

4/24 1:24

Chapter No. 571  
13/HR07/R1321SG  
gly lew

***HOUSE BILL NO. 591***

Originated in House



Clerk

HOUSE BILL NO. 591

AN ACT TO AMEND SECTION 27-65-101, MISSISSIPPI CODE OF 1972, TO LOWER TO 20 THE NUMBER OF JOBS THAT MUST BE CREATED AT THE HEADQUARTERS OF A COMPANY TRANSFERRING OR ESTABLISHING ITS NATIONAL OR REGIONAL HEADQUARTERS FROM WITHIN OR WITHOUT THIS STATE IN ORDER FOR THE COMPANY TO BE ELIGIBLE FOR THE SALES TAX EXEMPTION ON SALES OF COMPONENT MATERIALS USED IN THE CONSTRUCTION OF, OR IMPROVEMENTS TO, ITS HEADQUARTERS BUILDING; TO AUTHORIZE A SALES TAX EXEMPTION FOR SALES OF COMPONENT MATERIALS USED IN THE CONSTRUCTION OF A BUILDING, OR ANY ADDITION OR IMPROVEMENT THEREON, AND SALES OF MACHINERY AND EQUIPMENT NOT LATER THAN THREE MONTHS AFTER THE COMPLETION OF THE BUILDING, ADDITION OR IMPROVEMENT THEREON, TO BE USED THEREIN, FOR ANY COMPANY EXPANDING OR MAKING ADDITIONS AFTER JANUARY 1, 2013, TO ITS NATIONAL OR REGIONAL HEADQUARTERS WITHIN THE STATE OF MISSISSIPPI AND CREATING A MINIMUM OF TWENTY NEW JOBS AT THE HEADQUARTERS AS A RESULT OF THE EXPANSION OR ADDITIONS; TO AMEND SECTION 57-73-21, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE DEPARTMENT OF REVENUE, RATHER THAN THE MISSISSIPPI DEVELOPMENT AUTHORITY, SHALL ESTABLISH CRITERIA AND PRESCRIBE PROCEDURES TO DETERMINE IF A COMPANY QUALIFIES AS A NATIONAL OR REGIONAL HEADQUARTERS FOR THE PURPOSE OF RECEIVING THE ADDITIONAL INCOME TAX CREDIT AUTHORIZED FOR A COMPANY TRANSFERRING OR ESTABLISHING ITS NATIONAL OR REGIONAL HEADQUARTERS FROM WITHIN OR WITHOUT THIS STATE; TO AUTHORIZE AN ADDITIONAL INCOME TAX CREDIT FOR ANY COMPANY EXPANDING OR MAKING ADDITIONS AFTER JANUARY 1, 2013, TO ITS NATIONAL OR REGIONAL HEADQUARTERS WITHIN THE STATE OF MISSISSIPPI AND CREATING A MINIMUM OF TWENTY NEW JOBS AS A RESULT OF THE EXPANSION OR ADDITIONS; AND FOR RELATED PURPOSES.

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

**SECTION 1.** Section 27-65-101, Mississippi Code of 1972, as amended by Section 1 of Senate Bill No. 2829, 2013 Regular Session, is amended as follows:

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

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

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

(b) Sales of raw materials, catalysts, processing chemicals, welding gases or other industrial processing gases (except natural gas) to a manufacturer for use directly in manufacturing or processing a product for sale or rental or repairing or reconditioning vessels or barges of fifty (50) tons load displacement and over. For the purposes of this exemption, electricity used directly in the electrolysis process in the production of sodium chlorate shall be considered a raw material. This exemption shall not apply to any property used as fuel except to the extent that such fuel comprises by-products which have no market value.

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

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

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

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

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

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

(i) Sales of machinery or tools or repair parts therefor or replacements thereof, fuel or supplies used directly in manufacturing, converting or repairing ships, vessels or barges of three thousand (3,000) tons load displacement and over, but not to include office and plant supplies or other equipment not directly used on the ship, vessel or barge being built, converted or repaired. For purposes of this exemption, "ships, vessels or barges" shall not include floating structures described in Section 27-65-18.

