

## REPORT OF CONFERENCE COMMITTEE

**MR. SPEAKER AND MADAM PRESIDENT:**

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

H. B. No. 1727: Income tax and insurance premium tax; authorize a credit for certain investments made by qualified development entities.

We, therefore, respectfully submit the following report and recommendation:

1. That the Senate recede from its Amendment No. 1.
2. That the House and Senate adopt the following amendment:

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

19                (a) "Adjusted purchase price" means the investment in  
20 the qualified community development entity for the qualified  
21 equity investment, substantially all of the proceeds of which are  
22 used to make qualified low-income community investments in  
23 Mississippi.

24                For the purposes of calculating the amount of qualified  
25 low-income community investments held by a qualified community  
26 development entity, an investment will be considered held by a  
27 qualified community development entity even if the investment has  
28 been sold or repaid; provided that the qualified community  
29 development entity reinvests an amount equal to the capital  
30 returned to or recovered by the qualified community development  
31 entity from the original investment, exclusive of any profits  
32 realized, in another qualified low-income community investment in  
33 Mississippi within twelve (12) months of the receipt of such  
34 capital. A qualified community development entity will not be  
35 required to reinvest capital returned from the qualified  
36 low-income community investments after the sixth anniversary of  
37 the issuance of the qualified equity investment, the proceeds of  
38 which were used to make the qualified low-income community

39 investment, and the qualified low-income community investment will  
40 be considered held by the qualified community development entity  
41 through the seventh anniversary of the qualified equity  
42 investment's issuance.

43 (b) "Applicable percentage" means four percent (4%) for  
44 each of the second through seventh credit allowance dates for  
45 purposes of the taxes imposed by Section 27-7-5 and means one and  
46 one-third percent (1-1/3%) for each of the second through seventh  
47 credit allowance dates for purposes of the taxes imposed by  
48 Sections 27-15-103 and 27-15-109.

49 (c) "Credit allowance date" means, with respect to any  
50 qualified equity investment:

51 (i) The date upon which the investment is  
52 initially made; and

53 (ii) Each of the subsequent six (6) anniversary  
54 dates of the date upon which the investment is initially made.

55 (d) "Qualified community development entity" shall have  
56 the meaning ascribed to such term in Section 45D of the Internal  
57 Revenue Code of 1986, as amended, if the entity has entered into  
58 an Allocation Agreement with the Community Development Financial  
59 Institutions Fund of the United States Department of the Treasury  
60 with respect to credits authorized by Section 45D of the Internal  
61 Revenue Code of 1986, as amended.

62 (e) "Qualified active low-income community business"  
63 shall have the meaning ascribed to such term in Section 45D of the  
64 Internal Revenue Code of 1986, as amended.

65 (f) "Qualified equity investment" shall have the  
66 meaning ascribed to such term in Section 45D of the Internal  
67 Revenue Code of 1986, as amended; provided, however, that such  
68 investment also:

69 (i) Is acquired after January 1, 2007, at its  
70 original issuance solely in exchange for cash; and

71 (ii) Has been allocated by the Mississippi  
72 Development Authority.

73 (g) "Qualified low-income community investment" shall  
74 have the meaning ascribed to such term in Section 45D of the  
75 Internal Revenue Code of 1986, as amended; provided, however, that  
76 the maximum amount of qualified low-income community investments  
77 issued for a single qualified active low-income community  
78 business, on an aggregate basis with all of its affiliates, that  
79 may be included for purposes of allocating any credits under this  
80 section shall not exceed Ten Million Dollars (\$10,000,000.00), in  
81 the aggregate, whether issued by one (1) or several qualified  
82 community development entities.

83 (2) A taxpayer that holds a qualified equity investment on  
84 the credit allowance date of the qualified equity investment shall  
85 be entitled to a credit applicable against the taxes imposed by  
86 Sections 27-7-5, 27-15-103 and 27-15-109 during the taxable year  
87 that includes the credit allowance date. The amount of the credit  
88 shall be equal to the applicable percentage of the adjusted  
89 purchase price paid to the qualified community development entity  
90 for the qualified equity investment. The amount of the credit  
91 that may be utilized in any one (1) tax year shall be limited to  
92 an amount not greater than the total tax liability of the taxpayer  
93 for the taxes imposed by the above-referenced sections. The  
94 credit shall not be refundable or transferable. Any unused  
95 portion of the credit may be carried forward for seven (7) taxable  
96 years beyond the last credit allowance date. The maximum  
97 aggregate amount of qualified equity investments that may be  
98 allocated by the Mississippi Development Authority may not exceed  
99 an amount that would result in taxpayers claiming in any one (1)  
100 state fiscal year credits in excess of Fifteen Million Dollars  
101 (\$15,000,000.00), exclusive of credits that might be carried  
102 forward from previous taxable years. The Mississippi Development

103 Authority shall allocate credits within this limit as provided for  
104 in subsection (4) of this section.

105 (3) Tax credits authorized by this section that are earned  
106 by a partnership, limited liability company, S-corporation or  
107 other similar pass-through entity, may be allocated to the  
108 partners, members or shareholders of such entity in accordance  
109 with the provisions of any agreement of the partners, members or  
110 shareholders.

