

By: Senator(s) Nunnelee, Dearing

To: Environment Prot, Cons
and Water Res; Finance

SENATE BILL NO. 3081

1 AN ACT TO CREATE THE MISSISSIPPI BROWNFIELDS VOLUNTARY
2 CLEANUP AND REDEVELOPMENT INCENTIVES ACT; TO EXPRESS THE FINDINGS
3 OF THE LEGISLATURE; TO CREATE A NEW SECTION TO BE CODIFIED AS
4 SECTION 27-7-22.16, MISSISSIPPI CODE OF 1972, WHICH AUTHORIZES AN
5 INCOME TAX CREDIT FOR REMEDIATION COST INCURRED AT A BROWNFIELD
6 AGREEMENT SITE; TO DEFINE CERTAIN TERMS; TO PRESCRIBE THE AMOUNT
7 OF THE INCOME TAX CREDIT; TO REQUIRE THE COMMISSION ON
8 ENVIRONMENTAL QUALITY TO APPROVE AN AMOUNT OF REMEDIATION COSTS
9 ELIGIBLE FOR THE TAX CREDIT; TO PROVIDE FOR SUBMISSION OF
10 SUPPORTING INFORMATION TO THE STATE TAX COMMISSION; TO AMEND
11 SECTION 57-1-301, MISSISSIPPI CODE OF 1972, TO MODIFY THE
12 DEFINITION OF CAPITAL IMPROVEMENT TO INCLUDE BROWNFIELD SITE
13 REMEDIATION; TO AMEND SECTION 57-1-303, MISSISSIPPI CODE OF 1972,
14 TO CREATE THE LOCAL GOVERNMENTS BROWNFIELDS REDEVELOPMENT GRANT
15 FUND AND PROGRAM; TO AMEND SECTION 57-1-307, MISSISSIPPI CODE OF
16 1972, TO INCREASE THE AMOUNT OF GENERAL OBLIGATION BONDS
17 AUTHORIZED TO BE ISSUED UNDER THE LOCAL GOVERNMENTS AND CAPITAL
18 IMPROVEMENTS REVOLVING LOAN PROGRAM; TO DEDICATE A PORTION OF THE
19 PROCEEDS OF THE ADDITIONAL BONDS FOR LOANS TO LOCAL GOVERNMENTS
20 FOR BROWNFIELDS SITE REMEDIATION; TO REQUIRE THE PLACEMENT OF A
21 PORTION OF THE INTEREST EARNINGS ON THE PROCEEDS OF THE ADDITIONAL
22 BONDS AUTHORIZED IN THIS BILL TO BE PAID INTO THE LOCAL
23 GOVERNMENTS BROWNFIELDS REDEVELOPMENT GRANT FUND; TO AMEND SECTION
24 57-73-21, MISSISSIPPI CODE OF 1972, TO AUTHORIZE A JOB TAX CREDIT
25 FOR COMMERCIAL AND INDUSTRIAL PROPERTY OWNERS CLEANING UP A
26 BROWNFIELD AGREEMENT SITE UNDER THE MISSISSIPPI BROWNFIELDS
27 VOLUNTARY CLEANUP AND REDEVELOPMENT ACT; TO SPECIFY THE AMOUNT OF
28 THE JOB TAX CREDIT; TO AMEND SECTION 57-30-1, MISSISSIPPI CODE OF
29 1972, TO CONFORM TO REORGANIZATION NOMENCLATURE; AND FOR RELATED
30 PURPOSES.

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

32 SECTION 1. This act shall be known and may be cited as the
33 "Mississippi Brownfields Voluntary Cleanup and Redevelopment
34 Incentives Act."

35 SECTION 2. The Legislature finds:

36 (1) There are properties in Mississippi, often referred to
37 as "brownfields," that were contaminated or were perceived to have

38 been contaminated by past activities, but are attractive locations
39 for redevelopment.

40 (2) The safe development or redevelopment of brownfields
41 would benefit the citizens of Mississippi in many ways, including
42 improving the tax base of local governments and creating job
43 opportunities for citizens in the vicinity of brownfields.

