

By: Representative Williams

To: Ways and Means

HOUSE BILL NO. 1558  
(As Passed the House)

1 AN ACT TO AMEND SECTION 57-73-21, MISSISSIPPI CODE OF 1972,  
2 TO MAKE PERMANENT BUSINESS ENTERPRISES DESIGNATED BY THE  
3 DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT AS DATA OR  
4 INFORMATION PROCESSING OR COMPUTER SOFTWARE DEVELOPMENT  
5 ENTERPRISES ELIGIBLE FOR A JOBS TAX CREDIT UNDER THE ECONOMIC  
6 DEVELOPMENT REFORM ACT; AND FOR RELATED PURPOSES.

7  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

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

11 57-73-21. (1) Annually by December 31, using the most  
12 current data available from the University Research Center,  
13 Mississippi State Employment Security Commission and the United  
14 States Department of Commerce, the State Tax Commission shall rank  
15 and designate the state's counties as provided in this section.  
16 The twenty-eight (28) counties in this state having a combination  
17 of the highest unemployment rate and lowest per capita income for  
18 the most recent thirty-six (36) month period, with equal weight  
19 being given to each category, are designated less developed areas.  
20 The twenty-seven (27) counties in the state with a combination of  
21 the next highest unemployment rate and next lowest per capita  
22 income for the most recent thirty-six (36) month period, with  
23 equal weight being given to each category, are designated  
24 moderately developed areas. The twenty-seven (27) counties in the  
25 state with a combination of the lowest unemployment rate and the  
26 highest per capita income for the most recent thirty-six (36)  
27 month period, with equal weight being given to each category, are  
28 designated developed areas. Counties designated by the Tax

29 Commission qualify for the appropriate tax credit for jobs as  
30 provided in subsections (2), (3) and (4) of this section. The  
31 designation by the Tax Commission is effective for the tax years  
32 of permanent business enterprises which begin after the date of  
33 designation. For companies which plan an expansion in their labor  
34 forces, the Tax Commission shall prescribe certification  
35 procedures to ensure that the companies can claim credits in  
36 future years without regard to whether or not a particular county  
37 is removed from the list of less developed or moderately developed  
38 areas. (2) Permanent business enterprises primarily engaged in  
39 manufacturing, processing, warehousing, distribution, wholesaling  
40 and research and development, or permanent business enterprises  
41 designated by rule and regulation of the Department of Economic  
42 and Community Development as air transportation and maintenance  
43 facilities, final destination or resort hotels having a minimum of  
44 one hundred fifty (150) guest rooms, recreational facilities that  
45 impact tourism, movie industry studios, \* \* \* telecommunications  
46 enterprises, data or information processing enterprises or  
47 computer software development enterprises, in counties designated  
48 by the Tax Commission as less developed areas are allowed a job  
49 tax credit for taxes imposed by Section 27-7-5 equal to Two  
50 Thousand Dollars (\$2,000.00) annually for each net new full-time  
51 employee job for five (5) years beginning with years two (2)  
52 through six (6) after the creation of the job. The number of new  
53 full-time jobs must be determined by comparing the monthly average  
54 number of full-time employees subject to the Mississippi income  
55 tax withholding for the taxable year with the corresponding period  
56 of the prior taxable year. Only those permanent businesses that  
57 increase employment by ten (10) or more in a less developed area  
58 are eligible for the credit. Credit is not allowed during any of  
59 the five (5) years if the net employment increase falls below ten  
60 (10). The Tax Commission shall adjust the credit allowed each  
61 year for the net new employment fluctuations above the minimum

62 level of ten (10).

63 (3) Permanent business enterprises primarily engaged in  
64 manufacturing, processing, warehousing, distribution, wholesaling  
65 and research and development, or permanent business enterprises  
66 designated by rule and regulation of the Department of Economic  
67 and Community Development as air transportation and maintenance  
68 facilities, final destination or resort hotels having a minimum of  
69 one hundred fifty (150) guest rooms, recreational facilities that  
70 impact tourism, movie industry studios, \* \* \* telecommunications  
71 enterprises, data or information processing enterprises or  
72 computer software development enterprises, in counties that have  
73 been designated by the Tax Commission as moderately developed  
74 areas are allowed a job tax credit for taxes imposed by Section  
75 27-7-5 equal to One Thousand Dollars (\$1,000.00) annually for each  
76 net new full-time employee job for five (5) years beginning with  
77 years two (2) through six (6) after the creation of the job. The  
78 number of new full-time jobs must be determined by comparing the  
79 monthly average number of full-time employees subject to  
80 Mississippi income tax withholding for the taxable year with the  
81 corresponding period of the prior taxable year. Only those  
82 permanent businesses that increase employment by fifteen (15) or  
83 more in areas that have not been designated less developed areas  
84 are eligible for the credit. The credit is not allowed during any  
85 of the five (5) years if the net employment increase falls below  
86 fifteen (15). The Tax Commission shall adjust the credit allowed  
87 each year for the net new employment fluctuations above the  
88 minimum level of fifteen (15).