(j) Sales of tangible personal property to persons operating ships in international commerce for use or consumption on board such ships. This exemption shall be limited to cases in which procedures satisfactory to the commissioner, ensuring

against use in this state other than on such ships, are established.

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

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

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

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

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

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

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

(r) (i) Sales of component materials used in the construction of a building, or any addition or improvement thereon, and sales of any machinery and equipment not later than three (3) months after the completion of the building, addition or improvement thereon, to be used therein, for any company establishing or transferring its national or regional headquarters

from within or outside the State of Mississippi and creating a minimum of \* \* \* twenty (20) jobs at the new headquarters in this state. The Department of Revenue shall establish criteria and prescribe procedures to determine if a company qualifies as a national or regional headquarters for the purpose of receiving the exemption provided in this \* \* \* subparagraph (i).

(ii) Sales of component materials used in the construction of a building, or any addition or improvement thereon, and sales of any machinery and equipment not later than three (3) months after the completion of the building, addition or improvement thereon, to be used therein, for any company expanding or making additions after January 1, 2013, to its national or regional headquarters within the State of Mississippi and creating a minimum of twenty (20) new jobs at the headquarters as a result of the expansion or additions. The Department of Revenue shall establish criteria and prescribe procedures to determine if a company qualifies as a national or regional headquarters for the purpose of receiving the exemption provided in this subparagraph (ii).

(s) The gross proceeds from the sale of semitrailers, trailers, boats, travel trailers, motorcycles and all-terrain cycles if exported from this state within forty-eight (48) hours and registered and first used in another state.

(t) Gross income from the storage and handling of natural gas in underground salt domes and in other underground

reservoirs, caverns, structures and formations suitable for such storage.

(u) Sales of machinery and equipment to nonprofit organizations if the organization:

(i) Is tax exempt pursuant to Section 501(c)(4) of the Internal Revenue Code of 1986, as amended;

(ii) Assists in the implementation of the contingency plan or area contingency plan, and which is created in response to the requirements of Title IV, Subtitle B of the Oil Pollution Act of 1990, Public Law 101-380; and

(iii) Engages primarily in programs to contain, clean up and otherwise mitigate spills of oil or other substances occurring in the United States coastal and tidal waters.

For purposes of this exemption, "machinery and equipment" means any ocean-going vessels, barges, booms, skimmers and other capital equipment used primarily in the operations of nonprofit organizations referred to herein.

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

(w) From and after July 1, 2001, sales of pollution control equipment to manufacturers or custom processors for industrial use. For the purposes of this exemption, "pollution control equipment" means equipment, devices, machinery or systems used or acquired to prevent, control, monitor or reduce air, water

or groundwater pollution, or solid or hazardous waste as required by federal or state law or regulation.

(x) Sales or leases to a manufacturer of motor vehicles or powertrain components operating a project that has been certified by the Mississippi Major Economic Impact Authority as a project as defined in Section 57-75-5(f)(iv)1, Section 57-75-5(f)(xxi) or Section 57-75-5(f)(xxii) of machinery and equipment; special tooling such as dies, molds, jigs and similar items treated as special tooling for federal income tax purposes; or repair parts therefor or replacements thereof; repair services thereon; fuel, supplies, electricity, coal and natural gas used directly in the manufacture of motor vehicles or motor vehicle parts or used to provide climate control for manufacturing areas.

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

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

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

(bb) [Repealed]

(cc) Sales or leases to an enterprise owning or operating a project that has been designated by the Mississippi Major Economic Impact Authority as a project as defined in Section 57-75-5(f)(xviii) of machinery and equipment; special tooling such as dies, molds, jigs and similar items treated as special tooling for federal income tax purposes; or repair parts therefor or replacements thereof; repair services thereon; fuel, supplies, electricity, coal and natural gas used directly in the manufacturing/production operations of the project or used to provide climate control for manufacturing/production areas.

(dd) Sales or leases of component materials, machinery and equipment used in the construction of a building, or any addition or improvement thereon to an enterprise owning or operating a project that has been designated by the Mississippi Major Economic Impact Authority as a project as defined in Section 57-75-5(f)(xviii) and any other sales or leases required to establish or operate such project.