44 (3) Owners and prospective developers and redevelopers of
45 brownfields, local governments in which brownfields are located
46 and federal and state government agencies should be encouraged to
47 provide capital and labor to improve brownfields so that the
48 property can be determined to be safe or made safe for appropriate
49 future use.

50 (4) The reduction of public health and environmental hazards
51 on existing brownfield sites is essential to creating a better
52 quality of life for the citizens of this state.

53 (5) Section 49-35-27, Mississippi Code of 1972, requires the
54 Department of Environmental Quality to conduct a survey of
55 incentive programs in other states for cleanup of contaminated
56 sites by January 1, 1999. The department has conducted its survey
57 and filed its report showing incentives provided in other states.

58 SECTION 3. The following shall be codified as Section
59 27-7-22.16, Mississippi Code of 1972:

60 27-7-22.16. (1) (a) Except as otherwise provided under
61 this subsection, the words and phrases used in this section shall
62 have the meanings ascribed to them in Section 49-35-5, Mississippi
63 Code of 1972.

64 (b) "Remediation costs" means reasonable costs paid for
65 the assessment, investigation, remediation, monitoring and related
66 activities at a brownfield agreement site which are consistent
67 with the remedy selected for the site. Remediation costs shall
68 not include (i) costs incurred before January 1, 2000; (ii) costs
69 incurred after the issuance of a No Further Action letter under
70 Section 49-35-15, Mississippi Code of 1972; (iii) costs incurred

71 before the acceptance of a brownfield agreement site into the
72 Mississippi Brownfields Voluntary Cleanup and Redevelopment
73 program; (iv) costs incurred for any legal services or litigation
74 costs; and (v) any funds provided by any federal, state or local
75 governmental agency or political subdivision.

76 (2) Subject to the limitations provided in subsection (4) of
77 this section, upon submission to the State Tax Commission of
78 information provided for in subsection (5) of this section and any
79 other documentation as the State Tax Commission may require, any
80 brownfield party who (a) has conducted remediation at a brownfield
81 agreement site in accordance with Sections 49-35-1 through
82 49-35-25 and (b) has incurred remediation costs for activities
83 under Section 49-35-1 through 49-35-25, as approved by the
84 Commission on Environmental Quality, shall be allowed a credit in
85 an amount equal to twenty-five percent (25%) of the remediation
86 costs at the brownfield agreement site as approved by the
87 commission, against the taxes imposed under this chapter for the
88 tax year in which the costs are incurred.

89 (3) (a) Before applying for the tax credit authorized in
90 this section, a brownfield party shall submit an application for
91 review of remediation costs to the Department of Environmental
92 Quality. The application shall be on forms prescribed by the
93 Commission on Environmental Quality and provided by the
94 department. The application shall include the following:

95 (i) A section identifying the brownfield party,
96 the brownfield agreement site, the date the brownfield agreement
97 was executed and the tax year for which the credit is sought;

98 (ii) An itemization and documentation of the
99 remediation costs incurred;

100 (iii) A demonstration that the costs incurred are
101 remediation costs;

102 (iv) A demonstration that the remediation costs
103 submitted for review were incurred by the brownfield party; and

104 (v) Any other information which the Commission on
105 Environmental Quality or the State Tax Commission deems
106 appropriate.

107 (b) The department shall review to determine whether
108 the costs submitted are remediation costs and whether the costs
109 incurred are reasonable.

110 (c) Within sixty (60) days after receipt of a completed
111 application by the department, the commission shall approve,
112 disapprove or approve with modification the remediation costs
113 submitted in the application. The commission shall notify the
114 brownfield party in writing of its decision. If the commission
115 approves the remediation costs submitted in the application, the
116 commission shall state the amount of remediation costs to be
117 applied toward the tax credit under this section for the given tax
118 year. If the commission approves with modification or disapproves
119 the remediation costs contained in the application, the commission
120 shall state the reasons for disapproval or approval with
121 modification and shall state the amount of remediation costs, if
122 any, to be applied toward the tax credit under this section for
123 the given tax year.

124 (d) An appeal of the commission's decision to approve
125 with modification or disapprove the remediation costs contained in
126 the application may be taken as provided under Section 49-17-41.

127 (e) The department's review of the application for
128 review of remediation costs under this section shall be considered
129 a part of the administration of the brownfield agreement.

