

By: Representatives White, Sykes

To: Ways and Means

HOUSE BILL NO. 695

1 AN ACT TO AMEND SECTION 57-73-21, MISSISSIPPI CODE OF 1972,
2 TO EXTEND THE DATE OF THE REPEALER ON THE PROVISION OF LAW THAT
3 AUTHORIZES AN INCOME TAX CREDIT FOR ANY COMPANY THAT TRANSFERS OR
4 RELOCATES ITS NATIONAL OR REGIONAL HEADQUARTERS TO THE STATE OF
5 MISSISSIPPI FROM OUTSIDE THE STATE OF MISSISSIPPI; AND FOR RELATED
6 PURPOSES.

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

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

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

13 57-73-21. (1) Annually by December 31, using the most
14 current data available from the University Research Center,
15 Mississippi Department of Employment Security and the United
16 States Department of Commerce, the State Tax Commission shall rank
17 and designate the state's counties as provided in this section.
18 The twenty-eight (28) counties in this state having a combination
19 of the highest unemployment rate and lowest per capita income for
20 the most recent thirty-six-month period, with equal weight being



21 given to each category, are designated Tier Three areas. The
22 twenty-seven (27) counties in the state with a combination of the
23 next highest unemployment rate and next lowest per capita income
24 for the most recent thirty-six-month period, with equal weight
25 being given to each category, are designated Tier Two areas. The
26 twenty-seven (27) counties in the state with a combination of the
27 lowest unemployment rate and the highest per capita income for the
28 most recent thirty-six-month period, with equal weight being given
29 to each category, are designated Tier One areas. Counties
30 designated by the Tax Commission qualify for the appropriate tax
31 credit for jobs as provided in subsections (2), (3) and (4) of
32 this section. The designation by the Tax Commission is effective
33 for the tax years of permanent business enterprises which begin
34 after the date of designation. For companies which plan an
35 expansion in their labor forces, the Tax Commission shall
36 prescribe certification procedures to ensure that the companies
37 can claim credits in future years without regard to whether or not
38 a particular county is removed from the list of Tier Three or Tier
39 Two areas.

40 (2) Permanent business enterprises primarily engaged in
41 manufacturing, processing, warehousing, distribution, wholesaling
42 and research and development, or permanent business enterprises
43 designated by rule and regulation of the Mississippi Development
44 Authority as air transportation and maintenance facilities, final
45 destination or resort hotels having a minimum of one hundred fifty



46 (150) guest rooms, recreational facilities that impact tourism,
47 movie industry studios, telecommunications enterprises, data or
48 information processing enterprises or computer software
49 development enterprises or any technology intensive facility or
50 enterprise, in counties designated by the Tax Commission as Tier
51 Three areas are allowed a job tax credit for taxes imposed by
52 Section 27-7-5 equal to Two Thousand Dollars (\$2,000.00) annually
53 for each net new full-time employee job for five (5) years
54 beginning with years two (2) through six (6) after the creation of
55 the job; however, if the permanent business enterprise is located
56 in an area that has been declared by the Governor to be a disaster
57 area and as a direct result of the disaster the permanent business
58 enterprise is unable to maintain the required number of jobs, the
59 Chairman of the State Tax Commission may extend this time period
60 for not more two (2) years. The number of new full-time jobs must
61 be determined by comparing the monthly average number of full-time
62 employees subject to the Mississippi income tax withholding for
63 the taxable year with the corresponding period of the prior
64 taxable year. Only those permanent businesses that increase
65 employment by ten (10) or more in a Tier Three area are eligible
66 for the credit. Credit is not allowed during any of the five (5)
67 years if the net employment increase falls below ten (10). The
68 Tax Commission shall adjust the credit allowed each year for the
69 net new employment fluctuations above the minimum level of ten
70 (10).



