

By: Ellington

To: Conservation and
Water Resources; Ways
and Means

HOUSE BILL NO. 1687

1 AN ACT TO CREATE THE MISSISSIPPI BROWNFIELDS VOLUNTARY
2 CLEANUP AND REDEVELOPMENT INCENTIVES ACT; TO EXPRESS THE FINDINGS
3 OF THE LEGISLATURE; TO AUTHORIZE A LIMITED PARTIAL EXEMPTION FROM
4 AD VALOREM TAXES ON REAL PROPERTY FOR REDEVELOPMENT PROJECTS
5 LOCATED ON BROWNFIELD AGREEMENT SITES; TO PROVIDE THAT THE AMOUNT
6 OF THE AD VALOREM TAX EXEMPTION SHALL BE BASED UPON THE
7 INCREMENTAL INCREASE BETWEEN THE CURRENT ASSESSED VALUE OF THE
8 PROPERTY AND THE ORIGINAL ASSESSED VALUE OF THE PROPERTY; TO AMEND
9 SECTION 57-1-301, MISSISSIPPI CODE OF 1972, TO MODIFY THE
10 DEFINITION OF "CAPITAL IMPROVEMENT" TO INCLUDE BROWNFIELD
11 AGREEMENT SITE REMEDIATION; TO AMEND SECTION 57-61-9, MISSISSIPPI
12 CODE OF 1972, TO AUTHORIZE A PRIVATE MATCH OF TWO DOLLARS FOR
13 EVERY ONE DOLLAR OF STATE ASSISTANCE FOR REDEVELOPMENT PROJECTS ON
14 BROWNFIELD AGREEMENT SITES; TO AMEND SECTION 57-73-21, MISSISSIPPI
15 CODE OF 1972, TO AUTHORIZE A JOB TAX CREDIT FOR REDEVELOPMENT
16 PROJECTS ON A BROWNFIELD AGREEMENT SITE UNDER THE MISSISSIPPI
17 BROWNFIELDS VOLUNTARY CLEANUP AND REDEVELOPMENT ACT AND TO SPECIFY
18 THE AMOUNT OF THE JOB TAX CREDIT; AND FOR RELATED PURPOSES.

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

20 SECTION 1. This act shall be known and may be cited as the
21 "Mississippi Brownfields Voluntary Cleanup and Redevelopment
22 Incentives Act."

23 SECTION 2. The Legislature finds the following:

24 (a) There are properties in Mississippi, often referred
25 to as "brownfields," which were contaminated or perceived to have
26 been contaminated by past activities but are attractive locations
27 for redevelopment.

28 (b) The safe development or redevelopment of
29 brownfields would benefit the citizens of Mississippi in many
30 ways, including improving the tax base of local governments and
31 creating job opportunities for citizens in the vicinity of
32 brownfields.

33 (c) Owners and prospective developers and redevelopers
34 of brownfields, local governments in which brownfields are located

35 and federal and state government agencies should be encouraged to
36 provide capital and labor to improve brownfields so that the
37 property can be determined to be safe or made safe for appropriate
38 future use.

39 (d) The reduction of public health and environmental
40 hazards on existing brownfield sites is essential to creating a
41 better quality of life for the citizens of this state.

42 (e) Section 49-35-27 requires the Department of
43 Environmental Quality to conduct a survey of incentive programs in
44 other states for cleanup of contaminated sites by January 1, 1999.

45 The department has conducted its survey and filed its report
46 showing incentives provided in other states.

47 SECTION 3. (1) All real property, new facilities or
48 structures or improvements to existing structures or facilities
49 which are a part of a redevelopment project on a brownfield
50 agreement site that is remediated under Sections 49-35-1 through
51 49-35-25 shall be exempt from all ad valorem taxation subject to
52 the limitations provided in this section.

53 (2) (a) Any person, firm or corporation desiring to obtain
54 the exemption authorized in this section shall file a written
55 application for the exemption with the governing authorities of
56 the municipality or county. The application shall describe that
57 portion of the brownfield agreement site which is part of the
58 redevelopment project and associated real property, facilities and
59 structures for which the exemption is sought.