130 (4) (a) The annual credit provided for in this section
131 shall not exceed the lesser of Forty Thousand Dollars (\$40,000.00)
132 or the amount of the income tax imposed upon the brownfield party
133 at the brownfield agreement site for the taxable year as reduced
134 by the sum of all other credits allowable to the brownfield party
135 under this chapter, except for credit for tax payments made by or

136 on behalf of the brownfield party. Any unused portion of the
137 credit may be carried forward for succeeding tax years.

138 (b) The maximum total credit under this section for a
139 brownfield agreement site is One Hundred Fifty Thousand Dollars
140 (\$150,000.00).

141 (5) To be eligible for the tax credit, the brownfield party
142 must submit a copy of the letter from the commission stating the
143 amount of remediation costs approved by the commission for the
144 given tax year.

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

147 57-1-301. (1) There is established a Local Governments
148 Capital Improvements Revolving Loan Program to be administered by
149 the Mississippi Development Authority for the purpose of assisting
150 counties and municipalities in making capital improvements.

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

153 (a) Construction or repair of water and sewer
154 facilities;

155 (b) Construction or repair of drainage systems for
156 industrial development;

157 (c) Improvements in fire protection;

158 (d) Construction of new buildings for economic
159 development purposes;

160 (e) Renovation or repair of existing buildings for
161 economic development purposes;

162 (f) Construction or repair of access roads for
163 industrial development;

164 (g) Purchase of buildings for economic development
165 purposes;

166 (h) Construction or repair of railroad spurs for
167 industrial development;

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

170 (j) Construction, purchase, renovation or repair of any
171 building to be utilized as an auditorium or convention center;

172 (k) Construction of multipurpose facilities for tourism
173 development; * * *

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

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

179 SECTION 5. Section 57-1-303, Mississippi Code of 1972, is
180 amended as follows:

181 57-1-303. (1) (a) There is created a special fund in the
182 State Treasury to be designated as the "Local Governments Capital
183 Improvements Revolving Loan Fund," which fund shall consist of
184 such monies as provided in Sections 57-1-307 through 57-1-335.
185 The fund shall be maintained in perpetuity for the purposes
186 established in Sections 57-1-301 through 57-1-335. Unexpended
187 amounts remaining in the fund at the end of a fiscal year shall
188 not lapse into the State General Fund, and any interest earned on
189 amounts in the fund shall be deposited to the credit of the fund.
190 Monies in the fund may not be used or expended for any purpose
191 except as authorized under Sections 57-1-301 through 57-1-335.

192 (b) The Local Governments Capital Improvements
193 Revolving Loan Fund shall be divided into the Taxable Local
194 Governments Capital Improvements Revolving Loan Subaccount and the
195 Nontaxable Local Governments Capital Improvements Revolving Loan
196 Subaccount. Funds allocated to the Nontaxable Local Governments
197 Capital Improvements Revolving Loan Subaccount shall be utilized
198 to provide loans for capital improvements that would qualify for
199 the issuance of bonds whose interest is exempt from income
200 taxation under the provisions of the Internal Revenue Code. Funds

201 allocated to the Taxable Local Governments Capital Improvements
202 Revolving Loan Subaccount shall be utilized to provide loans for
203 any eligible capital improvements, including, but not limited to,
204 capital improvements that would qualify for the issuance of bonds
205 whose interest is exempt from income taxation under the provisions
206 of the Internal Revenue Code.

207 (c) Of the funds deposited into the Local Governments
208 Capital Improvements Revolving Loan Fund, not less than
209 Twenty-five Million Dollars (\$25,000,000.00) shall be allocated to
210 the Nontaxable Local Governments Capital Improvements Revolving
211 Loan Subaccount, and the remainder of such funds shall be
212 allocated to the Taxable Local Governments Capital Improvements
213 Revolving Loan Subaccount.

214 (2) A county or an incorporated municipality may apply to
215 the Department of Economic and Community Development for a loan
216 under the local governments capital improvements revolving loan
217 program established under Sections 57-1-301 through 57-1-335.