71 (3) Permanent business enterprises primarily engaged in
72 manufacturing, processing, warehousing, distribution, wholesaling
73 and research and development, or permanent business enterprises
74 designated by rule and regulation of the Mississippi Development
75 Authority as air transportation and maintenance facilities, final
76 destination or resort hotels having a minimum of one hundred fifty
77 (150) guest rooms, recreational facilities that impact tourism,
78 movie industry studios, telecommunications enterprises, data or
79 information processing enterprises or computer software
80 development enterprises or any technology intensive facility or
81 enterprise, in counties that have been designated by the Tax
82 Commission as Tier Two areas are allowed a job tax credit for
83 taxes imposed by Section 27-7-5 equal to One Thousand Dollars
84 (\$1,000.00) annually for each net new full-time employee job for
85 five (5) years beginning with years two (2) through six (6) after
86 the creation of the job; however, if the permanent business
87 enterprise is located in an area that has been declared by the
88 Governor to be a disaster area and as a direct result of the
89 disaster the permanent business enterprise is unable to maintain
90 the required number of jobs, the Chairman of the State Tax
91 Commission may extend this time period for not more two (2) years.
92 The number of new full-time jobs must be determined by comparing
93 the monthly average number of full-time employees subject to
94 Mississippi income tax withholding for the taxable year with the
95 corresponding period of the prior taxable year. Only those



96 permanent businesses that increase employment by fifteen (15) or
97 more in Tier Two areas are eligible for the credit. The credit is
98 not allowed during any of the five (5) years if the net employment
99 increase falls below fifteen (15). The Tax Commission shall
100 adjust the credit allowed each year for the net new employment
101 fluctuations above the minimum level of fifteen (15).

102 (4) Permanent business enterprises primarily engaged in
103 manufacturing, processing, warehousing, distribution, wholesaling
104 and research and development, or permanent business enterprises
105 designated by rule and regulation of the Mississippi Development
106 Authority as air transportation and maintenance facilities, final
107 destination or resort hotels having a minimum of one hundred fifty
108 (150) guest rooms, recreational facilities that impact tourism,
109 movie industry studios, telecommunications enterprises, data or
110 information processing enterprises or computer software
111 development enterprises or any technology intensive facility or
112 enterprise, in counties designated by the Tax Commission as Tier
113 One areas are allowed a job tax credit for taxes imposed by
114 Section 27-7-5 equal to Five Hundred Dollars (\$500.00) annually
115 for each net new full-time employee job for five (5) years
116 beginning with years two (2) through six (6) after the creation of
117 the job; however, if the permanent business enterprise is located
118 in an area that has been declared by the Governor to be a disaster
119 area and as a direct result of the disaster the permanent business
120 enterprise is unable to maintain the required number of jobs, the



121 Chairman of the State Tax Commission may extend this time period
122 for not more than two (2) years. The number of new full-time jobs
123 must be determined by comparing the monthly average number of
124 full-time employees subject to Mississippi income tax withholding
125 for the taxable year with the corresponding period of the prior
126 taxable year. Only those permanent businesses that increase
127 employment by twenty (20) or more in Tier One areas are eligible
128 for the credit. The credit is not allowed during any of the five
129 (5) years if the net employment increase falls below twenty (20).
130 The Tax Commission shall adjust the credit allowed each year for
131 the net new employment fluctuations above the minimum level of
132 twenty (20).

133 (5) In addition to the credits authorized in subsections
134 (2), (3) and (4), an additional Five Hundred Dollars (\$500.00)
135 credit for each net new full-time employee or an additional One
136 Thousand Dollars (\$1,000.00) credit for each net new full-time
137 employee who is paid a salary, excluding benefits which are not
138 subject to Mississippi income taxation, of at least one hundred
139 twenty-five percent (125%) of the average annual wage of the state
140 or an additional Two Thousand Dollars (\$2,000.00) credit for each
141 net new full-time employee who is paid a salary, excluding
142 benefits which are not subject to Mississippi income taxation, of
143 at least two hundred percent (200%) of the average annual wage of
144 the state, shall be allowed for any company establishing or
145 transferring its national or regional headquarters from within or



146 outside the State of Mississippi. A minimum of thirty-five (35)
147 jobs must be created to qualify for the additional credit. The
148 State Tax Commission shall establish criteria and prescribe
149 procedures to determine if a company qualifies as a national or
150 regional headquarters for purposes of receiving the credit awarded
151 in this subsection. As used in this subsection, the average
152 annual wage of the state is the most recently published average
153 annual wage as determined by the Mississippi Department of
154 Employment Security.

155 (6) In addition to the credits authorized in subsections
156 (2), (3), (4) and (5), any job requiring research and development
157 skills (chemist, engineer, etc.) shall qualify for an additional
158 One Thousand Dollars (\$1,000.00) credit for each net new full-time
159 employee.