(ee) Sales of parts used in the repair and servicing of aircraft not registered in Mississippi engaged exclusively in the business of foreign or interstate transportation to businesses engaged in aircraft repair and maintenance.

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

(gg) Sales of component materials used in the construction of a facility, or any addition or improvement thereto, and sales of machinery and equipment not later than three (3) months after the completion of construction of the facility, or any addition or improvement thereto, to be used in the facility or any addition or improvement thereto, to technology intensive enterprises for industrial purposes in Tier Three areas (as such areas are designated in accordance with Section 57-73-21), as certified by the Department of Revenue. For purposes of this paragraph, an enterprise must meet the criteria provided for in Section 27-65-17(1)(f) in order to be considered a technology intensive enterprise.

(hh) Sales of component materials used in the replacement, reconstruction or repair of a building or facility that has been destroyed or sustained extensive damage as a result

of a disaster declared by the Governor, sales of machinery and equipment to be used therein to replace machinery or equipment damaged or destroyed as a result of such disaster, including, but not limited to, manufacturing or processing machinery and equipment which is permanently attached to the ground or to a permanent foundation and which is not by its nature intended to be housed within a building structure, to enterprises or companies that were eligible for the exemptions authorized in paragraph (q), (r), (ff) or (gg) of this subsection during initial construction of the building that was destroyed or damaged, which enterprises or companies are certified by the Department of Revenue as being eligible for the exemption granted in this paragraph.

(ii) Sales of software or software services transmitted by the Internet to a destination outside the State of Mississippi where the first use of such software or software services by the purchaser occurs outside the State of Mississippi.

(jj) Gross income of public storage warehouses derived from the temporary storage of raw materials that are to be used in an eligible facility as defined in Section 27-7-22.35.

(kk) Sales of component building materials and equipment for initial construction of facilities or expansion of facilities as authorized under Sections 57-113-1 through 57-113-7 and Sections 57-113-21 through 57-113-27.

(ll) Sales and leases of machinery and equipment acquired in the initial construction to establish facilities as authorized in Sections 57-113-1 through 57-113-7.

(mm) Sales and leases of replacement hardware, software or other necessary technology to operate a data center as authorized under Sections 57-113-21 through 57-113-27.

(nn) Sales of component materials used in the construction of a building, or any addition or improvement thereon, and sales or leases of machinery and equipment not later than three (3) months after the completion of the construction of the facility, to be used in the facility, to permanent business enterprises operating a facility producing renewable crude oil from biomass harvested or produced, in whole or in part, in Mississippi, which businesses meet minimum criteria established by the Mississippi Development Authority. As used in this paragraph, the term "biomass" shall have the meaning ascribed to such term in Section 57-113-1.

(oo) Sales of supplies, equipment and other personal property to an organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and is the host organization coordinating a professional golf tournament played or to be played in this state and the supplies, equipment or other personal property will be used for purposes related to the golf tournament and related activities.

(pp) Sales of materials used in the construction of a health care industry facility, as defined in Section 57-117-3, or any addition or improvement thereon, and sales of any machinery and equipment not later than three (3) months after the completion of construction of the facility, or any addition thereon, to be used therein, to qualified businesses, as defined in Section 57-117-3. This paragraph shall be repealed from and after July 1, 2022.

(2) Sales of component materials used in the construction of a building, or any addition or improvement thereon, sales of machinery and equipment to be used therein, and sales of manufacturing or processing machinery and equipment which is permanently attached to the ground or to a permanent foundation and which is not by its nature intended to be housed within a building structure, not later than three (3) months after the initial start-up date, to permanent business enterprises engaging in manufacturing or processing in Tier Two areas and Tier One areas (as such areas are designated in accordance with Section 57-73-21), which businesses are certified by the Department of Revenue as being eligible for the exemption granted in this subsection, shall be exempt from one-half (1/2) of the taxes imposed on such transactions under this chapter.

(3) Sales of component materials used in the construction of a facility, or any addition or improvement thereon, and sales or leases of machinery and equipment not later than three (3) months

after the completion of construction of the facility, or any addition or improvement thereto, to be used in the building or any addition or improvement thereto, to a permanent business enterprise operating a data/information enterprise in Tier Two areas and Tier One areas (as such areas are designated in accordance with Section 57-73-21), which businesses meet minimum criteria established by the Mississippi Development Authority, shall be exempt from one-half (1/2) of the taxes imposed on such transaction under this chapter.