60 (b) Upon receipt of the application, the municipal
61 clerk or the chancery clerk, as the case may be, shall certify the
62 assessed value of the real property on which the redevelopment
63 project is located, including any facilities or structures in that
64 property, described in the application. Property taxable when the
65 application is received shall be included in the assessed value at
66 its most recently determined valuation. Property exempt from
67 taxation under any other section of law when the application is
68 received shall be included at zero value. This assessed value is
69 the "original assessed value."

70 (c) Each year after an application for the exemption
71 has been filed, the municipal clerk or the chancery clerk, as the

72 case may be, and the State Tax Commission, if applicable, shall
73 certify the amount by which the assessed value of the real
74 property on which the redevelopment project is located, including
75 any new facilities or structures or improvements to existing
76 structures or facilities, has increased or decreased from the
77 original assessed value. This assessed value is the "current
78 assessed value."

79 (d) Any amount by which the current assessed value of
80 the real property on which the redevelopment project is located,
81 including any facilities or structures on that property, exceeds
82 the original assessed value shall be referred to as the "captured
83 assessed value." The municipal clerk or the chancery clerk, as
84 the case may be, shall certify to the municipality or county the
85 captured assessed value for each year of the duration of the tax
86 exemption under this section.

87 (e) The owner of the real property, new facilities or
88 structures or improvements to existing structures or facilities
89 which are a part of a redevelopment project on a brownfield
90 agreement site that is remediated under Sections 49-35-1 through
91 49-35-25 shall be exempt from all ad valorem taxation on the
92 captured assessed value for a period of five (5) years from the
93 date of completion of the redevelopment project, unless the amount
94 of the ad valorem tax exemption on the captured assessed value
95 exceeds the costs of remediation of the brownfield agreement site
96 subject to the ad valorem tax exemption. If the amount of the ad
97 valorem tax exemption on the captured assessed value exceeds the
98 cost of remediation of the brownfield agreement site subject to
99 the ad valorem tax exemption, then such owner may not receive the
100 amount of the ad valorem tax exemption which exceeds the cost of
101 remediation of the brownfield agreement site, and the ad valorem
102 tax exemption authorized under this section shall cease.

103 (3) Any exemption granted under this section shall be in
104 lieu of ad valorem tax exemptions authorized under any other

105 provision of law.

106 (4) The ad valorem tax exemption authorized under this
107 section shall not apply if the governing body of a municipality
108 and the owner of the property propose to use tax increment
109 financing under Sections 21-45-1 through 21-45-21 to provide funds
110 for the redevelopment project.

111 SECTION 4. Section 57-1-301, Mississippi Code of 1972, is
112 amended as follows:

113 57-1-301. (1) There is established a local governments
114 capital improvements revolving loan program to be administered by
115 the Department of Economic and Community Development for the
116 purpose of assisting counties and municipalities in making capital
117 improvements.

118 (2) For purposes of Sections 57-1-301 and 57-1-335, "capital
119 improvements" include any combination of the following:

120 (a) Construction or repair of water and sewer
121 facilities;

122 (b) Construction or repair of drainage systems for
123 industrial development;

124 (c) Improvements in fire protection;

125 (d) Construction of new buildings for economic
126 development purposes;

127 (e) Renovation or repair of existing buildings for
128 economic development purposes;

129 (f) Construction or repair of access roads for
130 industrial development;

131 (g) Purchase of buildings for economic development
132 purposes;

133 (h) Construction or repair of railroad spurs for
134 industrial development;

135 (i) Construction of any county or municipally owned
136 health care facilities, excluding any county health departments;

137 (j) Construction, purchase, renovation or repair of any

138 building to be utilized as an auditorium or convention center;

139 (k) Construction of multipurpose facilities for tourism
140 development; * * *

141 (l) Loans to a county to aid in retiring
142 interest-bearing loans utilized for the purchase of a motion
143 picture sound stage; or

144 (m) Remediation of brownfield agreement sites in
145 accordance with Sections 49-35-1 through 49-35-25.

