise for
230 purposes of this paragraph:

231 (i) The enterprise shall meet minimum criteria
232 established by the Mississippi Development Authority;

233 (ii) The enterprise shall employ at least ten (10)
234 persons in full-time jobs;

235 (iii) At least ten percent (10%) of the workforce
236 in the facility operated by the enterprise shall be scientists,
237 engineers or computer specialists;

238 (iv) The enterprise shall manufacture plastics,
239 chemicals, automobiles, aircraft, computers or electronics; or
240 shall be a research and development facility, a computer design or
241 related facility, or a software publishing facility or other
242 technology intensive facility or enterprise as determined by the
243 Mississippi Development Authority;

244 (v) The average wage of all workers employed by
245 the enterprise at the facility shall be at least one hundred fifty
246 percent (150%) of the state average annual wage; and

247 (vi) The enterprise must provide a basic health
248 care plan to all employees at the facility.

249 (g) Sales of materials for use in track and track
250 structures to a railroad whose rates are fixed by the Interstate

251 Commerce Commission or the Mississippi Public Service Commission
252 shall be taxed at the rate of three percent (3%).

253 (h) Sales of tangible personal property to electric
254 power associations for use in the ordinary and necessary operation
255 of their generating or distribution systems shall be taxed at the
256 rate of one percent (1%).

257 (i) Wholesale sales of beer shall be taxed at the rate
258 of seven percent (7%), and the retailer shall file a return and
259 compute the retail tax on retail sales but may take credit for the
260 amount of the tax paid to the wholesaler on the return covering
261 the subsequent sales of same property, provided adequate invoices
262 and records are maintained to substantiate the credit.

263 (j) Wholesale sales of food and drink for human
264 consumption to full service vending machine operators to be sold
265 through vending machines located apart from and not connected with
266 other taxable businesses shall be taxed at the rate of eight
267 percent (8%).

268 (2) From and after January 1, 1995, retail sales of private
269 carriers of passengers and light carriers of property, as defined
270 in Section 27-51-101, shall be taxed an additional two percent
271 (2%).

272 (3) In lieu of the tax levied in subsection (1) of this
273 section, there is levied on retail sales of truck-tractors and
274 semitrailers used in interstate commerce and registered under the
275 International Registration Plan (IRP) or any similar reciprocity
276 agreement or compact relating to the proportional registration of
277 commercial vehicles entered into as provided for in Section
278 27-19-143, a tax at the rate of three percent (3%) of the portion
279 of the sale that is attributable to the usage of such
280 truck-tractor or semitrailer in Mississippi. The portion of the
281 retail sale that is attributable to the usage of such
282 truck-tractor or semitrailer in Mississippi is the retail sales
283 price of the truck-tractor or semitrailer multiplied by the

284 percentage of the total miles traveled by the vehicle that are
285 traveled in Mississippi. The tax levied pursuant to this
286 subsection (3) shall be collected by the State Tax Commission from
287 the purchaser of such truck-tractor or semitrailer at the time of
288 registration of such truck-tractor or semitrailer.

289 (4) A manufacturer selling at retail in this state shall be
290 required to make returns of the gross proceeds of such sales and
291 pay the tax imposed in this section.

292 (5) Any person exercising any privilege taxable under
293 Section 27-65-15 and selling his natural resource products at
294 wholesale or to exempt persons shall pay the tax levied by such
295 section in lieu of the tax levied by this section.

296 **SECTION 4.** Section 27-65-19, Mississippi Code of 1972, is
297 amended as follows:

298 27-65-19. (1) (a) Except as otherwise provided in this
299 subsection, upon every person selling to consumers, electricity,
300 current, power, potable water, steam, coal, natural gas, liquefied
301 petroleum gas or other fuel, there is hereby levied, assessed and
302 shall be collected a tax equal to seven percent (7%) of the gross
303 income of the business. Provided, gross income from sales to
304 consumers of electricity, current, power, natural gas, liquefied
305 petroleum gas or other fuel for residential heating, lighting or
306 other residential noncommercial or nonagricultural use, and sales
307 of potable water for residential, noncommercial or nonagricultural
308 use shall be excluded from taxable gross income of the business.
309 Provided further, upon every such seller using electricity,
310 current, power, potable water, steam, coal, natural gas, liquefied
311 petroleum gas or other fuel for nonindustrial purposes, there is
312 hereby levied, assessed and shall be collected a tax equal to
313 seven percent (7%) of the cost or value of the product or service
314 used.

315 (b) There is hereby levied, assessed and shall be
316 collected a tax equal to one and one-half percent (1-1/2%) of the

317 gross income of the business when the electricity, current, power,
318 steam, coal, natural gas, liquefied petroleum gas or other fuel is
319 sold to or used by a manufacturer, custom processor, technology
320 intensive enterprise meeting the criteria provided for in Section
321 27-65-17(1)(f), or public service company for industrial purposes,
322 which shall include that used to generate electricity, to operate
323 an electrical distribution or transmission system, to operate
324 pipeline compressor or pumping stations or to operate railroad
325 locomotives; however, sales of fuel used to produce electric power
326 by a company primarily engaged in the business of producing,
327 generating or distributing electric power for sale shall be exempt
328 from sales tax as provided in Section 27-65-107.

329 (c) The one and one-half percent (1-1/2%) industrial
330 rate provided for in this subsection shall also apply when the
331 electricity, current, power, steam, coal, natural gas, liquefied
332 petroleum gas or other fuel is sold to a producer or processor for
333 use directly in the production of poultry or poultry products, the
334 production of livestock and livestock products, the production of
335 domesticated fish and domesticated fish products, the production
336 of marine aquaculture products, the production of plants or food
337 by commercial horticulturists, the processing of milk and milk
338 products, the processing of poultry and livestock feed, and the
339 irrigation of farm crops.

340 (d) The one and one-half percent (1-1/2%) rate provided
341 for in this subsection shall not apply to sales of fuel for
342 automobiles, trucks, truck-tractors, buses, farm tractors or
343 airplanes.