218 (3) (a) The Mississippi Development Authority shall
219 establish a loan program by which loans, at the rate of interest
220 provided for in paragraph (b) of this subsection, may be made
221 available to counties and incorporated municipalities to assist
222 counties and incorporated municipalities in making capital
223 improvements. Loans from the revolving fund may be made to
224 counties and municipalities as set forth in a loan agreement in
225 amounts not to exceed one hundred percent (100%) of eligible
226 project costs as established by the Mississippi Development
227 Authority. The Mississippi Development Authority may require
228 county or municipal participation or funding from other sources,
229 or otherwise limit the percentage of costs covered by loans from
230 the revolving fund. The Mississippi Development Authority may
231 establish a maximum amount for any loan in order to provide for
232 broad and equitable participation in the program.

233 (b) The rate of interest on loans made from the Local
234 Governments Capital Improvements Revolving Loan Fund for capital
235 improvements that would qualify for the issuance of bonds whose
236 interest is exempt from income taxation under the provisions of
237 the Internal Revenue Code shall be at the rate of three percent
238 (3%) per annum, calculated according to the actuarial method. The
239 rate of interest on loans for all other capital improvements shall
240 be at the true interest cost on the most recent issue of
241 twenty-year state general obligation bonds occurring prior to the
242 date such loan is made. Notwithstanding the provisions of this
243 paragraph to the contrary, loans made for the purposes of the
244 capital project described in Section 57-1-301(2)(1) shall bear no
245 interest.

246 (4) A county that receives a loan from the revolving fund
247 shall pledge for repayment of the loan any part of the homestead
248 exemption annual tax loss reimbursement to which it may be
249 entitled under Section 27-33-77. An incorporated municipality
250 that receives a loan from the revolving fund shall pledge for
251 repayment of the loan any part of the sales tax revenue
252 distribution to which it may be entitled under Section 27-65-75.
253 Each loan agreement shall provide for (i) monthly payments, (ii)
254 semiannual payments, or (iii) other periodic payments, the annual
255 total of which shall not exceed the annual total for any other
256 year of the loan by more than fifteen percent (15%). The loan
257 agreement shall provide for the repayment of all funds received
258 within not more than twenty (20) years from the date of project
259 completion.

260 (5) The State Auditor, upon request of the Mississippi
261 Development Authority, shall audit the receipts and expenditures
262 of a county or an incorporated municipality whose loan payments
263 appear to be in arrears, and if he finds that the county or
264 municipality is in arrears in such payments, he shall immediately
265 notify the Executive Director of the Department of Finance and

266 Administration who shall withhold all future payments to the
267 county of homestead exemption reimbursements under Section
268 27-33-77 and all sums allocated to the county or the municipality
269 under Section 27-65-75 until such time as the county or the
270 municipality is again current in its loan payments as certified by
271 the Department of Economic and Community Development.

272 (6) Evidences of indebtedness which are issued pursuant to
273 this chapter shall not be deemed indebtedness within the meaning
274 specified in Section 21-33-303 with regard to cities or
275 incorporated towns, and in Section 19-9-5 with regard to counties.

276 (7) There is created a special fund in the State Treasury to
277 be designated as the "Local Governments Brownfields Redevelopment
278 Grant Fund." The fund shall consist of those monies as provided
279 in Section 57-1-307. The fund shall be maintained in perpetuity
280 for the purposes established in this section. Unexpended amounts
281 remaining in the fund at the end of the fiscal year shall not
282 lapse into the State General Fund, and any interest earned on
283 amounts in the fund shall be deposited to the credit of the fund.
284 Monies in the fund may not be used or expended for any purpose
285 except as authorized in this section.

286 (8) (a) The Mississippi Development Authority shall
287 establish a local governments brownfields redevelopment grant
288 program to provide funds to counties and incorporated
289 municipalities for coordination of activities related to
290 brownfields redevelopment. Activities eligible for funding under
291 this program include identification of brownfield sites, site
292 assessment and investigation, and development of remedial action
293 plans. The implementation of remedial action plans or site
294 remediation and post-remediation monitoring shall not be
295 considered eligible activities. The authority shall provide
296 grants to counties or incorporated municipalities, if the county
297 or incorporated municipality demonstrates and the authority

298 determines that following remediation the site will be directly
299 associated with the creation or retention of jobs.