160 (7) In lieu of the tax credits provided in subsections (2)
161 through (6), any commercial or industrial property owner which
162 remediates contaminated property in accordance with Sections
163 49-35-1 through 49-35-25, is allowed a job tax credit for taxes
164 imposed by Section 27-7-5 equal to the amounts provided in
165 subsection (2), (3) or (4) for each net new full-time employee job
166 for five (5) years beginning with years two (2) through six (6)
167 after the creation of the job. The number of new full-time jobs
168 must be determined by comparing the monthly average number of
169 full-time employees subject to Mississippi income tax withholding
170 for the taxable year with the corresponding period of the prior



171 taxable year. This subsection shall be administered in the same
172 manner as subsections (2), (3) and (4), except the landowner shall
173 not be required to increase employment by the levels provided in
174 subsections (2), (3) and (4) to be eligible for the tax credit.

175 (8) Tax credits for five (5) years for the taxes imposed by
176 Section 27-7-5 shall be awarded for additional net new full-time
177 jobs created by business enterprises qualified under subsections
178 (2), (3), (4), (5), (6) and (7) of this section. Except as
179 otherwise provided, the Tax Commission shall adjust the credit
180 allowed in the event of employment fluctuations during the
181 additional five (5) years of credit.

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

192 (b) This subsection shall not apply in cases in which a
193 business enterprise has ceased operation, laid off all its
194 employees and is subsequently acquired by another unrelated
195 business entity that continues operation of the enterprise in the



196 same or a similar type of business. In such a case the succeeding
197 business entity shall be eligible for the credit authorized by
198 this section unless the cessation of operation of the business
199 enterprise was for the purpose of obtaining new eligibility for
200 the credit.

201 (10) Any tax credit claimed under this section but not used
202 in any taxable year may be carried forward for five (5) years from
203 the close of the tax year in which the qualified jobs were
204 established but the credit established by this section taken in
205 any one (1) tax year must be limited to an amount not greater than
206 fifty percent (50%) of the taxpayer's state income tax liability
207 which is attributable to income derived from operations in the
208 state for that year. If the permanent business enterprise is
209 located in an area that has been declared by the Governor to be a
210 disaster area and as a direct result of the disaster the business
211 enterprise is unable to use the existing carryforward, the
212 Chairman of the State Tax Commission may extend the period that
213 the credit may be carried forward for a period of time not to
214 exceed two (2) years.

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

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



221 (13) The tax credits provided for in this section shall be
222 in addition to any tax credits described in Sections 57-51-13(b),
223 57-53-1(1) (a) and 57-54-9(b) and granted pursuant to official
224 action by the Mississippi Development Authority prior to July 1,
225 1989, to any business enterprise determined prior to July 1, 1989,
226 by the Mississippi Development Authority to be a qualified
227 business as defined in Section 57-51-5(f) or Section 57-54-5(d) or
228 a qualified company as described in Section 57-53-1, as the case
229 may be; however, from and after July 1, 1989, tax credits shall be
230 allowed only under either this section or Sections 57-51-13(b),
231 57-53-1(1) (a) and Section 57-54-9(b) for each net new full-time
232 employee.

233 (14) As used in this section, the term "telecommunications
234 enterprises" means entities engaged in the creation, display,
235 management, storage, processing, transmission or distribution for
236 compensation of images, text, voice, video or data by wire or by
237 wireless means, or entities engaged in the construction, design,
238 development, manufacture, maintenance or distribution for
239 compensation of devices, products, software or structures used in
240 the above activities. Companies organized to do business as
241 commercial broadcast radio stations, television stations or news
242 organizations primarily serving in-state markets shall not be
243 included within the definition of the term "telecommunications
244 enterprises."



245 **[In cases involving business enterprises that apply for the**
246 **job tax credit authorized by this section from and after January**
247 **1, 2005, this section shall read as follows:]**