344 (e) Upon every person operating a telegraph or
345 telephone business for the transmission of messages or
346 conversations between points within this state, there is hereby
347 levied, assessed and shall be collected a tax equal to seven
348 percent (7%) of the gross income of such business, with no
349 deduction or allowance for any part of an intrastate rate charge

350 because of routing across a state line. Charges by one
351 telecommunications provider to another telecommunications provider
352 holding a permit issued under Section 27-65-27 for services that
353 are resold by such other telecommunications provider, including,
354 but not limited to, access charges, shall not be subject to the
355 tax levied pursuant to this paragraph (e). However, any sale of a
356 prepaid telephone calling card or prepaid authorization number, or
357 both, shall be deemed to be the sale of tangible personal property
358 subject only to such taxes imposed by law on the sale of tangible
359 personal property. If the sale of a prepaid telephone calling
360 card or prepaid authorization number does not take place at the
361 vendor's place of business, it shall be conclusively determined to
362 take place at the customer's shipping address. The
363 reauthorization of a prepaid telephone calling card or a prepaid
364 authorization number shall be conclusively determined to take
365 place at the customer's billing address. Except for the
366 provisions governing the sale of a prepaid telephone calling card
367 or prepaid authorization number, this paragraph (e) shall not
368 apply to persons providing mobile telecommunications services that
369 are taxed pursuant to paragraph (g) of this section.

370 (f) Upon every person operating a telegraph or
371 telecommunications business for the transmission of messages or
372 conversations originating in this state or terminating in this
373 state via interstate telecommunications, which are charged to the
374 customer's service address in this state, regardless of where such
375 amount is billed or paid, there is hereby levied, assessed and
376 shall be collected a tax equal to seven percent (7%) of the gross
377 income received by such business from such interstate
378 telecommunications. However, a person, upon proof that he has
379 paid a tax in another state on such event, shall be allowed a
380 credit against the tax imposed in this paragraph (f) on interstate
381 telecommunications charges to the extent that the amount of such
382 tax is properly due and actually paid in such other state and to

383 the extent that the rate of sales tax imposed by and paid to such
384 other state does not exceed the rate of sales tax imposed by this
385 paragraph (f). Charges by one telecommunications provider to
386 another telecommunications provider holding a permit issued under
387 Section 27-65-27 for services that are resold by such other
388 telecommunications provider, including, but not limited to, access
389 charges, shall not be subject to the tax levied pursuant to this
390 paragraph (f). This paragraph (f) shall not apply to persons
391 providing mobile telecommunications services that are taxed
392 pursuant to paragraph (g) of this subsection.

393 (g) (i) Upon every person providing mobile
394 telecommunications services in this state there is hereby levied,
395 assessed and shall be collected:

396 1. A tax equal to seven percent (7%) of the
397 gross income received on such services from all charges for
398 transmission of messages or conversations between points within
399 any single state as they shall be construed to be within this
400 state; and

401 2. A tax equal to seven percent (7%) on the
402 gross income received from all charges for services that originate
403 in one state and terminate in any other state.

404 Charges by one telecommunications provider to another
405 telecommunications provider holding a permit issued under Section
406 27-65-27 for services that are resold by such other
407 telecommunications provider, including, but not limited to, access
408 charges, shall not be subject to the tax levied pursuant to this
409 paragraph (g).

410 (ii) Subject to the provisions of 4 USCS 116(c),
411 the tax levied by this paragraph (g) shall apply only to those
412 charges for mobile telecommunications services subject to tax
413 which are deemed to be provided to a customer by a home service
414 provider pursuant to 4 USCS 117(a), if the customer's place of
415 primary use is located within this state.

416 (iii) A home service provider shall be responsible
417 for obtaining and maintaining the customer's place of primary use.
418 The home service provider shall be entitled to rely on the
419 applicable residential or business street address supplied by such
420 customer, if the home service provider's reliance is in good
421 faith; and the home service provider shall be held harmless from
422 liability for any additional taxes based on a different
423 determination of the place of primary use for taxes that are
424 customarily passed on to the customer as a separate itemized
425 charge. A home service provider shall be allowed to treat the
426 address used for purposes of the tax levied by this chapter for
427 any customer under a service contract in effect on August 1, 2002,
428 as that customer's place of primary use for the remaining term of
429 such service contract or agreement, excluding any extension or
430 renewal of such service contract or agreement. Month-to-month
431 services provided after the expiration of a contract shall be
432 treated as an extension or renewal of such contract or agreement.

433 If the commissioner determines that the address used by a
434 home service provider as a customer's place of primary use does
435 not meet the definition of the term "place of primary use" as
436 defined in this paragraph, the commissioner shall give binding
437 notice to the home service provider to change the place of primary
438 use on a prospective basis from the date of notice of
439 determination; however, the customer shall have the opportunity,
440 prior to such notice of determination, to demonstrate that such
441 address satisfies such definition.

442 The commission has the right to collect any taxes due
443 directly from the home service provider's customer that has failed
444 to provide an address that meets the definition of the term "place
445 of primary use" which resulted in a failure of tax otherwise due
446 being remitted.

447 (iv) For purposes of this paragraph (g):

448 1. "Place of primary use" means the street
449 address representative of where the customer's use of mobile
450 telecommunications services primarily occurs, which shall be
451 either the residential street address of the customer or the
452 primary business street address of the customer.

453 2. "Customer" means the person or entity that
454 contracts with the home service provider for mobile
455 telecommunications services. For determining the place of primary
456 use, in those instances in which the end user of mobile
457 telecommunications services is not the contracting party, the end
458 user of the mobile telecommunications services shall be deemed the
459 customer. The term "customer" shall not include a reseller of
460 mobile telecommunications service, or a serving carrier under an
461 arrangement to serve the customer outside the home service
462 provider's licensed service area.

463 3. "Home service provider" means the
464 facilities-based carrier or reseller with which the customer
465 contracts for the provision of mobile telecommunications services.