111 (4) The qualified community development entity shall apply  
112 for credits with the Mississippi Development Authority on forms  
113 prescribed by the Mississippi Development Authority. In the  
114 application the qualified community development entity shall  
115 certify to the Mississippi Development Authority the anticipated  
116 dollar amount of the qualified equity investments to be made in  
117 this state during the first twelve-month period following the  
118 initial credit allowance date. The Mississippi Development  
119 Authority shall allocate credits based on the anticipated dollar  
120 amount of qualified equity investments as certified in the  
121 application. Once the Mississippi Development Authority has  
122 allocated credits to a qualified community development entity,  
123 such entity shall have fifteen (15) days from the date of such  
124 allocation to issue the corresponding qualified equity  
125 investments. If the qualified equity investment is not issued  
126 within such time period, the allocation shall be cancelled and  
127 returned to the Mississippi Development Authority for  
128 reallocation. If on the second credit allowance date the actual  
129 dollar amount of the investments is lower than the amount  
130 estimated, the Mississippi Development Authority shall adjust the  
131 tax credit allowed under this section. The State Tax Commission  
132 may recapture all or a portion of the credit allowed under this  
133 section if:

134 (a) Any amount of federal tax credits available with  
135 respect to a qualified equity investment that is eligible for a  
136 tax credit under this section is recaptured under Section 45D of  
137 the Internal Revenue Code of 1986, as amended; or

138 (b) The qualified community development entity redeems  
139 or makes any principal repayment with respect to a qualified  
140 equity investment prior to the seventh anniversary of the issuance  
141 of the qualified equity investment.

142 (c) The qualified community development entity fails to  
143 maintain at least eighty-five percent (85%) of the proceeds of the  
144 qualified equity investment in qualified low-income community  
145 investments in Mississippi at any time prior to the seventh  
146 anniversary of the issuance of the qualified equity investment.

147 Any credits that are subject to recapture under this  
148 subsection shall be recaptured from the taxpayer that actually  
149 claimed the credit.

150 The Mississippi Development Authority shall not allocate any  
151 credits under this section after January 1, 2014.

152 (5) Each qualified community development entity that  
153 receives qualified equity investments to make qualified low-income  
154 community investments in Mississippi must annually report to the  
155 Mississippi Development Authority the North American Industry  
156 Classification System Code, the county, the dollars invested, the  
157 number of jobs assisted and the number of jobs assisted with wages  
158 over one hundred percent (100%) of the federal poverty level for a  
159 family of four (4) of each qualified low-income community  
160 investment.

161 (6) The Mississippi Development Authority shall file an  
162 annual report on all qualified low-income community investments  
163 with the Governor, the Clerk of the House of Representatives, the  
164 Secretary of the Senate and the Secretary of State describing the  
165 North American Industry Classification System Code, the county,

166 the dollars invested, the number of jobs assisted and the number  
 167 of jobs assisted with wages over one hundred percent (100%) of the  
 168 federal poverty level for a family of four (4) of each qualified  
 169 low-income community investment. The annual report will be posted  
 170 on the Mississippi Development Authority's Internet Web site.

171 (7) The Mississippi Development Authority shall promulgate  
 172 rules and regulations to implement the provisions of this section.