146 SECTION 5. Section 57-61-9, Mississippi Code of 1972, is
147 amended as follows:

148 57-61-9. (1) Any private company desiring assistance from a
149 municipality shall submit to the municipality a letter of intent
150 to locate, expand or build a facility entirely or partially within
151 the municipality or on land the municipality is authorized to own
152 or otherwise acquire. The letter of intent shall include:

153 (a) Except for strategic investments, a commitment that
154 the proposed project will create and maintain a minimum of ten
155 (10) net new full-time equivalent jobs, will create and maintain
156 at least a five percent (5%) increase in full-time equivalent jobs
157 in the case of expansion of an enterprise already located at the
158 site or at least a twenty-five percent (25%) increase in full-time
159 equivalent jobs pursuant to subsection (9) of Section 57-61-15 and
160 will create and maintain at least one (1) net new full-time
161 equivalent job for every Fifteen Thousand Dollars (\$15,000.00)
162 either loaned or granted for the project. The commitment required
163 by this paragraph (a) shall include any jobs created prior to the
164 effective date of this chapter resulting from contracts entered
165 into contingent upon assistance being made available under this
166 chapter. All jobs required to be maintained by this paragraph (a)
167 shall be maintained until such time as any loan made under this
168 chapter for the benefit of a private company is repaid.

169 (b) A statement that the specific improvements are
170 necessary for the efficient and cost-effective operation of the

171 private company, together with supporting financial and
172 engineering documentation.

173 (c) Any commitment to pay rental on, or to make loan
174 repayments related to, the improvements to be made with funds
175 loaned to a municipality under this chapter.

176 (d) If required by the department, a notarized
177 statement of willingness to grant a lien on the facility for which
178 the improvement is being provided, in an amount and a manner to be
179 determined by the department, which lien may be foreclosed in the
180 event that the private company fails to operate in the facility
181 according to the terms of the agreement and/or to collateralize
182 the loan made for the benefit of the private company for which the
183 improvement is being provided in an amount and manner to be
184 determined by the department. In the event the contractual
185 agreement is to be entered into with a department or subsidiary of
186 the United States government, the department shall determine that
187 the governmental unit will operate the proposed project for a
188 sufficient number of years to retire the loan based on increased
189 revenue estimates by the University Research Center and any
190 agreement entered into shall reflect that the interest paid on any
191 loan for such purpose shall be included in Mississippi's
192 contributory value in the project. In the event the private
193 company requesting the assistance is a subsidiary of another
194 corporation, if required by the department, any contractual
195 agreement entered into shall also require the parent company to
196 unconditionally warrant the performance of the subsidiary in
197 carrying out the terms of the agreement or it shall require the
198 subsidiary and/or the parent company to pledge assets in an amount
199 and a manner to be determined by the department and/or to
200 collateralize the loan in an amount and a manner to be determined
201 by the department to ensure the performance of the terms of the
202 contract.

203 (2) Upon receipt of the letter of intent from a private

204 company, the municipality may apply to the department for a loan
205 or grant. The application from the municipality shall include but
206 not be limited to:

207 (a) A statement of the purpose of the proposed loan or
208 grant, including a list of eligible items and the cost of each.

209 (b) A statement showing the sources of funding for the
210 entire project, including the private company's or governmental
211 unit's investment in the project and any public and other private
212 sources of funding.

213 (c) A certified copy of the signed letter of intent
214 from a private company or governmental unit, as specified in this
215 section.

216 (d) Evidence that there will be a private match of at
217 least Three Dollars (\$3.00) for every One Dollar (\$1.00) of state
218 assistance, except in the case of ports or redevelopment projects
219 on brownfield agreement sites remediated under Sections 49-35-1
220 through 49-35-25, where the private match will be at least Two
221 Dollars (\$2.00) for every One Dollar (\$1.00) of state assistance.

222 (e) Demonstration that the private company is
223 financially sound and is likely to fulfill the commitments made in
224 its letter of intent.

225 (f) A proposed timetable for the provision of the
226 improvements.

227 (g) Evidence that the project will be expeditiously
228 carried out and completed as planned.

229 (h) A demonstration that insufficient local capital
230 improvement funds at reasonable rates and terms are available
231 within the necessary time to provide the needed improvement on
232 public property. This includes local funds available through
233 issuance of bonds or other means, state funds available through
234 existing programs, and available federal program funds such as
235 community development block grant funds, urban development action
236 grant funds, and economic development administration funds.