466 (h) (i) For purposes of this paragraph (h), "bundled
467 transaction" means a transaction that consists of distinct and
468 identifiable properties or services which are sold for a single
469 nonitemized price but which are treated differently for tax
470 purposes.

471 (ii) In the case of a bundled transaction that
472 includes telecommunications services taxed under this section in
473 which the price of the bundled transaction is attributable to
474 properties or services that are taxable and nontaxable, the
475 portion of the price that is attributable to any nontaxable
476 property or service shall be subject to the tax unless the
477 provider can reasonably identify that portion from its books and
478 records kept in the regular course of business.

479 (iii) In the case of a bundled transaction that
480 includes telecommunications services subject to tax under this

481 section in which the price is attributable to properties or
482 services that are subject to the tax but the tax revenue from the
483 different properties or services are dedicated to different funds
484 or purposes, the provider shall allocate the price among the
485 properties or services:

486 1. By reasonably identifying the portion of
487 the price attributable to each of the properties and services from
488 its books and records kept in the regular course of business; or

489 2. Based on a reasonable allocation
490 methodology approved by the commission.

491 (iv) This paragraph (h) shall not create a right
492 of action for a customer to require that the provider or the
493 commission, for purposes of determining the amount of tax
494 applicable to a bundled transaction, allocate the price to the
495 different portions of the transaction in order to minimize the
496 amount of tax charged to the customer. A customer shall not be
497 entitled to rely on the fact that a portion of the price is
498 attributable to properties or services not subject to tax unless
499 the provider elects, after receiving a written request from the
500 customer in the form required by the provider, to provide
501 verifiable data based upon the provider's books and records that
502 are kept in the regular course of business that reasonably
503 identifies the portion of the price attributable to the properties
504 or services not subject to the tax.

505 (2) Persons making sales to consumers of electricity,
506 current, power, natural gas, liquefied petroleum gas or other fuel
507 for residential heating, lighting or other residential
508 noncommercial or nonagricultural use or sales of potable water for
509 residential, noncommercial or nonagricultural use shall indicate
510 on each statement rendered to customers that such charges are
511 exempt from sales taxes.

512 (3) There is hereby levied, assessed and shall be paid on
513 transportation charges on shipments moving between points within

514 this state when paid directly by the consumer, a tax equal to the
515 rate applicable to the sale of the property being transported.
516 Such tax shall be reported and paid directly to the State Tax
517 Commission by the consumer.

518 **SECTION 5.** Section 27-65-101, Mississippi Code of 1972, is
519 amended as follows:

520 27-65-101. (1) The exemptions from the provisions of this
521 chapter which are of an industrial nature or which are more
522 properly classified as industrial exemptions than any other
523 exemption classification of this chapter shall be confined to
524 those persons or property exempted by this section or by the
525 provisions of the Constitution of the United States or the State
526 of Mississippi. No industrial exemption as now provided by any
527 other section except Section 57-3-33 shall be valid as against the
528 tax herein levied. Any subsequent industrial exemption from the
529 tax levied hereunder shall be provided by amendment to this
530 section. No exemption provided in this section shall apply to
531 taxes levied by Section 27-65-15 or 27-65-21.

532 The tax levied by this chapter shall not apply to the
533 following:

534 (a) Sales of boxes, crates, cartons, cans, bottles and
535 other packaging materials to manufacturers and wholesalers for use
536 as containers or shipping materials to accompany goods sold by
537 said manufacturers or wholesalers where possession thereof will
538 pass to the customer at the time of sale of the goods contained
539 therein and sales to anyone of containers or shipping materials
540 for use in ships engaged in international commerce.

541 (b) Sales of raw materials, catalysts, processing
542 chemicals, welding gases or other industrial processing gases
543 (except natural gas) to a manufacturer for use directly in
544 manufacturing or processing a product for sale or rental or
545 repairing or reconditioning vessels or barges of fifty (50) tons
546 load displacement and over. For the purposes of this exemption,

547 electricity used directly in the electrolysis process in the
548 production of sodium chlorate shall be considered a raw material.
549 This exemption shall not apply to any property used as fuel except
550 to the extent that such fuel comprises by-products which have no
551 market value.

552 (c) The gross proceeds of sales of dry docks, offshore
553 drilling equipment for use in oil exploitation or production,
554 vessels or barges of fifty (50) tons load displacement and over,
555 when sold by the manufacturer or builder thereof.

556 (d) Sales to commercial fishermen of commercial fishing
557 boats of over five (5) tons load displacement and not more than
558 fifty (50) tons load displacement as registered with the United
559 States Coast Guard and licensed by the Mississippi Commission on
560 Marine Resources.

561 (e) The gross income from repairs to vessels and barges
562 engaged in foreign trade or interstate transportation.

563 (f) Sales of petroleum products to vessels or barges
564 for consumption in marine international commerce or interstate
565 transportation businesses.

566 (g) Sales and rentals of rail rolling stock (and
567 component parts thereof) for ultimate use in interstate commerce
568 and gross income from services with respect to manufacturing,
569 repairing, cleaning, altering, reconditioning or improving such
570 rail rolling stock (and component parts thereof).

571 (h) Sales of raw materials, catalysts, processing
572 chemicals, welding gases or other industrial processing gases
573 (except natural gas) used or consumed directly in manufacturing,
574 repairing, cleaning, altering, reconditioning or improving such
575 rail rolling stock (and component parts thereof). This exemption
576 shall not apply to any property used as fuel.

577 (i) Sales of machinery or tools or repair parts
578 therefor or replacements thereof, fuel or supplies used directly
579 in manufacturing, converting or repairing ships of three thousand

580 (3,000) tons load displacement and over, but not to include office
581 and plant supplies or other equipment not directly used on the
582 ship being built, converted or repaired.

583 (j) Sales of tangible personal property to persons
584 operating ships in international commerce for use or consumption
585 on board such ships. This exemption shall be limited to cases in
586 which procedures satisfactory to the commissioner, ensuring
587 against use in this state other than on such ships, are
588 established.