300 (b) Grants shall be awarded on a competitive basis,
301 subject to the availability of funding. Grants shall be limited
302 to a maximum of One Hundred Thousand Dollars (\$100,000.00).

303 (c) Grant amounts shall not exceed seventy-five percent
304 (75%) of the total project amount. The remaining twenty-five
305 percent (25%) shall be provided by the county or incorporated
306 municipality as local matching funds.

307 SECTION 6. Section 57-1-307, Mississippi Code of 1972, is
308 amended as follows:

309 57-1-307. (1) The State Bond Commission, at one time, or
310 from time to time, may declare by resolution the necessity for
311 issuance of general obligation bonds of the State of Mississippi
312 to provide funds for all costs incurred or to be incurred for the
313 purposes described in Section 57-1-303. Upon the adoption of a
314 resolution by the Department of Economic and Community
315 Development, declaring the necessity for the issuance of any part
316 or all of the general obligation bonds authorized by this section,
317 the Department of Economic and Community Development shall deliver
318 a certified copy of its resolution or resolutions to the State
319 Bond Commission. Upon receipt of such resolution, the State Bond
320 Commission, in its discretion, may act as the issuing agent,
321 prescribe the form of the bonds, advertise for and accept bids,
322 issue and sell the bonds so authorized to be sold and do any and
323 all other things necessary and advisable in connection with the
324 issuance and sale of such bonds. The total amount of bonds issued
325 under Sections 57-1-307 through 57-1-335 shall not exceed One
326 Hundred Five Million Dollars (\$105,000,000.00); provided, however,
327 that an additional amount of bonds may be issued under Sections
328 57-1-307 and 57-1-335 in an amount not to exceed Thirteen Million
329 Dollars (\$13,000,000.00), and the proceeds of any such additional
330 amount of bonds so issued shall be utilized solely to provide

331 loans for capital improvements that would qualify for the issuance
332 of bonds whose interest is exempt from income taxation under the
333 provisions of the Internal Revenue Code. Of the additional bonds
334 authorized under Senate Bill No. _____, 2001 Regular Session, Two
335 Million Five Hundred Thousand Dollars (\$2,500,000.00) shall be
336 used only to provide loans to counties and incorporated
337 municipalities for remediation of a brownfield agreement site
338 under Sections 49-35-1 through 49-35-25.

339 (2) Proceeds from the sale of bonds shall be deposited in
340 the special fund created in Section 57-1-303. Except as otherwise
341 provided in this section, any investment earnings on amounts
342 deposited into the special fund created in Section 57-1-303 shall
343 be used to pay debt service on bonds issued under Sections
344 57-1-307 through 57-1-335, in accordance with the proceedings
345 authorizing issuance of such bonds. The investment earnings on
346 the additional bonds authorized to be issued under Senate Bill No.
347 _____, 2001 Regular Session, fifty percent (50%) shall be deposited
348 into the Local Governments Brownfield Site Remediation Grant Fund
349 created under Section 57-1-303. The remaining fifty percent (50%)
350 of the interest earnings shall be used as otherwise provided in
351 this subsection.

352 SECTION 7. Section 57-73-21, Mississippi Code of 1972, is
353 amended as follows:

354 57-73-21. (1) Annually by December 31, using the most
355 current data available from the University Research Center,
356 Mississippi State Employment Security Commission and the United
357 States Department of Commerce, the State Tax Commission shall rank
358 and designate the state's counties as provided in this section.
359 The twenty-eight (28) counties in this state having a combination
360 of the highest unemployment rate and lowest per capita income for
361 the most recent thirty-six-month period, with equal weight being
362 given to each category, are designated Tier Three areas. The
363 twenty-seven (27) counties in the state with a combination of the

364 next highest unemployment rate and next lowest per capita income
365 for the most recent thirty-six-month period, with equal weight
366 being given to each category, are designated Tier Two areas. The
367 twenty-seven (27) counties in the state with a combination of the
368 lowest unemployment rate and the highest per capita income for the
369 most recent thirty-six-month period, with equal weight being given
370 to each category, are designated Tier One areas. Counties
371 designated by the Tax Commission qualify for the appropriate tax
372 credit for jobs as provided in subsections (2), (3) and (4) of
373 this section. The designation by the Tax Commission is effective
374 for the tax years of permanent business enterprises which begin
375 after the date of designation. For companies which plan an
376 expansion in their labor forces, the Tax Commission shall
377 prescribe certification procedures to ensure that the companies
378 can claim credits in future years without regard to whether or not
379 a particular county is removed from the list of Tier Three or Tier
380 Two areas.