89 (4) Permanent business enterprises primarily engaged in  
90 manufacturing, processing, warehousing, distribution, wholesaling  
91 and research and development, or permanent business enterprises  
92 designated by rule and regulation of the Department of Economic  
93 and Community Development as air transportation and maintenance  
94 facilities, final destination or resort hotels having a minimum of

95 one hundred fifty (150) guest rooms, recreational facilities that  
96 impact tourism, movie industry studios, \* \* \* telecommunications  
97 enterprises, data or information processing enterprises or  
98 computer software development enterprises, in counties designated  
99 by the Tax Commission as developed areas are allowed a job tax  
100 credit for taxes imposed by Section 27-7-5 equal to Five Hundred  
101 Dollars (\$500.00) annually for each net new full-time employee job  
102 for five (5) years beginning with years two (2) through six (6)  
103 after the creation of the job. The number of new full-time jobs  
104 must be determined by comparing the monthly average number of  
105 full-time employees subject to Mississippi income tax withholding  
106 for the taxable year with the corresponding period of the prior  
107 taxable year. Only those permanent businesses that increase  
108 employment by twenty (20) or more in developed areas are eligible  
109 for the credit. The credit is not allowed during any of the five  
110 (5) years if the net employment increase falls below twenty (20).  
111 The Tax Commission shall adjust the credit allowed each year for  
112 the net new employment fluctuations above the minimum level of  
113 twenty (20).

114 (5) In addition to the credits authorized in subsections  
115 (2), (3) and (4), an additional Five Hundred Dollars (\$500.00)  
116 credit for each net new full-time employee shall be allowed for  
117 any company establishing or transferring its national or regional  
118 headquarters from within or outside the State of Mississippi. A  
119 minimum of thirty-five (35) jobs must be created to qualify for  
120 the additional credit. The State Tax Commission shall establish  
121 criteria and prescribe procedures to determine if a company  
122 qualifies as a national or regional headquarters for purposes of  
123 receiving the credit awarded in this subsection.

124 (6) In addition to the credits authorized in subsections  
125 (2), (3), (4) and (5), any job requiring research and development  
126 skills (chemist, engineer, etc.) shall qualify for an additional  
127 Five Hundred Dollars (\$500.00) credit for each net new full-time

128 employee.

129 (7) Tax credits for five (5) years for the taxes imposed by  
130 Section 27-7-5 shall be awarded for additional net new full-time  
131 jobs created by business enterprises qualified under subsections  
132 (2), (3), (4), (5) and (6) of this section. The Tax Commission  
133 shall adjust the credit allowed in the event of employment  
134 fluctuations during the additional five (5) years of credit.

135 (8) The sale, merger, acquisition, reorganization,  
136 bankruptcy or relocation from one county to another county within  
137 the state of any business enterprise may not create new  
138 eligibility in any succeeding business entity, but any unused job  
139 tax credit may be transferred and continued by any transferee of  
140 the business enterprise. The Tax Commission shall determine  
141 whether or not qualifying net increases or decreases have occurred  
142 or proper transfers of credit have been made and may require  
143 reports, promulgate regulations, and hold hearings as needed for  
144 substantiation and qualification.

145 (9) Any tax credit claimed under this section but not used  
146 in any taxable year may be carried forward for five (5) years from  
147 the close of the tax year in which the qualified jobs were  
148 established but the credit established by this section taken in  
149 any one (1) tax year must be limited to an amount not greater than  
150 fifty percent (50%) of the taxpayer's state income tax liability  
151 which is attributable to income derived from operations in the  
152 state for that year.

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

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

159 (12) The tax credits provided for in this section shall be  
160 in addition to any tax credits described in Sections 57-51-13(b),

161 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official  
162 action by the Department of Economic Development prior to July 1,  
163 1989, to any business enterprise determined prior to July 1, 1989,  
164 by the Department of Economic Development to be a qualified  
165 business as defined in Section 57-51-5(f) or Section 57-54-5(d) or  
166 a qualified company as described in Section 57-53-1, as the case  
167 may be; however, from and after July 1, 1989, tax credits shall be  
168 allowed only under either this section or Sections 57-51-13(b),  
169 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time  
170 employee.

171 (13) As used in this section, the term "telecommunications  
172 enterprises" means entities engaged in the creation, display,  
173 management, storage, processing, transmission or distribution for  
174 compensation of images, text, voice, video or data by wire or by  
175 wireless means, or entities engaged in the construction, design,  
176 development, manufacture, maintenance or distribution for  
177 compensation of devices, products, software or structures used in  
178 the above activities. Companies organized to do business as  
179 commercial broadcast radio stations, television stations or news  
180 organizations primarily serving in-state markets shall not be  
181 included within the definition of the term "telecommunications  
182 enterprises."

183 SECTION 2. Nothing in this act shall affect or defeat any  
184 claim, assessment, appeal, suit, right or cause of action for  
185 taxes due or accrued under the income tax laws before the date on  
186 which this act becomes effective, whether such claims,  
187 assessments, appeals, suits or actions have been begun before the  
188 date on which this act becomes effective or are begun thereafter;  
189 and the provisions of the income tax laws are expressly continued  
190 in full force, effect and operation for the purpose of the  
191 assessment, collection and enrollment of liens for any taxes due  
192 or accrued and the execution of any warrant under such laws before  
193 the date on which this act becomes effective, and for the

194 imposition of any penalties, forfeitures or claims for failure to  
195 comply with such laws.

196 SECTION 3. This act shall take effect and be in force from  
197 and after January 1, 1999.