248 57-73-21. (1) Annually by December 31, using the most
249 current data available from the University Research Center,
250 Mississippi Department of Employment Security and the United
251 States Department of Commerce, the Department of Revenue shall
252 rank and designate the state's counties as provided in this
253 section. The twenty-eight (28) counties in this state having a
254 combination of the highest unemployment rate and lowest per capita
255 income for the most recent thirty-six-month period, with equal
256 weight being given to each category, are designated Tier Three
257 areas. The twenty-seven (27) counties in the state with a
258 combination of the next highest unemployment rate and next lowest
259 per capita income for the most recent thirty-six-month period,
260 with equal weight being given to each category, are designated
261 Tier Two areas. The twenty-seven (27) counties in the state with
262 a combination of the lowest unemployment rate and the highest per
263 capita income for the most recent thirty-six-month period, with
264 equal weight being given to each category, are designated Tier One
265 areas. Counties designated by the Department of Revenue qualify
266 for the appropriate tax credit for jobs as provided in this
267 section. The designation by the Department of Revenue is
268 effective for the tax years of permanent business enterprises
269 which begin after the date of designation. For companies which



270 plan an expansion in their labor forces, the Department of Revenue
271 shall prescribe certification procedures to ensure that the
272 companies can claim credits in future years without regard to
273 whether or not a particular county is removed from the list of
274 Tier Three or Tier Two areas.

275 (2) Permanent business enterprises in counties designated by
276 the Department of Revenue as Tier Three areas are allowed a job
277 tax credit for taxes imposed by Section 27-7-5 equal to ten
278 percent (10%) of the payroll of the enterprise for net new
279 full-time employee jobs for five (5) years beginning with years
280 two (2) through six (6) after the creation of the minimum number
281 of jobs required by this subsection; however, if the permanent
282 business enterprise is located in an area that has been declared
283 by the Governor to be a disaster area and as a direct result of
284 the disaster the permanent business enterprise is unable to
285 maintain the required number of jobs, the Commissioner of Revenue
286 may extend this time period for not more than two (2) years. The
287 number of new full-time jobs must be determined by comparing the
288 monthly average number of full-time employees subject to the
289 Mississippi income tax withholding for the taxable year with the
290 corresponding period of the prior taxable year. Only those
291 permanent business enterprises that increase employment by ten
292 (10) or more in a Tier Three area are eligible for the credit.
293 Credit is not allowed during any of the five (5) years if the net
294 employment increase falls below ten (10). The Department of



295 Revenue shall adjust the credit allowed each year for the net new
296 employment fluctuations above the minimum level of ten (10).

297 (3) Permanent business enterprises in counties that have
298 been designated by the Department of Revenue as Tier Two areas are
299 allowed a job tax credit for taxes imposed by Section 27-7-5 equal
300 to five percent (5%) of the payroll of the enterprise for net new
301 full-time employee jobs for five (5) years beginning with years
302 two (2) through six (6) after the creation of the minimum number
303 of jobs required by this subsection; however, if the permanent
304 business enterprise is located in an area that has been declared
305 by the Governor to be a disaster area and as a direct result of
306 the disaster the permanent business enterprise is unable to
307 maintain the required number of jobs, the Commissioner of Revenue
308 may extend this time period for not more than two (2) years. The
309 number of new full-time jobs must be determined by comparing the
310 monthly average number of full-time employees subject to
311 Mississippi income tax withholding for the taxable year with the
312 corresponding period of the prior taxable year. Only those
313 permanent business enterprises that increase employment by fifteen
314 (15) or more in Tier Two areas are eligible for the credit. The
315 credit is not allowed during any of the five (5) years if the net
316 employment increase falls below fifteen (15). The Department of
317 Revenue shall adjust the credit allowed each year for the net new
318 employment fluctuations above the minimum level of fifteen (15).



319 (4) Permanent business enterprises in counties designated by
320 the Department of Revenue as Tier One areas are allowed a job tax
321 credit for taxes imposed by Section 27-7-5 equal to two and
322 one-half percent (2.5%) of the payroll of the enterprise for net
323 new full-time employee jobs for five (5) years beginning with
324 years two (2) through six (6) after the creation of the minimum
325 number of jobs required by this subsection; however, if the
326 permanent business enterprise is located in an area that has been
327 declared by the Governor to be a disaster area and as a direct
328 result of the disaster the permanent business enterprise is unable
329 to maintain the required number of jobs, the Commissioner of
330 Revenue may extend this time period for not more than two (2)
331 years. The number of new full-time jobs must be determined by
332 comparing the monthly average number of full-time employees
333 subject to Mississippi income tax withholding for the taxable year
334 with the corresponding period of the prior taxable year. Only
335 those permanent business enterprises that increase employment by
336 twenty (20) or more in Tier One areas are eligible for the credit.
337 The credit is not allowed during any of the five (5) years if the
338 net employment increase falls below twenty (20). The Department
339 of Revenue shall adjust the credit allowed each year for the net
340 new employment fluctuations above the minimum level of twenty
341 (20).