237 (i) A demonstration that insufficient private funds are
238 available at reasonable rates and terms within the necessary time
239 to fund improvement on property owned by the private company.

240 (3) The department shall consider grant and loan
241 applications based on the following criteria:

242 (a) The number of net new full-time equivalent jobs
243 that will be provided and the amount of additional state and local
244 tax revenue estimated by the University Research Center to be
245 directly generated by the private company's new investment, and
246 additionally, as to loan applications by state agencies, the
247 extent to which shipping through the port will be increased by the
248 proposed port development projects, the degree to which jobs will
249 be increased in the port area and the impact on port revenues.

250 (b) The ability to repay the principal and interest, in
251 the case of a loan, based on increased revenue estimates and any
252 revenue-producing provision of a contractual agreement.

253 (c) The increase in the employment base of the state.

254 The department and the University Research Center may use the
255 resources and capabilities of the planning and development
256 districts in carrying out the provisions of this chapter.

257 (4) No loan shall be made in excess of the amounts which can
258 be repaid with the increased revenues estimated by the University
259 Research Center, provided that this subsection (4) shall not apply
260 to loans in connection with a United States Navy home port.

261 (5) (a) Notwithstanding anything contained in this chapter,
262 an agency of the State of Mississippi operating a state-owned
263 port, and hereinabove identified as a "municipality" and
264 "governmental unit" for purposes of this chapter, may make
265 application for a loan or grant under the terms and provisions of
266 this chapter. In addition, a public agency operating a port
267 bordering on the Gulf of Mexico, which shall be considered to be a
268 "municipality" or a "governmental unit" for the purposes of this
269 chapter, may make application for a loan or grant under the terms

270 and provisions of this chapter from funds other than those funds
271 authorized for a state-owned port under paragraph (e)(iii) of
272 Section 57-61-11. The application shall be initiated by
273 submission of a letter of intent to engage in a project or
274 projects for the purpose of effecting enlargement and improvement
275 in all facilities used and useful in attracting international and
276 foreign commerce through the port. Projects eligible for
277 inclusion in the letter of intent may include but not be
278 restricted to:

279 (i) Dredging and deepening the access channel and
280 harbor basin of the port;

281 (ii) Effecting the enlargement of the land area of
282 the port by reclamation;

283 (iii) Construction and installation of piling,
284 bulkheads, docks, wharves, warehouses and appurtenances; and

285 (iv) Acquisition of facilities and equipment for
286 handling bulk and containerized cargo.

287 (b) With respect to a state-owned port bordering on the
288 Gulf of Mexico, the letter of intent shall include the following
289 information and any other information required by the department:

290 (i) Present and future annual tonnages expected as
291 a result of the improvements.

292 (ii) Reasons why present facilities are inadequate
293 to enable the port to compete, including limitations imposed by
294 insufficient depth of channel and basin.

295 (iii) Increased channel and basin depths necessary
296 to accommodate modern shipping.

297 (iv) Comparison of the percentage of the world's
298 cargo shipping that can now be accommodated with what could be
299 accommodated with project improvements.

300 (v) Economic contribution to the region and state
301 resulting from increased shipping activity.

302 (vi) Statement of degree to which port revenues

303 are expected to be increased as a result of projects.

304 (vii) Financial data of port activities, including
305 cost of project, degree of federal funding available and required
306 local participation.

307 On or before January 1, 1989, a state-owned port described in
308 this paragraph (b) shall submit to the Senate Finance Committee
309 and the House Ways and Means Committee of the Mississippi
310 Legislature a comprehensive, written report updating for each
311 committee the information listed in items (i) through (vii) of
312 this paragraph (b) with particular emphasis on the economic
313 contribution to the region and state by shipping activity at the
314 port; on financial data with respect to the degree of federal
315 funding available and local participation in funding port
316 activities; and on progress made in dredging and completing other
317 improvements necessary to accommodate modern shipping.

318 (c) The department shall consider grant and loan
319 applications based on the following:

320 (i) The extent to which shipping through the port
321 will be increased by the proposed projects.

322 (ii) The degree to which jobs will be increased in
323 the port area.