589 (k) Sales of materials used in the construction of a
590 building, or any addition or improvement thereon, and sales of any
591 machinery and equipment not later than three (3) months after the
592 completion of construction of the building, or any addition
593 thereon, to be used therein, to qualified businesses, as defined
594 in Section 57-51-5, which are located in a county or portion
595 thereof designated as an enterprise zone pursuant to Sections
596 57-51-1 through 57-51-15.

597 (l) Sales of materials used in the construction of a
598 building, or any addition or improvement thereon, and sales of any
599 machinery and equipment not later than three (3) months after the
600 completion of construction of the building, or any addition
601 thereon, to be used therein, to qualified businesses, as defined
602 in Section 57-54-5.

603 (m) Income from storage and handling of perishable
604 goods by a public storage warehouse.

605 (n) The value of natural gas lawfully injected into the
606 earth for cycling, repressuring or lifting of oil, or lawfully
607 vented or flared in connection with the production of oil;
608 however, if any gas so injected into the earth is sold for such
609 purposes, then the gas so sold shall not be exempt.

610 (o) The gross collections from self-service commercial
611 laundering, drying, cleaning and pressing equipment.

612 (p) Sales of materials used in the construction of a
613 building, or any addition or improvement thereon, and sales of any
614 machinery and equipment not later than three (3) months after the
615 completion of construction of the building, or any addition
616 thereon, to be used therein, to qualified companies, certified as
617 such by the Mississippi Development Authority under Section
618 57-53-1.

619 (q) Sales of component materials used in the
620 construction of a building, or any addition or improvement
621 thereon, sales of machinery and equipment to be used therein, and
622 sales of manufacturing or processing machinery and equipment which
623 is permanently attached to the ground or to a permanent foundation
624 and which is not by its nature intended to be housed within a
625 building structure, not later than three (3) months after the
626 initial start-up date, to permanent business enterprises engaging
627 in manufacturing or processing in Tier Three areas (as such term
628 is defined in Section 57-73-21), which businesses are certified by
629 the State Tax Commission as being eligible for the exemption
630 granted in this paragraph (q).

631 (r) Sales of component materials used in the
632 construction of a building, or any addition or improvement
633 thereon, and sales of any machinery and equipment not later than
634 three (3) months after the completion of the building, addition or
635 improvement thereon, to be used therein, for any company
636 establishing or transferring its national or regional headquarters
637 from within or outside the State of Mississippi and creating a
638 minimum of thirty-five (35) jobs at the new headquarters in this
639 state. The Tax Commission shall establish criteria and prescribe
640 procedures to determine if a company qualifies as a national or
641 regional headquarters for the purpose of receiving the exemption
642 provided in this paragraph.

643 (s) The gross proceeds from the sale of semitrailers,
644 trailers, boats, travel trailers, motorcycles and all-terrain

645 cycles if exported from this state within forty-eight (48) hours
646 and registered and first used in another state.

647 (t) Gross income from the storage and handling of
648 natural gas in underground salt domes and in other underground
649 reservoirs, caverns, structures and formations suitable for such
650 storage.

651 (u) Sales of machinery and equipment to nonprofit
652 organizations if the organization: (i) is tax-exempt pursuant to
653 Section 501(c)(4) of the Internal Revenue Code of 1986, as
654 amended; (ii) assists in the implementation of the national
655 contingency plan or area contingency plan, and which is created in
656 response to the requirements of Title IV, Subtitle B of the Oil
657 Pollution Act of 1990, Public Law 101-380; and (iii) engages
658 primarily in programs to contain, clean up and otherwise mitigate
659 spills of oil or other substances occurring in the United States
660 coastal and tidal waters. For purposes of this exemption,
661 "machinery and equipment" means any ocean-going vessels, barges,
662 booms, skimmers and other capital equipment used primarily in the
663 operations of nonprofit organizations referred to herein.

664 (v) Sales or leases of materials and equipment to
665 approved business enterprises as provided under the Growth and
666 Prosperity Act.

667 (w) From and after July 1, 2001, sales of pollution
668 control equipment to manufacturers or custom processors for
669 industrial use. For the purposes of this exemption, "pollution
670 control equipment" means equipment, devices, machinery or systems
671 used or acquired to prevent, control, monitor or reduce air, water
672 or groundwater pollution, or solid or hazardous waste as required
673 by federal or state law or regulation.

674 (x) Sales or leases to a manufacturer of motor vehicles
675 operating a project that has been certified by the Mississippi
676 Major Economic Impact Authority as a project as defined in Section
677 57-75-5(f)(iv)1 of machinery and equipment; special tooling such

678 as dies, molds, jigs and similar items treated as special tooling
679 for federal income tax purposes; or repair parts therefor or
680 replacements thereof; repair services thereon; fuel, supplies,
681 electricity, coal and natural gas used directly in the manufacture
682 of motor vehicles or motor vehicle parts or used to provide
683 climate control for manufacturing areas.

684 (y) Sales or leases of component materials, machinery
685 and equipment used in the construction of a building, or any
686 addition or improvement thereon to an enterprise operating a
687 project that has been certified by the Mississippi Major Economic
688 Impact Authority as a project as defined in Section
689 57-75-5(f)(iv)1 and any other sales or leases required to
690 establish or operate such project.

691 (z) Sales of component materials and equipment to a
692 business enterprise as provided under Section 57-64-33.

693 (aa) The gross income from the stripping and painting
694 of commercial aircraft engaged in foreign or interstate
695 transportation business.

696 (bb) Sales of production items used in the production
697 of motion pictures such as film; videotape; component building
698 materials used in the construction of a set; makeup; fabric used
699 as or in the making of costumes; clothing, including, shoes,
700 accessories and jewelry used as wardrobes; materials used as set
701 dressing; materials used as props on a set or by an actor;
702 materials used in the creation of special effects; and expendable
703 items purchased for limited use by grip, electric and camera
704 departments such as tape, fasteners and compressed air. For the
705 purposes of this paragraph (aa) the term "motion picture" means a
706 nationally distributed feature-length film, video, television
707 series or commercial made in Mississippi, in whole or in part, for
708 theatrical or television viewing or as a television pilot. The
709 term "motion picture" shall not include the production of
710 television coverage of news and athletic events, or a film, video,

711 television series or commercial that contains any material or
712 performance defined in Section 97-29-103.