342 (5) (a) In addition to the other credits authorized in this
343 section, an additional Five Hundred Dollars (\$500.00) credit for



344 each net new full-time employee or an additional One Thousand
345 Dollars (\$1,000.00) credit for each net new full-time employee who
346 is paid a salary, excluding benefits which are not subject to
347 Mississippi income taxation, of at least one hundred twenty-five
348 percent (125%) of the average annual wage of the state or an
349 additional Two Thousand Dollars (\$2,000.00) credit for each net
350 new full-time employee who is paid a salary, excluding benefits
351 which are not subject to Mississippi income taxation, of at least
352 two hundred percent (200%) of the average annual wage of the
353 state, shall be allowed for any company establishing or
354 transferring its national or regional headquarters from within or
355 outside the State of Mississippi. A minimum of twenty (20) jobs
356 must be created to qualify for the additional credit. The
357 Department of Revenue shall establish criteria and prescribe
358 procedures to determine if a company qualifies as a national or
359 regional headquarters for purposes of receiving the credit awarded
360 in this paragraph (a). As used in this paragraph (a), the average
361 annual wage of the state is the most recently published average
362 annual wage as determined by the Mississippi Department of
363 Employment Security.

364 (b) In addition to the other credits authorized in this
365 section, an additional Five Hundred Dollars (\$500.00) credit for
366 each net new full-time employee or an additional One Thousand
367 Dollars (\$1,000.00) credit for each net new full-time employee who
368 is paid a salary, excluding benefits which are not subject to



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

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

391 (7) (a) In addition to the other credits authorized in this
392 section, any company that transfers or relocates its national or
393 regional headquarters to the State of Mississippi from outside the



394 State of Mississippi may receive a tax credit in an amount equal
395 to the actual relocation costs paid by the company. A minimum of
396 twenty (20) jobs must be created in order to qualify for the
397 additional credit authorized under this subsection. Relocation
398 costs for which a credit may be awarded shall be determined by the
399 Department of Revenue and shall include those nondepreciable
400 expenses that are necessary to relocate headquarters employees to
401 the national or regional headquarters, including, but not limited
402 to, costs such as travel expenses for employees and members of
403 their households to and from Mississippi in search of homes and
404 moving expenses to relocate furnishings, household goods and
405 personal property of the employees and members of their
406 households.

407 (b) The tax credit authorized under this subsection
408 shall be applied for the taxable year in which the relocation
409 costs are paid. The maximum cumulative amount of tax credits that
410 may be claimed by all taxpayers claiming a credit under this
411 subsection in any one (1) state fiscal year shall not exceed One
412 Million Dollars (\$1,000,000.00), exclusive of credits that might
413 be carried forward from previous taxable years. A company may not
414 receive a credit for the relocation of an employee more than one
415 (1) time in a twelve-month period for that employee.

416 (c) The Department of Revenue shall establish criteria
417 and prescribe procedures to determine if a company creates the
418 required number of jobs and qualifies as a national or regional



419 headquarters for purposes of receiving the credit awarded in this
420 subsection. A company desiring to claim a credit under this
421 subsection must submit an application for such credit with the
422 Department of Revenue in a manner prescribed by the department.

423 (d) In order to participate in the provisions of this
424 section, a company must certify to the Mississippi Department of
425 Revenue that it complies with the equal pay provisions of the
426 federal Equal Pay Act of 1963, the Americans with Disabilities Act
427 of 1990 and the fair pay provisions of the Civil Rights Act of
428 1964.

429 (e) This subsection shall stand repealed on July
430 1, * * * 2022.

431 (8) In lieu of the other tax credits provided in this
432 section, any commercial or industrial property owner which
433 remediates contaminated property in accordance with Sections
434 49-35-1 through 49-35-25, is allowed a job tax credit for taxes
435 imposed by Section 27-7-5 equal to the percentage of payroll
436 provided in subsection (2), (3) or (4) of this section for net new
437 full-time employee jobs for five (5) years beginning with years
438 two (2) through six (6) after the creation of the jobs. The
439 number of new full-time jobs must be determined by comparing the
440 monthly average number of full-time employees subject to
441 Mississippi income tax withholding for the taxable year with the
442 corresponding period of the prior taxable year. This subsection
443 shall be administered in the same manner as subsections (2), (3)



444 and (4), except the landowner shall not be required to increase
445 employment by the levels provided in subsections (2), (3) and (4)
446 to be eligible for the tax credit.