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

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

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

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

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

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

(v) "Equipment used in the deployment of broadband technologies" means any equipment capable of being used for or in connection with the transmission of information at a rate, prior to taking into account the effects of any signal degradation, that is not less than three hundred eighty-four (384) kilobits per second in at least one (1) direction, including, but not limited to, asynchronous transfer mode switches, digital subscriber line access multiplexers, routers, servers, multiplexers, fiber optics and related equipment.

(b) Sales of equipment to telecommunications enterprises after June 30, 2003, and before July 1, 2020, that is installed in Tier One areas and used in the deployment of broadband technologies shall be exempt from one-half (1/2) of the taxes imposed on such transactions under this chapter.

(c) Sales of equipment to telecommunications enterprises after June 30, 2003, and before July 1, 2020, that is installed in Tier Two and Tier Three areas and used in the

deployment of broadband technologies shall be exempt from the taxes imposed on such transactions under this chapter.

(6) Sales of component materials used in the replacement, reconstruction or repair of a building that has been destroyed or sustained extensive damage as a result of a disaster declared by the Governor, sales of machinery and equipment to be used therein to replace machinery or equipment damaged or destroyed as a result of such disaster, including, but not limited to, manufacturing or processing machinery and equipment which is permanently attached to the ground or to a permanent foundation and which is not by its nature intended to be housed within a building structure, to enterprises that were eligible for the partial exemptions provided for in subsections (2), (3) and (4) of this section during initial construction of the building that was destroyed or damaged, which enterprises are certified by the Department of Revenue as being eligible for the partial exemption granted in this subsection, shall be exempt from one-half (1/2) of the taxes imposed on such transactions under this chapter.

**SECTION 2.** Section 57-73-21, Mississippi Code of 1972, as amended by Section 4 of House Bill No. 117, 2013 Regular Session, is amended as follows:

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

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

a particular county is removed from the list of Tier Three or Tier Two areas.

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

the taxable year with the corresponding period of the prior taxable year. Only those permanent businesses that increase employment by ten (10) or more in a Tier Three area are eligible for the credit. Credit is not allowed during any of the five (5) years if the net employment increase falls below ten (10). The Tax Commission shall adjust the credit allowed each year for the net new employment fluctuations above the minimum level of ten (10).

(3) Permanent business enterprises primarily engaged in manufacturing, processing, warehousing, distribution, wholesaling and research and development, or permanent business enterprises designated by rule and regulation of the Mississippi Development Authority as air transportation and maintenance facilities, final destination or resort hotels having a minimum of one hundred fifty (150) guest rooms, recreational facilities that impact tourism, movie industry studios, telecommunications enterprises, data or information processing enterprises or computer software development enterprises or any technology intensive facility or enterprise, in counties that have been designated by the Tax Commission as Tier Two areas are allowed a job tax credit for taxes imposed by Section 27-7-5 equal to One Thousand Dollars (\$1,000.00) annually for each net new full-time employee job for five (5) years beginning with years two (2) through six (6) after the creation of the job; however, if the permanent business enterprise is located in an area that has been declared by the

Governor to be a disaster area and as a direct result of the disaster the permanent business enterprise is unable to maintain the required number of jobs, the Chairman of the State Tax Commission may extend this time period for not more two (2) years. The number of new full-time jobs must be determined by comparing the monthly average number of full-time employees subject to Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. Only those permanent businesses that increase employment by fifteen (15) or more in Tier Two areas are eligible for the credit. The credit is not allowed during any of the five (5) years if the net employment increase falls below fifteen (15). The Tax Commission shall adjust the credit allowed each year for the net new employment fluctuations above the minimum level of fifteen (15).