173 **SECTION 2.** Section 27-15-129, Mississippi Code of 1972, is  
 174 amended as follows:

175 27-15-129. (1) The amount of premium tax payable pursuant  
 176 to Sections 27-15-103, 27-15-109, 27-15-119 and 83-31-45,  
 177 Mississippi Code of 1972, shall be reduced from the amount  
 178 otherwise fixed in such sections if the payer files a sworn  
 179 statement with the required annual report showing as of the  
 180 beginning of the reporting period that at least the following  
 181 amounts of the total admitted assets of the payer were invested  
 182 and maintained in qualifying Mississippi investments as  
 183 hereinafter defined in subsection (2) of this section over the  
 184 period covered by such report:

185	Percentage of Total Admitted	Percentage of Premium
186	Assets in Qualifying	Tax Payable
187	Mississippi Investments	
188	1%	99%
189	2%	98%
190	3%	97%
191	4%	96%
192	5%	95%
193	6%	94%
194	7%	93%
195	8%	92%
196	9%	91%
197	10%	80%

198                           15%                           70%  
199                           20%                           60%  
200                           25%                           50%

201           (2) For the purpose of this section, "a qualifying  
202 Mississippi investment" is hereby defined as follows:

203                   (a) Certificates of deposit issued by any bank or  
204 savings and loan association domiciled in this state;

205                   (b) Bonds of this state or bonds of municipal, school,  
206 road or levee districts, or other political subdivisions of this  
207 state;

208                   (c) Loans evidenced by notes and secured by deeds of  
209 trust on property located in this state;

210                   (d) Real property located in this state;

211                   (e) Policy loans to residents of Mississippi, or other  
212 loans to residents of this state, or to corporations domiciled in  
213 this state;

214                   (f) Common or preferred stock, bonds and other  
215 evidences of indebtedness of corporations domiciled in this state;  
216 and

217                   (g) Cash on deposit in any bank or savings and loan  
218 association domiciled in this state.

219           "A qualifying Mississippi investment" shall not include any  
220 investment for which a credit is allocated under Section 1 of  
221 House Bill No. 1727, 2007 Regular Session.

222           (3) If the credits, or any part thereof, authorized by the  
223 preceding provisions of this section shall be held by a court of  
224 final jurisdiction to be unconstitutional and void for any reason  
225 or to make the annual premium taxes levied by Sections 27-15-103,  
226 27-15-109, 27-15-119 and 83-31-45, Mississippi Code of 1972,  
227 unlawfully discriminatory or otherwise invalid under the  
228 Fourteenth Amendment or the Commerce Clause of the Constitution of  
229 the United States or under any state or other Federal

230 Constitutional provisions, it is hereby expressly declared that  
231 such fact shall in no way affect the validity of the annual  
232 premium taxes levied thereby, and that such provisions would have  
233 been enacted even though the Legislature had known this credit  
234 section would be held invalid.

235 (4) This section shall apply to taxes accruing and  
236 investments existing from and after July 1, 1985.

237 **SECTION 3.** This act shall take effect and be in force from  
238 and after January 1, 2007.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1 AN ACT TO PROVIDE FOR AN INCOME TAX AND INSURANCE PREMIUM TAX  
2 CREDIT FOR TAXPAYERS THAT PAY A QUALIFIED COMMUNITY DEVELOPMENT  
3 ENTITY FOR QUALIFIED EQUITY INVESTMENTS; TO PROVIDE THAT THE  
4 AMOUNT OF THE CREDIT SHALL BE EQUAL TO A CERTAIN PERCENTAGE OF THE  
5 ADJUSTED PURCHASE PRICE PAID TO THE QUALIFIED COMMUNITY  
6 DEVELOPMENT ENTITY FOR THE QUALIFIED EQUITY INVESTMENT; TO PROVIDE  
7 THAT THE MAXIMUM AGGREGATE AMOUNT OF THE CREDITS THAT MAY BE  
8 ALLOCATED TO ALL TAXPAYERS IN ANY ONE STATE FISCAL YEAR SHALL NOT  
9 EXCEED \$15,000,000.00 AND THAT THE CREDITS SHALL BE ALLOCATED BY  
10 THE MISSISSIPPI DEVELOPMENT AUTHORITY; TO PROVIDE FOR THE  
11 RECAPTURE OF ALL OR A PORTION OF THE CREDIT UNDER CERTAIN  
12 CIRCUMSTANCES; TO AMEND SECTION 27-15-129, MISSISSIPPI CODE OF  
13 1972, TO PROVIDE THAT THE INVESTMENTS THAT MAY REDUCE A TAXPAYER'S  
14 INSURANCE PREMIUM TAX LIABILITY UNDER SUCH SECTION SHALL NOT  
15 INCLUDE ANY INVESTMENT FOR WHICH A CREDIT IS ALLOCATED UNDER THIS  
16 ACT; AND FOR RELATED PURPOSES.

CONFEREES FOR THE HOUSE

X (SIGNED)  
Watson

X (SIGNED)  
Brown

(NOT SIGNED)  
Moss

CONFEREES FOR THE SENATE

X (SIGNED)  
Robertson

X (SIGNED)  
Hewes

X (SIGNED)  
Thomas