

By: Representative Sykes

To: Ways and Means

HOUSE BILL NO. 17

1 AN ACT TO AUTHORIZE AN INCOME TAX CREDIT FOR SMALL BUSINESS
 2 ENTERPRISES THAT CREATE NEW FULL-TIME JOBS; TO PROVIDE FOR THE
 3 AMOUNT OF THE CREDIT; TO PROVIDE THAT A SMALL BUSINESS ENTERPRISE
 4 MUST INCREASE EMPLOYMENT BY AT LEAST 10 PERCENT IN ORDER TO BE
 5 ELIGIBLE FOR THE TAX CREDIT; TO PROVIDE THAT A TAX CREDIT CLAIMED
 6 UNDER THIS ACT BUT NOT USED IN A TAXABLE YEAR MAY BE CARRIED
 7 FORWARD FOR FIVE YEARS FROM THE CLOSE OF THE TAX YEAR IN WHICH THE
 8 QUALIFIED JOBS WERE CREATED; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** (1) As used in this section, the following words
 11 and phrases shall have the meanings ascribed herein unless the
 12 context clearly indicates otherwise:

13 (a) "Full-time job" means a job of at least thirty-five
 14 (35) hours per week.

15 (b) "Small business enterprise" means a commercial
 16 enterprise with not more than one hundred (100) employees.

17 (c) "Tier One areas" means counties designated as Tier
 18 One areas pursuant to Section 57-73-21.

19 (d) "Tier Two areas" means counties designated as Tier
 20 Two areas pursuant to Section 57-73-21.



21 (e) "Tier Three areas" means counties designated as
22 Tier Three areas pursuant to Section 57-73-21.

23 (2) Small business enterprises in counties designated as
24 Tier Three areas are allowed a job tax credit for taxes imposed by
25 Section 27-7-5 equal to ten percent (10%) of the payroll of the
26 enterprise for net new full-time jobs for five (5) years beginning
27 with years two (2) through six (6) after the creation of the
28 minimum number of jobs required by this subsection; however, if
29 the small business enterprise is located in an area that has been
30 declared by the Governor to be a disaster area and as a direct
31 result of the disaster the small business enterprise is unable to
32 maintain the required number of jobs, the Commissioner of Revenue
33 may extend this time period for not more than two (2) years. The
34 number of new full-time jobs must be determined by comparing the
35 monthly average number of full-time employees subject to
36 Mississippi income tax withholding for the taxable year with the
37 corresponding period of the prior taxable year. Only those small
38 business enterprises that increase employment by ten percent (10%)
39 or more are eligible for the credit. A small business enterprise
40 awarded a credit under this subsection shall be eligible to
41 receive the credit during the five (5) years regardless of whether
42 after the increase in employment for which the credit was awarded,
43 the business enterprise has more than one hundred (100) employees.
44 However, credit is not allowed during any of the five (5) years if
45 the net employment increase falls below ten percent (10%). The



46 Department of Revenue shall adjust the credit allowed each year
47 for the net new employment fluctuations above the minimum level of
48 ten percent (10%).

49 (3) Small business enterprises in counties designated as
50 Tier Two areas are allowed a job tax credit for taxes imposed by
51 Section 27-7-5 equal to five percent (5%) of the payroll of the
52 enterprise for net new full-time jobs for five (5) years beginning
53 with years two (2) through six (6) after the creation of the
54 minimum number of jobs required by this subsection; however, if
55 the small business enterprise is located in an area that has been
56 declared by the Governor to be a disaster area and as a direct
57 result of the disaster the small business enterprise is unable to
58 maintain the required number of jobs, the Commissioner of Revenue
59 may extend this time period for not more than two (2) years. The
60 number of new full-time jobs must be determined by comparing the
61 monthly average number of full-time employees subject to
62 Mississippi income tax withholding for the taxable year with the
63 corresponding period of the prior taxable year. Only those small
64 business enterprises that increase employment by ten percent (10%)
65 or more are eligible for the credit. A small business enterprise
66 awarded a credit under this subsection shall be eligible to
67 receive the credit during the five (5) years regardless of whether
68 after the increase in employment for which the credit was awarded,
69 the business enterprise has more than one hundred (100) employees.
70 However, the credit is not allowed during any of the five (5)



71 years if the net employment increase falls below ten percent
72 (10%). The Department of Revenue shall adjust the credit allowed
73 each year for the net new employment fluctuations above the
74 minimum level of ten percent (10%).

75 (4) Small business enterprises in counties designated as
76 Tier One areas are allowed a job tax credit for taxes imposed by
77 Section 27-7-5 equal to two and one-half percent (2.5%) of the
78 payroll of the enterprise for net new full-time jobs for five (5)
79 years beginning with years two (2) through six (6) after the
80 creation of the minimum number of jobs required by this
81 subsection; however, if the small business enterprise is located
82 in an area that has been declared by the Governor to be a disaster
83 area and as a direct result of the disaster the small business
84 enterprise is unable to maintain the required number of jobs, the
85 Commissioner of Revenue may extend this time period for not more
86 than two (2) years. The number of new full-time jobs must be
87 determined by comparing the monthly average number of full-time
88 employees subject to Mississippi income tax withholding for the
89 taxable year with the corresponding period of the prior taxable
90 year. Only those small business enterprises that increase
91 employment by ten percent (10%) or more are eligible for the
92 credit. A small business enterprise awarded a credit under this
93 subsection shall be eligible to receive the credit during the five
94 (5) years regardless of whether after the increase in employment
95 for which the credit was awarded, the business enterprise has more



96 than one hundred (100) employees. However, the credit is not
97 allowed during any of the five (5) years if the net employment
98 increase falls below ten percent (10%). The Department of Revenue
99 shall adjust the credit allowed each year for the net new
100 employment fluctuations above the minimum level of ten percent
101 (10%).

102 (5) Tax credits for five (5) years for the taxes imposed by
103 Section 27-7-5 shall be awarded for increases in the annual
104 payroll for net new full-time jobs created by small business
105 enterprises qualified under this section. The Department of
106 Revenue shall adjust the credit allowed in the event of payroll
107 fluctuations during the additional five (5) years of credit.

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

118 (b) This subsection shall not apply in cases in which a
119 business enterprise has ceased operation, laid off all its
120 employees and is subsequently acquired by another unrelated



121 business entity that continues operation of the enterprise in the
122 same or a similar type of business. In such a case the succeeding
123 business entity shall be eligible for the credit authorized by
124 this section unless the cessation of operation of the business
125 enterprise was for the purpose of obtaining new eligibility for
126 the credit.

127 (7) Any tax credit claimed under this section but not used
128 in any taxable year may be carried forward for five (5) years from
129 the close of the tax year in which the qualified jobs were
130 established, but the credit established by this section taken in
131 any one (1) tax year must be limited to an amount not greater than
132 fifty percent (50%) of the taxpayer's state income tax liability
133 which is attributable to income derived from operations in the
134 state for that year. If the small business enterprise is located
135 in an area that has been declared by the Governor to be a disaster
136 area and as a direct result of the disaster the business
137 enterprise is unable to use the existing carryforward, the
138 Commissioner of Revenue may extend the period that the credit may
139 be carried forward for a period of time not to exceed two (2)
140 years.

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



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

147 (10) A small business enterprise desiring to claim a credit
148 under this subsection must submit an application for such credit
149 with the Department of Revenue in a manner prescribed by the
150 department.

151 **SECTION 2.** This act shall take effect and be in force from
152 and after January 1, 2018.