(4) Permanent business enterprises primarily engaged in manufacturing, processing, warehousing, distribution, wholesaling and research and development, or permanent business enterprises designated by rule and regulation of the Mississippi Development Authority as air transportation and maintenance facilities, final destination or resort hotels having a minimum of one hundred fifty (150) guest rooms, recreational facilities that impact tourism, movie industry studios, telecommunications enterprises, data or information processing enterprises or computer software development enterprises or any technology intensive facility or enterprise, in counties designated by the Tax Commission as Tier

One areas are allowed a job tax credit for taxes imposed by Section 27-7-5 equal to Five Hundred Dollars (\$500.00) annually for each net new full-time employee job for five (5) years beginning with years two (2) through six (6) after the creation of the job; however, if the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the permanent business enterprise is unable to maintain the required number of jobs, the Chairman of the State Tax Commission may extend this time period for not more two (2) years. The number of new full-time jobs must be determined by comparing the monthly average number of full-time employees subject to Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. Only those permanent businesses that increase employment by twenty (20) or more in Tier One areas are eligible for the credit. The credit is not allowed during any of the five (5) years if the net employment increase falls below twenty (20). The Tax Commission shall adjust the credit allowed each year for the net new employment fluctuations above the minimum level of twenty (20).

(5) In addition to the credits authorized in subsections (2), (3) and (4), an additional Five Hundred Dollars (\$500.00) credit for each net new full-time employee or an additional One Thousand Dollars (\$1,000.00) credit for each net new full-time employee who is paid a salary, excluding benefits which are not

subject to Mississippi income taxation, of at least one hundred twenty-five percent (125%) of the average annual wage of the state or an additional Two Thousand Dollars (\$2,000.00) credit for each net new full-time employee who is paid a salary, excluding benefits which are not subject to Mississippi income taxation, of at least two hundred percent (200%) of the average annual wage of the state, shall be allowed for any company establishing or transferring its national or regional headquarters from within or outside the State of Mississippi. A minimum of thirty-five (35) jobs must be created to qualify for the additional credit. The State Tax Commission shall establish criteria and prescribe procedures to determine if a company qualifies as a national or regional headquarters for purposes of receiving the credit awarded in this subsection. As used in this subsection, the average annual wage of the state is the most recently published average annual wage as determined by the Mississippi Department of Employment Security.

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

(7) In lieu of the tax credits provided in subsections (2) through (6), any commercial or industrial property owner which remediates contaminated property in accordance with Sections

49-35-1 through 49-35-25, is allowed a job tax credit for taxes imposed by Section 27-7-5 equal to the amounts provided in subsection (2), (3) or (4) for each net new full-time employee job for five (5) years beginning with years two (2) through six (6) after the creation of the job. The number of new full-time jobs must be determined by comparing the monthly average number of full-time employees subject to Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. This subsection shall be administered in the same manner as subsections (2), (3) and (4), except the landowner shall not be required to increase employment by the levels provided in subsections (2), (3) and (4) to be eligible for the tax credit.

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

(9) (a) The sale, merger, acquisition, reorganization, bankruptcy or relocation from one (1) county to another county within the state of any business enterprise may not create new eligibility in any succeeding business entity, but any unused job tax credit may be transferred and continued by any transferee of the business enterprise. The Tax Commission shall determine

whether or not qualifying net increases or decreases have occurred or proper transfers of credit have been made and may require reports, promulgate regulations, and hold hearings as needed for substantiation and qualification.

(b) This subsection shall not apply in cases in which a business enterprise has ceased operation, laid off all its employees and is subsequently acquired by another unrelated business entity that continues operation of the enterprise in the same or a similar type of business. In such a case the succeeding business entity shall be eligible for the credit authorized by this section unless the cessation of operation of the business enterprise was for the purpose of obtaining new eligibility for the credit.

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

the credit may be carried forward for a period of time not to exceed two (2) years.

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

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

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

(14) As used in this section, the term "telecommunications enterprises" means entities engaged in the creation, display, management, storage, processing, transmission or distribution for compensation of images, text, voice, video or data by wire or by wireless means, or entities engaged in the construction, design,

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

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

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

capita income for the most recent thirty-six-month period, with equal weight being given to each category, are designated Tier One areas. Counties designated by the \* \* \* Department of Revenue qualify for the appropriate tax credit for jobs as provided in this section. The designation by the \* \* \* Department of Revenue is effective for the tax years of permanent business enterprises which begin after the date of designation. For companies which plan an expansion in their labor forces, the \* \* \* Department of Revenue shall prescribe certification procedures to ensure that the companies can claim credits in future years without regard to whether or not a particular county is removed from the list of Tier Three or Tier Two areas.