324 (iii) Impact on port revenues.

325 (iv) The ability of the port to repay interest and
326 principal in the case of a loan.

327 (6) A municipality may apply to the department for a grant
328 under the terms and provisions of this chapter, and the department
329 may award grants to a municipality subject to limitations
330 contained in this chapter. The application shall be initiated by
331 submission of a letter of intent to engage in a project or
332 projects for the purpose of providing improvements necessary to
333 accommodate a United States Navy home port.

334 (7) The Legislature hereby finds and determines that
335 financing facilities necessary to accommodate a Navy home port

336 serves a valid public purpose in that a Navy home port will
337 significantly contribute to the employment base of the state which
338 is in great need of assistance; provided, that in the event such
339 facilities are no longer required for use by the Navy as a home
340 port, such facilities shall revert as provided in Section 59-9-21.

341 (8) (a) A municipality is authorized to negotiate a
342 contract for the acquisition, construction and erection of a
343 project or any portion of a project hereunder where a municipality
344 finds that, because of the particular nature of a project or any
345 portion thereof, it would be in the best public interest of the
346 municipality to negotiate.

347 (b) Contracts by a private company for the acquisition,
348 construction or erection of a project which receives assistance
349 under this chapter shall be effected in the manner prescribed by
350 law for public contracts, unless the department makes a written
351 finding that, because of special circumstances with respect to the
352 projects or any portion thereof, it would better serve the public
353 interest or more effectively achieve the purposes of this chapter
354 to enter into such contracts based on negotiation.

355 (9) A municipality is authorized upon such terms and
356 conditions as the municipality may deem advisable, provided such
357 terms and conditions shall not be in conflict with the provisions
358 of this chapter, to (a) acquire, whether by construction,
359 purchase, gift or lease, all of or any portion of a project
360 hereunder; (b) to lease or sell to others all of or any portion of
361 a project hereunder; and (c) to lend to the private company the
362 proceeds of the loan from the board to such municipality.

363 (10) All agreements between a municipality and a private
364 company related directly or indirectly to a project or a portion
365 of a project to be funded in whole or in part under this chapter
366 are subject to approval by the department.

367 SECTION 6. Section 57-73-21, Mississippi Code of 1972, is
368 amended as follows:

369 57-73-21. (1) Annually by December 31, using the most
370 current data available from the University Research Center,
371 Mississippi State Employment Security Commission and the United
372 States Department of Commerce, the State Tax Commission shall rank
373 and designate the state's counties as provided in this section.
374 The twenty-eight (28) counties in this state having a combination
375 of the highest unemployment rate and lowest per capita income for
376 the most recent thirty-six-month period, with equal weight being
377 given to each category, are designated less developed areas. The
378 twenty-seven (27) counties in the state with a combination of the
379 next highest unemployment rate and next lowest per capita income
380 for the most recent thirty-six-month period, with equal weight
381 being given to each category, are designated moderately developed
382 areas. The twenty-seven (27) counties in the state with a
383 combination of the lowest unemployment rate and the highest per
384 capita income for the most recent thirty-six-month period, with
385 equal weight being given to each category, are designated
386 developed areas. Counties designated by the Tax Commission
387 qualify for the appropriate tax credit for jobs as provided in
388 subsections (2), (3) and (4) of this section. The designation by
389 the Tax Commission is effective for the tax years of permanent
390 business enterprises which begin after the date of designation.
391 For companies which plan an expansion in their labor forces, the
392 Tax Commission shall prescribe certification procedures to ensure
393 that the companies can claim credits in future years without
394 regard to whether or not a particular county is removed from the
395 list of less developed or moderately developed areas.

396 (2) Permanent business enterprises primarily engaged in
397 manufacturing, processing, warehousing, distribution, wholesaling
398 and research and development, or permanent business enterprises
399 designated by rule and regulation of the Department of Economic
400 and Community Development as air transportation and maintenance
401 facilities, final destination or resort hotels having a minimum of

402 one hundred fifty (150) guest rooms, recreational facilities that
403 impact tourism, movie industry studios, or telecommunications
404 enterprises, in counties designated by the Tax Commission as less
405 developed areas are allowed a job tax credit for taxes imposed by
406 Section 27-7-5 equal to Two Thousand Dollars (\$2,000.00) annually
407 for each net new full-time employee job for five (5) years
408 beginning with years two (2) through six (6) after the creation of
409 the job. The number of new full-time jobs must be determined by
410 comparing the monthly average number of full-time employees
411 subject to the Mississippi income tax withholding for the taxable
412 year with the corresponding period of the prior taxable year.