713 (cc) Sales of component materials used in the
714 construction of a facility, or any addition or improvement
715 thereon, and sales or leases of machinery and equipment not later
716 than three (3) months after the completion of construction of the
717 facility, or any addition or improvement thereto, to be used in
718 the building or any addition or improvement thereto, to a
719 permanent business enterprise operating a data/information
720 enterprise in Tier Three areas (as such areas are designated in
721 accordance with Section 57-73-21), meeting minimum criteria
722 established by the Mississippi Development Authority.

723 (dd) Sales of component materials used in the
724 construction of a facility, or any addition or improvement
725 thereto, and sales of machinery and equipment not later than three
726 (3) months after the completion of construction of the facility,
727 or any addition or improvement thereto, to be used in the facility
728 or any addition or improvement thereto, to technology intensive
729 enterprises for industrial purposes in Tier Three areas (as such
730 areas are designated in accordance with Section 57-73-21), as
731 certified by the State Tax Commission. For purposes of this
732 paragraph, an enterprise must meet the criteria provided for in
733 Section 27-65-17(1)(f) in order to be considered a technology
734 intensive enterprise.

735 (2) Sales of component materials used in the construction of
736 a building, or any addition or improvement thereon, sales of
737 machinery and equipment to be used therein, and sales of
738 manufacturing or processing machinery and equipment which is
739 permanently attached to the ground or to a permanent foundation
740 and which is not by its nature intended to be housed within a
741 building structure, not later than three (3) months after the
742 initial start-up date, to permanent business enterprises engaging
743 in manufacturing or processing in Tier Two areas and Tier One

744 areas (as such areas are designated in accordance with Section
745 57-73-21), which businesses are certified by the State Tax
746 Commission as being eligible for the exemption granted in this
747 paragraph, shall be exempt from one-half (1/2) of the taxes
748 imposed on such transactions under this chapter.

749 (3) Sales of component materials used in the construction of
750 a facility, or any addition or improvement thereon, and sales or
751 leases of machinery and equipment not later than three (3) months
752 after the completion of construction of the facility, or any
753 addition or improvement thereto, to be used in the building or any
754 addition or improvement thereto, to a permanent business
755 enterprise operating a data/information enterprise in Tier Two
756 areas and Tier One areas (as such areas are designated in
757 accordance with Section 57-73-21), which businesses meet minimum
758 criteria established by the Mississippi Development Authority,
759 shall be exempt from one-half (1/2) of the taxes imposed on such
760 transaction under this chapter.

761 (4) Sales of component materials used in the construction of
762 a facility, or any addition or improvement thereto, and sales of
763 machinery and equipment not later than three (3) months after the
764 completion of construction of the facility, or any addition or
765 improvement thereto, to be used in the building or any addition or
766 improvement thereto, to technology intensive enterprises for
767 industrial purposes in Tier Two areas and Tier One areas (as such
768 areas are designated in accordance with Section 57-73-21), which
769 businesses are certified by the State Tax Commission as being
770 eligible for the exemption granted in this paragraph, shall be
771 exempt from one-half (1/2) of the taxes imposed on such
772 transactions under this chapter. For purposes of this subsection,
773 an enterprise must meet the criteria provided for in Section
774 27-65-17(1)(f) in order to be considered a technology intensive
775 enterprise.

776 (5) (a) For purposes of this subsection:

777 (i) "Telecommunications enterprises" shall have
778 the meaning ascribed to such term in Section 57-73-21(13);

779 (ii) "Tier One areas" mean counties designated as
780 Tier One areas pursuant to Section 57-73-21(1);

781 (iii) "Tier Two areas" mean counties designated as
782 Tier Two areas pursuant to Section 57-73-21(1);

783 (iv) "Tier Three areas" mean counties designated
784 as Tier Three areas pursuant to Section 57-73-21(1); and

785 (v) "Equipment used in the deployment of broadband
786 technologies" means any equipment capable of being used for or in
787 connection with the transmission of information at a rate, prior
788 to taking into account the effects of any signal degradation, that
789 is not less than three hundred eighty-four (384) kilobits per
790 second in at least one direction, including, but not limited to,
791 asynchronous transfer mode switches, digital subscriber line
792 access multiplexers, routers, servers, multiplexers, fiber optics
793 and related equipment.

794 (b) Sales of equipment to telecommunications
795 enterprises after June 30, 2003, and before July 1, 2013, that is
796 installed in Tier One areas and used in the deployment of
797 broadband technologies shall be exempt from one-half (1/2) of the
798 taxes imposed on such transactions under this chapter.

799 (c) Sales of equipment to telecommunications
800 enterprises after June 30, 2003, and before July 1, 2013, that is
801 installed in Tier Two and Tier Three areas and used in the
802 deployment of broadband technologies shall be exempt from the
803 taxes imposed on such transactions under this chapter.

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

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

809 57-73-21. (1) Annually by December 31, using the most
810 current data available from the University Research Center,
811 Mississippi State Employment Security Commission and the United
812 States Department of Commerce, the State Tax Commission shall rank
813 and designate the state's counties as provided in this section.
814 The twenty-eight (28) counties in this state having a combination
815 of the highest unemployment rate and lowest per capita income for
816 the most recent thirty-six-month period, with equal weight being
817 given to each category, are designated Tier Three areas. The
818 twenty-seven (27) counties in the state with a combination of the
819 next highest unemployment rate and next lowest per capita income
820 for the most recent thirty-six-month period, with equal weight
821 being given to each category, are designated Tier Two areas. The
822 twenty-seven (27) counties in the state with a combination of the
823 lowest unemployment rate and the highest per capita income for the
824 most recent thirty-six-month period, with equal weight being given
825 to each category, are designated Tier One areas. Counties
826 designated by the Tax Commission qualify for the appropriate tax
827 credit for jobs as provided in subsections (2), (3) and (4) of
828 this section. The designation by the Tax Commission is effective
829 for the tax years of permanent business enterprises which begin
830 after the date of designation. For companies which plan an
831 expansion in their labor forces, the Tax Commission shall
832 prescribe certification procedures to ensure that the companies
833 can claim credits in future years without regard to whether or not
834 a particular county is removed from the list of Tier Three or Tier
835 Two areas.