(2) Permanent business enterprises in counties designated by the \* \* \* Department of Revenue as Tier Three areas are allowed a job tax credit for taxes imposed by Section 27-7-5 equal to ten percent (10%) of the payroll of the enterprise for net new full-time employee jobs for five (5) years beginning with years two (2) through six (6) after the creation of the minimum number of jobs required by this subsection; however, if the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the permanent business enterprise is unable to maintain the required number of jobs, the \* \* \* Commissioner of Revenue may extend this time period for not more than two (2) years. The number of new full-time jobs must be determined by

comparing the monthly average number of full-time employees subject to the Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. Only those permanent business enterprises that increase employment by ten (10) or more in a Tier Three area are eligible for the credit. Credit is not allowed during any of the five (5) years if the net employment increase falls below ten (10). The \* \* \* Department of Revenue shall adjust the credit allowed each year for the net new employment fluctuations above the minimum level of ten (10).

(3) Permanent business enterprises in counties that have been designated by the \* \* \* Department of Revenue as Tier Two areas are allowed a job tax credit for taxes imposed by Section 27-7-5 equal to five percent (5%) of the payroll of the enterprise for net new full-time employee jobs for five (5) years beginning with years two (2) through six (6) after the creation of the minimum number of jobs required by this subsection; however, if the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the permanent business enterprise is unable to maintain the required number of jobs, the \* \* \* Commissioner of Revenue may extend this time period for not more than two (2) years. The number of new full-time jobs must be determined by comparing the monthly average number of full-time employees subject to Mississippi income tax withholding for the

taxable year with the corresponding period of the prior taxable year. Only those permanent business enterprises that increase employment by fifteen (15) or more in Tier Two areas are eligible for the credit. The credit is not allowed during any of the five (5) years if the net employment increase falls below fifteen (15). The \* \* \* Department of Revenue shall adjust the credit allowed each year for the net new employment fluctuations above the minimum level of fifteen (15).

(4) Permanent business enterprises in counties designated by the \* \* \* Department of Revenue as Tier One areas are allowed a job tax credit for taxes imposed by Section 27-7-5 equal to two and one-half percent (2.5%) of the payroll of the enterprise for net new full-time employee jobs for five (5) years beginning with years two (2) through six (6) after the creation of the minimum number of jobs required by this subsection; however, if the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the permanent business enterprise is unable to maintain the required number of jobs, the \* \* \* Commissioner of Revenue may extend this time period for not more than two (2) years. The number of new full-time jobs must be determined by comparing the monthly average number of full-time employees subject to Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. Only those permanent business enterprises that increase employment by

twenty (20) or more in Tier One areas are eligible for the credit. The credit is not allowed during any of the five (5) years if the net employment increase falls below twenty (20). The \* \* \* Department of Revenue shall adjust the credit allowed each year for the net new employment fluctuations above the minimum level of twenty (20).

(5) (a) In addition to the other credits authorized in this section, an additional Five Hundred Dollars (\$500.00) credit for each net new full-time employee or an additional One Thousand Dollars (\$1,000.00) credit for each net new full-time employee who is paid a salary, excluding benefits which are not subject to Mississippi income taxation, of at least one hundred twenty-five percent (125%) of the average annual wage of the state or an additional Two Thousand Dollars (\$2,000.00) credit for each net new full-time employee who is paid a salary, excluding benefits which are not subject to Mississippi income taxation, of at least two hundred percent (200%) of the average annual wage of the state, shall be allowed for any company establishing or transferring its national or regional headquarters from within or outside the State of Mississippi. A minimum of twenty (20) jobs must be created to qualify for the additional credit. The \* \* \* Department of Revenue shall establish criteria and prescribe procedures to determine if a company qualifies as a national or regional headquarters for purposes of receiving the credit awarded in this \* \* \* paragraph (a). As used in this \* \* \* paragraph (a),

the average annual wage of the state is the most recently published average annual wage as determined by the Mississippi Department of Employment Security.