381 (2) Permanent business enterprises primarily engaged in
382 manufacturing, processing, warehousing, distribution, wholesaling
383 and research and development, or permanent business enterprises
384 designated by rule and regulation of the Mississippi Development
385 Authority as air transportation and maintenance facilities, final
386 destination or resort hotels having a minimum of one hundred fifty
387 (150) guest rooms, recreational facilities that impact tourism,
388 movie industry studios, telecommunications enterprises, data or
389 information processing enterprises or computer software
390 development enterprises or any technology intensive facility or
391 enterprise, in counties designated by the Tax Commission as Tier
392 Three areas are allowed a job tax credit for taxes imposed by
393 Section 27-7-5 equal to Two Thousand Dollars (\$2,000.00) annually
394 for each net new full-time employee job for five (5) years
395 beginning with years two (2) through six (6) after the creation of
396 the job. The number of new full-time jobs must be determined by

397 comparing the monthly average number of full-time employees
398 subject to the Mississippi income tax withholding for the taxable
399 year with the corresponding period of the prior taxable year.
400 Only those permanent businesses that increase employment by ten
401 (10) or more in a Tier Three area are eligible for the credit.
402 Credit is not allowed during any of the five (5) years if the net
403 employment increase falls below ten (10). The Tax Commission
404 shall adjust the credit allowed each year for the net new
405 employment fluctuations above the minimum level of ten (10).

406 (3) Permanent business enterprises primarily engaged in
407 manufacturing, processing, warehousing, distribution, wholesaling
408 and research and development, or permanent business enterprises
409 designated by rule and regulation of the Mississippi Development
410 Authority as air transportation and maintenance facilities, final
411 destination or resort hotels having a minimum of one hundred fifty
412 (150) guest rooms, recreational facilities that impact tourism,
413 movie industry studios, telecommunications enterprises, data or
414 information processing enterprises or computer software
415 development enterprises or any technology intensive facility or
416 enterprise, in counties that have been designated by the Tax
417 Commission as Tier Two areas are allowed a job tax credit for
418 taxes imposed by Section 27-7-5 equal to One Thousand Dollars
419 (\$1,000.00) annually for each net new full-time employee job for
420 five (5) years beginning with years two (2) through six (6) after
421 the creation of the job. The number of new full-time jobs must be
422 determined by comparing the monthly average number of full-time
423 employees subject to Mississippi income tax withholding for the
424 taxable year with the corresponding period of the prior taxable
425 year. Only those permanent businesses that increase employment by
426 fifteen (15) or more in Tier Two areas are eligible for the
427 credit. The credit is not allowed during any of the five (5)
428 years if the net employment increase falls below fifteen (15).
429 The Tax Commission shall adjust the credit allowed each year for

430 the net new employment fluctuations above the minimum level of
431 fifteen (15).

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

457 (5) In addition to the credits authorized in subsections
458 (2), (3) and (4), an additional Five Hundred Dollars (\$500.00)
459 credit for each net new full-time employee or an additional One
460 Thousand Dollars (\$1,000.00) credit for each net new full-time
461 employee who is paid a salary, excluding benefits which are not
462 subject to Mississippi income taxation, of at least one hundred

463 twenty-five percent (125%) of the average annual wage of the state
464 or an additional Two Thousand Dollars (\$2,000.00) credit for each
465 net new full-time employee who is paid a salary, excluding
466 benefits which are not subject to Mississippi income taxation, of
467 at least two hundred percent (200%) of the average annual wage of
468 the state, shall be allowed for any company establishing or
469 transferring its national or regional headquarters from within or
470 outside the State of Mississippi. A minimum of thirty-five (35)
471 jobs must be created to qualify for the additional credit. The
472 State Tax Commission shall establish criteria and prescribe
473 procedures to determine if a company qualifies as a national or
474 regional headquarters for purposes of receiving the credit awarded
475 in this subsection. As used in this subsection, the average
476 annual wage of the state is the most recently published average
477 annual wage as determined by the Mississippi Employment Security
478 Commission.