836 (2) Permanent business enterprises primarily engaged in
837 manufacturing, processing, warehousing, distribution, wholesaling
838 and research and development, or permanent business enterprises
839 designated by rule and regulation of the Mississippi Development
840 Authority as air transportation and maintenance facilities, final
841 destination or resort hotels having a minimum of one hundred fifty

842 (150) guest rooms, recreational facilities that impact tourism,
843 movie industry studios, telecommunications enterprises, data or
844 information processing enterprises or computer software
845 development enterprises or any technology intensive facility or
846 enterprise, in counties designated by the Tax Commission as Tier
847 Three areas are allowed a job tax credit for taxes imposed by
848 Section 27-7-5 equal to Two Thousand Dollars (\$2,000.00) annually
849 for each net new full-time employee job for five (5) years
850 beginning with years two (2) through six (6) after the creation of
851 the job. The number of new full-time jobs must be determined by
852 comparing the monthly average number of full-time employees
853 subject to the Mississippi income tax withholding for the taxable
854 year with the corresponding period of the prior taxable year.
855 Only those permanent businesses that increase employment by ten
856 (10) or more in a Tier Three area are eligible for the credit.
857 Credit is not allowed during any of the five (5) years if the net
858 employment increase falls below ten (10). The Tax Commission
859 shall adjust the credit allowed each year for the net new
860 employment fluctuations above the minimum level of ten (10).

861 (3) Permanent business enterprises primarily engaged in
862 manufacturing, processing, warehousing, distribution, wholesaling
863 and research and development, or permanent business enterprises
864 designated by rule and regulation of the Mississippi Development
865 Authority as air transportation and maintenance facilities, final
866 destination or resort hotels having a minimum of one hundred fifty
867 (150) guest rooms, recreational facilities that impact tourism,
868 movie industry studios, telecommunications enterprises, data or
869 information processing enterprises or computer software
870 development enterprises or any technology intensive facility or
871 enterprise, in counties that have been designated by the Tax
872 Commission as Tier Two areas are allowed a job tax credit for
873 taxes imposed by Section 27-7-5 equal to One Thousand Dollars
874 (\$1,000.00) annually for each net new full-time employee job for

875 five (5) years beginning with years two (2) through six (6) after
876 the creation of the job. The number of new full-time jobs must be
877 determined by comparing the monthly average number of full-time
878 employees subject to Mississippi income tax withholding for the
879 taxable year with the corresponding period of the prior taxable
880 year. Only those permanent businesses that increase employment by
881 fifteen (15) or more in Tier Two areas are eligible for the
882 credit. The credit is not allowed during any of the five (5)
883 years if the net employment increase falls below fifteen (15).
884 The Tax Commission shall adjust the credit allowed each year for
885 the net new employment fluctuations above the minimum level of
886 fifteen (15).

887 (4) Permanent business enterprises primarily engaged in
888 manufacturing, processing, warehousing, distribution, wholesaling
889 and research and development, or permanent business enterprises
890 designated by rule and regulation of the Mississippi Development
891 Authority as air transportation and maintenance facilities, final
892 destination or resort hotels having a minimum of one hundred fifty
893 (150) guest rooms, recreational facilities that impact tourism,
894 movie industry studios, telecommunications enterprises, data or
895 information processing enterprises or computer software
896 development enterprises or any technology intensive facility or
897 enterprise, in counties designated by the Tax Commission as Tier
898 One areas are allowed a job tax credit for taxes imposed by
899 Section 27-7-5 equal to Five Hundred Dollars (\$500.00) annually
900 for each net new full-time employee job for five (5) years
901 beginning with years two (2) through six (6) after the creation of
902 the job. The number of new full-time jobs must be determined by
903 comparing the monthly average number of full-time employees
904 subject to Mississippi income tax withholding for the taxable year
905 with the corresponding period of the prior taxable year. Only
906 those permanent businesses that increase employment by twenty (20)
907 or more in Tier One areas are eligible for the credit. The credit

908 is not allowed during any of the five (5) years if the net
909 employment increase falls below twenty (20). The Tax Commission
910 shall adjust the credit allowed each year for the net new
911 employment fluctuations above the minimum level of twenty (20).

912 (5) In addition to the credits authorized in subsections
913 (2), (3) and (4), an additional Five Hundred Dollars (\$500.00)
914 credit for each net new full-time employee or an additional One
915 Thousand Dollars (\$1,000.00) credit for each net new full-time
916 employee who is paid a salary, excluding benefits which are not
917 subject to Mississippi income taxation, of at least one hundred
918 twenty-five percent (125%) of the average annual wage of the state
919 or an additional Two Thousand Dollars (\$2,000.00) credit for each
920 net new full-time employee who is paid a salary, excluding
921 benefits which are not subject to Mississippi income taxation, of
922 at least two hundred percent (200%) of the average annual wage of
923 the state, shall be allowed for any company establishing or
924 transferring its national or regional headquarters from within or
925 outside the State of Mississippi. A minimum of thirty-five (35)
926 jobs must be created to qualify for the additional credit. The
927 State Tax Commission shall establish criteria and prescribe
928 procedures to determine if a company qualifies as a national or
929 regional headquarters for purposes of receiving the credit awarded
930 in this subsection. As used in this subsection, the average
931 annual wage of the state is the most recently published average
932 annual wage as determined by the Mississippi Employment Security
933 Commission.