413 Only those permanent businesses that increase employment by ten
414 (10) or more in a less developed area are eligible for the credit.

415 Credit is not allowed during any of the five (5) years if the net
416 employment increase falls below ten (10). The Tax Commission
417 shall adjust the credit allowed each year for the net new
418 employment fluctuations above the minimum level of ten (10).

419 (3) Permanent business enterprises primarily engaged in
420 manufacturing, processing, warehousing, distribution, wholesaling
421 and research and development, or permanent business enterprises
422 designated by rule and regulation of the Department of Economic
423 and Community Development as air transportation and maintenance
424 facilities, final destination or resort hotels having a minimum of
425 one hundred fifty (150) guest rooms, recreational facilities that
426 impact tourism, movie industry studios, or telecommunications
427 enterprises, in counties that have been designated by the Tax
428 Commission as moderately developed areas are allowed a job tax
429 credit for taxes imposed by Section 27-7-5 equal to One Thousand
430 Dollars (\$1,000.00) annually for each net new full-time employee
431 job for five (5) years beginning with years two (2) through six
432 (6) after the creation of the job. The number of new full-time
433 jobs must be determined by comparing the monthly average number of
434 full-time employees subject to Mississippi income tax withholding

435 for the taxable year with the corresponding period of the prior
436 taxable year. Only those permanent businesses that increase
437 employment by fifteen (15) or more in areas that have not been
438 designated less developed areas are eligible for the credit. The
439 credit is not allowed during any of the five (5) years if the net
440 employment increase falls below fifteen (15). The Tax Commission
441 shall adjust the credit allowed each year for the net new
442 employment fluctuations above the minimum level of fifteen (15).

443 (4) Permanent business enterprises primarily engaged in
444 manufacturing, processing, warehousing, distribution, wholesaling
445 and research and development, or permanent business enterprises
446 designated by rule and regulation of the Department of Economic
447 and Community Development as air transportation and maintenance
448 facilities, final destination or resort hotels having a minimum of
449 one hundred fifty (150) guest rooms, recreational facilities that
450 impact tourism, movie industry studios, or telecommunications
451 enterprises, in counties designated by the Tax Commission as
452 developed areas are allowed a job tax credit for taxes imposed by
453 Section 27-7-5 equal to Five Hundred Dollars (\$500.00) annually
454 for each net new full-time employee job for five (5) years
455 beginning with years two (2) through six (6) after the creation of
456 the job. The number of new full-time jobs must be determined by
457 comparing the monthly average number of full-time employees
458 subject to Mississippi income tax withholding for the taxable year
459 with the corresponding period of the prior taxable year. Only
460 those permanent businesses that increase employment by twenty (20)
461 or more in developed areas are eligible for the credit. The
462 credit is not allowed during any of the five (5) years if the net
463 employment increase falls below twenty (20). The Tax Commission
464 shall adjust the credit allowed each year for the net new
465 employment fluctuations above the minimum level of twenty (20).

466 (5) In addition to the credits authorized in subsections
467 (2), (3) and (4), an additional Five Hundred Dollars (\$500.00)

468 credit for each net new full-time employee shall be allowed for
469 any company establishing or transferring its national or regional
470 headquarters from within or outside the State of Mississippi. A
471 minimum of thirty-five (35) jobs must be created to qualify for
472 the additional credit. The State Tax Commission shall establish
473 criteria and prescribe procedures to determine if a company
474 qualifies as a national or regional headquarters for purposes of
475 receiving the credit awarded in this subsection.

476 (6) In addition to the credits authorized in subsections
477 (2), (3), (4) and (5), any job requiring research and development
478 skills (chemist, engineer, etc.) shall qualify for an additional
479 Five Hundred Dollars (\$500.00) credit for each net new full-time
480 employee.