(b) In addition to the other credits authorized in this section, an additional Five Hundred Dollars (\$500.00) credit for each net new full-time employee or an additional One Thousand Dollars (\$1,000.00) credit for each net new full-time employee who is paid a salary, excluding benefits which are not subject to Mississippi income taxation, of at least one hundred twenty-five percent (125%) of the average annual wage of the state or an additional Two Thousand Dollars (\$2,000.00) credit for each net new full-time employee who is paid a salary, excluding benefits which are not subject to Mississippi income taxation, of at least two hundred percent (200%) of the average annual wage of the state, shall be allowed for any company expanding or making additions after January 1, 2013, to its national or regional headquarters within the State of Mississippi. A minimum of twenty (20) new jobs must be created to qualify for the additional credit. The Department of Revenue shall establish criteria and prescribe procedures to determine if a company qualifies as a national or regional headquarters for purposes of receiving the credit awarded in this paragraph (b). As used in this paragraph (b), the average annual wage of the state is the most recently published average annual wage as determined by the Mississippi Department of Employment Security.

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

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

(8) (a) Tax credits for five (5) years for the taxes imposed by Section 27-7-5 shall be awarded for increases in the annual payroll for net new full-time jobs created by business enterprises qualified under this section. The \* \* \* Department of

Revenue shall adjust the credit allowed in the event of payroll fluctuations during the additional five (5) years of credit.

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

(9) (a) The sale, merger, acquisition, reorganization, bankruptcy or relocation from one (1) county to another county within the state of any business enterprise may not create new eligibility in any succeeding business entity, but any unused job tax credit may be transferred and continued by any transferee of the business enterprise. The \* \* \* Department of Revenue shall determine whether or not qualifying net increases or decreases have occurred or proper transfers of credit have been made and may require reports, promulgate regulations, and hold hearings as needed for substantiation and qualification.

(b) This subsection shall not apply in cases in which a business enterprise has ceased operation, laid off all its employees and is subsequently acquired by another unrelated business entity that continues operation of the enterprise in the same or a similar type of business. In such a case the succeeding business entity shall be eligible for the credit authorized by this section unless the cessation of operation of the business

enterprise was for the purpose of obtaining new eligibility for the credit.

(10) Any tax credit claimed under this section but not used in any taxable year may be carried forward for five (5) years from the close of the tax year in which the qualified jobs were established but the credit established by this section taken in any one (1) tax year must be limited to an amount not greater than fifty percent (50%) of the taxpayer's state income tax liability which is attributable to income derived from operations in the state for that year. If the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the business enterprise is unable to use the existing carry-forward, the \* \* \* Commissioner of Revenue may extend the period that the credit may be carried forward for a period of time not to exceed two (2) years.

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

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

(13) As used in this section:

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

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

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

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

(14) The tax credits provided for in this section shall be in addition to any tax credits described in Sections 57-51-13(b), 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official action by the Mississippi Development Authority prior to July 1,

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

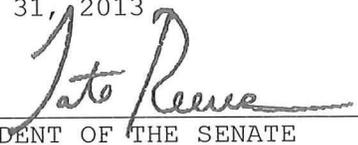
(15) A business enterprise that chooses to receive job training assistance pursuant to Section 1 of \* \* \* House Bill No. 117, 2013 Regular Session, shall not be eligible for the tax credits provided for in this section.

**SECTION 3.** Section 2 of this act shall take effect and be in force from and after January 1, 2013, and Section 1 of this act shall take effect and be in force from and after its passage.

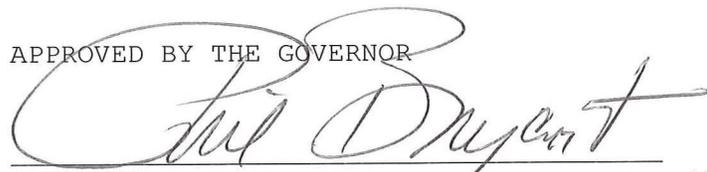
PASSED BY THE HOUSE OF REPRESENTATIVES  
March 29, 2013

  
\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE  
March 31, 2013

  
\_\_\_\_\_  
PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

  
\_\_\_\_\_  
GOVERNOR  
4-26-13  
1:25 pm