934 (6) In addition to the credits authorized in subsections
935 (2), (3), (4) and (5), any job requiring research and development
936 skills (chemist, engineer, etc.) shall qualify for an additional
937 One Thousand Dollars (\$1,000.00) credit for each net new full-time
938 employee.

939 (7) Tax credits for five (5) years for the taxes imposed by
940 Section 27-7-5 shall be awarded for additional net new full-time

941 jobs created by business enterprises qualified under subsections
942 (2), (3), (4), (5) and (6) of this section. The Tax Commission
943 shall adjust the credit allowed in the event of employment
944 fluctuations during the additional five (5) years of credit.

945 (8) The sale, merger, acquisition, reorganization,
946 bankruptcy or relocation from one county to another county within
947 the state of any business enterprise may not create new
948 eligibility in any succeeding business entity, but any unused job
949 tax credit may be transferred and continued by any transferee of
950 the business enterprise. The Tax Commission shall determine
951 whether or not qualifying net increases or decreases have occurred
952 or proper transfers of credit have been made and may require
953 reports, promulgate regulations, and hold hearings as needed for
954 substantiation and qualification.

955 (9) Any tax credit claimed under this section but not used
956 in any taxable year may be carried forward for five (5) years from
957 the close of the tax year in which the qualified jobs were
958 established but the credit established by this section taken in
959 any one tax year must be limited to an amount not greater than
960 fifty percent (50%) of the taxpayer's state income tax liability
961 which is attributable to income derived from operations in the
962 state for that year.

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

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

969 (12) The tax credits provided for in this section shall be
970 in addition to any tax credits described in Sections 57-51-13(b),
971 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official
972 action by the Department of Economic Development prior to July 1,
973 1989, to any business enterprise determined prior to July 1, 1989,

974 by the Department of Economic Development to be a qualified
975 business as defined in Section 57-51-5(f) or Section 57-54-5(d) or
976 a qualified company as described in Section 57-53-1, as the case
977 may be; however, from and after July 1, 1989, tax credits shall be
978 allowed only under either this section or Sections 57-51-13(b),
979 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time
980 employee.

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

993 **[In cases involving business enterprises that apply for the**
994 **job tax credit authorized by this section from and after January**
995 **1, 2005, this section shall read as follows:]**

996 57-73-21. (1) Annually by December 31, using the most
997 current data available from the University Research Center,
998 Mississippi State Employment Security Commission and the United
999 States Department of Commerce, the State Tax Commission shall rank
1000 and designate the state's counties as provided in this section.
1001 The twenty-eight (28) counties in this state having a combination
1002 of the highest unemployment rate and lowest per capita income for
1003 the most recent thirty-six-month period, with equal weight being
1004 given to each category, are designated Tier Three areas. The
1005 twenty-seven (27) counties in the state with a combination of the
1006 next highest unemployment rate and next lowest per capita income

1007 for the most recent thirty-six-month period, with equal weight
1008 being given to each category, are designated Tier Two areas. The
1009 twenty-seven (27) counties in the state with a combination of the
1010 lowest unemployment rate and the highest per capita income for the
1011 most recent thirty-six-month period, with equal weight being given
1012 to each category, are designated Tier One areas. Counties
1013 designated by the Tax Commission qualify for the appropriate tax
1014 credit for jobs as provided in * * * this section. The
1015 designation by the Tax Commission is effective for the tax years
1016 of permanent business enterprises which begin after the date of
1017 designation. For companies which plan an expansion in their labor
1018 forces, the Tax Commission shall prescribe certification
1019 procedures to ensure that the companies can claim credits in
1020 future years without regard to whether or not a particular county
1021 is removed from the list of Tier Three or Tier Two areas.

1022 (2) As used in this section:

1023 (a) "Business enterprises" means entities primarily
1024 engaged in:

1025 (i) Manufacturing, processing, warehousing,
1026 distribution, wholesaling and research and development, or

1027 (ii) Permanent business enterprises designated by
1028 rule and regulation of the Mississippi Development Authority as
1029 air transportation and maintenance facilities, final destination
1030 or resort hotels having a minimum of one hundred fifty (150) guest
1031 rooms, recreational facilities that impact tourism, movie industry
1032 studios, telecommunications enterprises, data or information
1033 processing enterprises or computer software development
1034 enterprises or any technology intensive facility or enterprise.

1035 (b) "Telecommunications enterprises" means entities
1036 engaged in the creation, display, management, storage, processing,
1037 transmission or distribution for compensation of images, text,
1038 voice, video or data by wire or by wireless means, or entities
1039 engaged in the construction, design, development, manufacture,

1040 maintenance or distribution for compensation of devices, products,
1041 software or structures used in the above activities. Companies
1042 organized to do business as commercial broadcast radio stations,
1043 television stations or news organizations primarily serving
1044 in-state markets shall not be included within the definition of
1045 the term "telecommunications enterprises."

1046 (3) Permanent business enterprises * * * in counties
1047 designated by the Tax Commission as Tier Three areas are allowed a
1048 job tax credit for taxes imposed by Section 27-7-5 equal to ten
1049 percent (10%) of the payroll of the enterprise for net new
1050 full-time employee jobs for five (5) years beginning with years
1051 two (2) through six (6) after the creation of the minimum number
1052 of jobs required by this subsection. The number of new full-time
1053 jobs must be determined by comparing the monthly average number of
1054 full-time employees subject to the Mississippi income tax
1055 withholding for the taxable year with the corresponding period of
1056 the prior taxable year. Only those permanent business enterprises
1057 that increase employment by ten (10) or more in a Tier Three area
1058 are eligible for the credit. Credit is not allowed during any of
1059 the five (5) years if the net employment increase falls below ten
1060 (10). The Tax Commission shall adjust the credit allowed each
1061 year for the net new employment fluctuations above the minimum
1062 level of ten (10).