481 (7) In lieu of the tax credits provided in subsections (2)
482 through (6), permanent business enterprises primarily engaged in
483 manufacturing, processing, warehousing, distribution, wholesaling
484 and research and development, or permanent business enterprises
485 designated by rule and regulation of the Department of Economic
486 and Community Development which are situated on a brownfield
487 agreement site remediated under Sections 49-35-1 through 49-35-25,
488 are allowed a job tax credit for taxes imposed by Section 27-7-5
489 equal to the amounts provided in subsection (2), (3) or (4) for
490 each net new full-time employee job for five (5) years, which
491 credit is available during years two (2) through six (6) after the
492 creation of the job. The number of new full-time jobs must be
493 determined by comparing the monthly average number of full-time
494 employees subject to Mississippi income tax withholding for the
495 taxable year with the corresponding period of the prior taxable
496 year. This subsection shall be administered in the same manner as
497 subsections (2), (3) and (4), except the landowner shall not be
498 required to increase employment by the levels provided in
499 subsections (2), (3) and (4) to be eligible for the tax credit.

500 (8) Tax credits for five (5) years for the taxes imposed by

501 Section 27-7-5 shall be awarded for additional net new full-time
502 jobs created by business enterprises qualified under subsections
503 (2), (3), (4), (5), (6) and (7) of this section. Except as
504 otherwise provided, the Tax Commission shall adjust the credit
505 allowed in the event of employment fluctuations during the
506 additional five (5) years of credit.

507 (9) The sale, merger, acquisition, reorganization,
508 bankruptcy or relocation from one county to another county within
509 the state of any business enterprise may not create new
510 eligibility in any succeeding business entity, but any unused job
511 tax credit may be transferred and continued by any transferee of
512 the business enterprise. The Tax Commission shall determine
513 whether or not qualifying net increases or decreases have occurred
514 or proper transfers of credit have been made and may require
515 reports, promulgate regulations, and hold hearings as needed for
516 substantiation and qualification.

517 (10) Any tax credit claimed under this section but not used
518 in any taxable year may be carried forward for five (5) years from
519 the close of the tax year in which the qualified jobs were
520 established but the credit established by this section taken in
521 any one (1) tax year must be limited to an amount not greater than
522 fifty percent (50%) of the taxpayer's state income tax liability
523 which is attributable to income derived from operations in the
524 state for that year.

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

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

531 (13) The tax credits provided for in this section shall be
532 in addition to any tax credits described in Sections 57-51-13(b),
533 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official

534 action by the Department of Economic Development prior to July 1,
535 1989, to any business enterprise determined prior to July 1, 1989,
536 by the Department of Economic Development to be a qualified
537 business as defined in Section 57-51-5(f) or Section 57-54-5(d) or
538 a qualified company as described in Section 57-53-1, as the case
539 may be; however, from and after July 1, 1989, tax credits shall be
540 allowed only under either this section or Sections 57-51-13(b),
541 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time
542 employee.

543 (14) As used in this section, the term "telecommunications
544 enterprises" means entities engaged in the creation, display,
545 management, storage, processing, transmission or distribution for
546 compensation of images, text, voice, video or data by wire or by
547 wireless means, or entities engaged in the construction, design,
548 development, manufacture, maintenance or distribution for
549 compensation of devices, products, software or structures used in
550 the above activities. Companies organized to do business as
551 commercial broadcast radio stations, television stations or news
552 organizations primarily serving in-state markets shall not be
553 included within the definition of the term "telecommunications
554 enterprises."

555 SECTION 7. Nothing in this act shall affect or defeat any
556 claim, assessment, appeal, suit, right or cause of action for
557 taxes due or accrued under the ad valorem or income tax laws
558 before the date on which this act becomes effective or are begun
559 thereafter. The provisions of the ad valorem and income tax laws
560 are expressly continued in full force, effect and operation for
561 the purpose of the assessment, collection and enrollment of liens
562 for any taxes due or accrued and the execution of any warrant
563 under such laws before the date on which this act becomes
564 effective, and for the imposition of any penalties, forfeitures or
565 claims for failure to comply with such laws.

566 SECTION 8. This act shall take effect and be in force from

567 and after January 1, 2001.