447 (9) (a) Tax credits for five (5) years for the taxes
448 imposed by Section 27-7-5 shall be awarded for increases in the
449 annual payroll for net new full-time jobs created by business
450 enterprises qualified under this section. The Department of
451 Revenue shall adjust the credit allowed in the event of payroll
452 fluctuations during the additional five (5) years of credit.

453 (b) Tax credits for five (5) years for the taxes
454 imposed by Section 27-7-5 shall be awarded for additional net new
455 full-time jobs created by business enterprises qualified under
456 subsections (5) and (6) of this section and for additional
457 relocation costs paid by companies qualified under subsection (7)
458 of this section. The Department of Revenue shall adjust the
459 credit allowed in the event of employment fluctuations during the
460 additional five (5) years of credit.

461 (10) (a) The sale, merger, acquisition, reorganization,
462 bankruptcy or relocation from one (1) county to another county
463 within the state of any business enterprise may not create new
464 eligibility in any succeeding business entity, but any unused job
465 tax credit may be transferred and continued by any transferee of
466 the business enterprise. The Department of Revenue shall
467 determine whether or not qualifying net increases or decreases
468 have occurred or proper transfers of credit have been made and may



469 require reports, promulgate regulations, and hold hearings as
470 needed for substantiation and qualification.

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

480 (11) Any tax credit claimed under this section but not used
481 in any taxable year may be carried forward for five (5) years from
482 the close of the tax year in which the qualified jobs were
483 established and/or headquarters relocation costs paid, as
484 applicable, but the credit established by this section taken in
485 any one (1) tax year must be limited to an amount not greater than
486 fifty percent (50%) of the taxpayer's state income tax liability
487 which is attributable to income derived from operations in the
488 state for that year. If the permanent business enterprise is
489 located in an area that has been declared by the Governor to be a
490 disaster area and as a direct result of the disaster the business
491 enterprise is unable to use the existing carryforward, the
492 Commissioner of Revenue may extend the period that the credit may



493 be carried forward for a period of time not to exceed two (2)
494 years.

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

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

501 (14) As used in this section:

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

504 (i) Manufacturing, processing, warehousing,
505 warehousing activities, distribution, wholesaling and research and
506 development, or

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

515 (b) "Telecommunications enterprises" means entities
516 engaged in the creation, display, management, storage, processing,
517 transmission or distribution for compensation of images, text,



518 voice, video or data by wire or by wireless means, or entities
519 engaged in the construction, design, development, manufacture,
520 maintenance or distribution for compensation of devices, products,
521 software or structures used in the above activities. Companies
522 organized to do business as commercial broadcast radio stations,
523 television stations or news organizations primarily serving
524 in-state markets shall not be included within the definition of
525 the term "telecommunications enterprises."

526 (c) "Warehousing activities" means entities that
527 establish or expand facilities that service and support multiple
528 retail or wholesale locations within and outside the state.
529 Warehousing activities may be performed solely to support the
530 primary activities of the entity, and credits generated shall
531 offset the income of the entity based on an apportioned ratio of
532 payroll for warehouse employees of the entity to total Mississippi
533 payroll of the entity that includes the payroll of retail
534 employees of the entity.

535 (15) The tax credits provided for in this section shall be
536 in addition to any tax credits described in Sections 57-51-13(b),
537 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official
538 action by the Mississippi Development Authority prior to July 1,
539 1989, to any business enterprise determined prior to July 1, 1989,
540 by the Mississippi Development Authority to be a qualified
541 business as defined in Section 57-51-5(f) or Section 57-54-5(d) or
542 a qualified company as described in Section 57-53-1, as the case



543 may be; however, from and after July 1, 1989, tax credits shall be
544 allowed only under either this section or Sections 57-51-13(b),
545 57-53-1(1) (a) and Section 57-54-9(b) for each net new full-time
546 employee.

547 (16) A business enterprise that chooses to receive job
548 training assistance pursuant to Section 57-1-451 shall not be
549 eligible for the tax credits provided for in this section.

550 **SECTION 2.** This act shall take effect and be in force from
551 and after July 1, 2019.