1063 (4) Permanent business enterprises * * * in counties that
1064 have been designated by the Tax Commission as Tier Two areas are
1065 allowed a job tax credit for taxes imposed by Section 27-7-5 equal
1066 to five percent (5%) of the payroll of the enterprise for net new
1067 full-time employee jobs for five (5) years beginning with years
1068 two (2) through six (6) after the creation of the minimum number
1069 of jobs required by this subsection. The number of new full-time
1070 jobs must be determined by comparing the monthly average number of
1071 full-time employees subject to Mississippi income tax withholding
1072 for the taxable year with the corresponding period of the prior

1073 taxable year. Only those permanent business enterprises that
1074 increase employment by fifteen (15) or more in Tier Two areas are
1075 eligible for the credit. The credit is not allowed during any of
1076 the five (5) years if the net employment increase falls below
1077 fifteen (15). The Tax Commission shall adjust the credit allowed
1078 each year for the net new employment fluctuations above the
1079 minimum level of fifteen (15).

1080 (5) Permanent business enterprises * * * in counties
1081 designated by the Tax Commission as Tier One areas are allowed a
1082 job tax credit for taxes imposed by Section 27-7-5 equal to two
1083 and one-half percent (2.5%) of the payroll of the enterprise for
1084 net new full-time employee jobs for five (5) years beginning with
1085 years two (2) through six (6) after the creation of the minimum
1086 number of jobs required by this subsection. The number of new
1087 full-time jobs must be determined by comparing the monthly average
1088 number of full-time employees subject to Mississippi income tax
1089 withholding for the taxable year with the corresponding period of
1090 the prior taxable year. Only those permanent business enterprises
1091 that increase employment by twenty (20) or more in Tier One areas
1092 are eligible for the credit. The credit is not allowed during any
1093 of the five (5) years if the net employment increase falls below
1094 twenty (20). The Tax Commission shall adjust the credit allowed
1095 each year for the net new employment fluctuations above the
1096 minimum level of twenty (20).

1097 (6) In addition to the other credits authorized in this
1098 section, an additional Five Hundred Dollars (\$500.00) credit for
1099 each net new full-time employee or an additional One Thousand
1100 Dollars (\$1,000.00) credit for each net new full-time employee who
1101 is paid a salary, excluding benefits which are not subject to
1102 Mississippi income taxation, of at least one hundred twenty-five
1103 percent (125%) of the average annual wage of the state or an
1104 additional Two Thousand Dollars (\$2,000.00) credit for each net
1105 new full-time employee who is paid a salary, excluding benefits

1106 which are not subject to Mississippi income taxation, of at least
1107 two hundred percent (200%) of the average annual wage of the
1108 state, shall be allowed for any company establishing or
1109 transferring its national or regional headquarters from within or
1110 outside the State of Mississippi. A minimum of thirty-five (35)
1111 jobs must be created to qualify for the additional credit. The
1112 State Tax Commission shall establish criteria and prescribe
1113 procedures to determine if a company qualifies as a national or
1114 regional headquarters for purposes of receiving the credit awarded
1115 in this subsection. As used in this subsection, the average
1116 annual wage of the state is the most recently published average
1117 annual wage as determined by the Mississippi Employment Security
1118 Commission.

1119 (7) In addition to the other credits authorized in this
1120 section, any job requiring research and development skills
1121 (chemist, engineer, etc.) shall qualify for an additional One
1122 Thousand Dollars (\$1,000.00) credit for each net new full-time
1123 employee.

1124 (8) (a) Tax credits for five (5) years for the taxes
1125 imposed by Section 27-7-5 shall be awarded for increases in the
1126 annual payroll for net new full-time jobs created by business
1127 enterprises qualified under this section. The Tax Commission
1128 shall adjust the credit allowed in the event of payroll
1129 fluctuations during the additional five (5) years of credit.

1130 (b) Tax credits for five (5) years for the taxes
1131 imposed by Section 27-7-5 shall be awarded for additional net new
1132 full-time jobs created by business enterprises qualified under
1133 subsections * * * (6) and (7) of this section. The Tax Commission
1134 shall adjust the credit allowed in the event of employment
1135 fluctuations during the additional five (5) years of credit.

1136 (9) The sale, merger, acquisition, reorganization,
1137 bankruptcy or relocation from one county to another county within
1138 the state of any business enterprise may not create new

1139 eligibility in any succeeding business entity, but any unused job
1140 tax credit may be transferred and continued by any transferee of
1141 the business enterprise. The Tax Commission shall determine
1142 whether or not qualifying net increases or decreases have occurred
1143 or proper transfers of credit have been made and may require
1144 reports, promulgate regulations, and hold hearings as needed for
1145 substantiation and qualification.

1146 (10) Any tax credit claimed under this section but not used
1147 in any taxable year may be carried forward for five (5) years from
1148 the close of the tax year in which the qualified jobs were
1149 established but the credit established by this section taken in
1150 any one tax year must be limited to an amount not greater than
1151 fifty percent (50%) of the taxpayer's state income tax liability
1152 which is attributable to income derived from operations in the
1153 state for that year.

1154 (11) No business enterprise for the transportation,
1155 handling, storage, processing or disposal of hazardous waste is
1156 eligible to receive the tax credits provided in this section.

1157 (12) The credits allowed under this section shall not be
1158 used by any business enterprise or corporation other than the
1159 business enterprise actually qualifying for the credits.

1160 (13) The tax credits provided for in this section shall be
1161 in addition to any tax credits described in Sections 57-51-13(b),
1162 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official
1163 action by the Department of Economic Development prior to July 1,
1164 1989, to any business enterprise determined prior to July 1, 1989,
1165 by the Department of Economic Development to be a qualified
1166 business as defined in Section 57-51-5(f) or Section 57-54-5(d) or
1167 a qualified company as described in Section 57-53-1, as the case
1168 may be; however, from and after July 1, 1989, tax credits shall be
1169 allowed only under either this section or Sections 57-51-13(b),
1170 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time
1171 employee.

1172 * * *

1173 **SECTION 7.** Section 1 of this act shall take effect and be in
1174 force from and after January 1, 2005, the remainder of this act
1175 shall take effect and be in force from and after July 1, 2005.