479 (6) In addition to the credits authorized in subsections
480 (2), (3), (4) and (5), any job requiring research and development
481 skills (chemist, engineer, etc.) shall qualify for an additional
482 One Thousand Dollars (\$1,000.00) credit for each net new full-time
483 employee.

484 (7) In lieu of the tax credits provided in subsections (2)
485 through (6), any commercial or industrial property owner which
486 remediates contaminated property in accordance with Sections
487 49-35-1 through 49-35-25, is allowed a job tax credit for taxes
488 imposed by Section 27-7-5 equal to the amounts provided in
489 subsection (2), (3) or (4) for each net new full-time employee job
490 for five (5) years beginning with years two (2) through six (6)
491 after the creation of the job. The number of new full-time jobs
492 must be determined by comparing the monthly average number of
493 full-time employees subject to Mississippi income tax withholding
494 for the taxable year with the corresponding period of the prior
495 taxable year. This subsection shall be administered in the same

496 manner as subsections (2), (3) and (4), except the landowner shall
497 not be required to increase employment by the levels provided in
498 subsections (2), (3) and (4) to be eligible for the tax credit.

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

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

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

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

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

530 (13) The tax credits provided for in this section shall be
531 in addition to any tax credits described in Sections 57-51-13(b),
532 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official
533 action by the Department of Economic Development prior to July 1,
534 1989, to any business enterprise determined prior to July 1, 1989,
535 by the Department of Economic Development to be a qualified
536 business as defined in Section 57-51-5(f) or Section 57-54-5(d) or
537 a qualified company as described in Section 57-53-1, as the case
538 may be; however, from and after July 1, 1989, tax credits shall be
539 allowed only under either this section or Sections 57-51-13(b),
540 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time
541 employee.

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

554 SECTION 8. Section 57-30-1, Mississippi Code of 1972, is
555 amended as follows:

556 57-30-1. As used in this chapter, the following terms and
557 phrases shall have the meanings ascribed in this section unless
558 the context clearly indicates otherwise:

559 (a) "Approved participant" means a person, corporation
560 or other entity issued a certificate by the Mississippi
561 Development Authority under Section 57-30-3.

562 (b) "Department" means the Mississippi Development
563 Authority.

564 (c) "Project" means any family-oriented entertainment
565 enterprise such as campgrounds and theme parks, as designated by
566 the Mississippi Development Authority, with an initial capital
567 investment of not less than Five Million Dollars (\$5,000,000.00)
568 if located in a county in a Tier I area, as designated under
569 Section 57-73-21, or with an initial capital investment of not
570 less than Three Million Dollars (\$3,000,000.00) if located in a
571 county in a Tier II area or Tier III area as designated in Section
572 57-73-21. Whether a county is in a developed area, moderately
573 developed area or less developed area shall be determined by the
574 classification of the area at the time the initial investment is
575 made. The term "project" also means any of the following if
576 located on the project site or within one (1) mile of the project
577 and owned by the owner of the family-oriented entertainment
578 enterprise: (a) auditoriums, (b) dining facilities, (c) gift
579 shops and (d) lodging facilities. However, the capital investment
580 in any such dining facility or lodging facility shall not be
581 included for purposes of meeting the minimum capital investment
582 requirement for a project. The term "project" does not mean any
583 business, corporation or entity having a gaming license issued
584 under Section 75-76-1 et seq., Mississippi Code of 1972, but may
585 include a family-oriented entertainment enterprise owned by such a
586 business, corporation or entity that is in excess of development
587 that the State Gaming Commission requires for the issuance or
588 renewal of a gaming license.

589 (d) "State" means the State of Mississippi.

590 SECTION 9. Nothing in this act shall affect or defeat any
591 claim, assessment, appeal, suit, right or cause of action for

592 taxes due or accrued under the income tax laws before the date on
593 which this act becomes effective or are begun thereafter. The
594 provisions of the income tax laws are expressly continued in full
595 force, effect and operation for the purpose of the assessment,
596 collection and enrollment of liens for any taxes due or accrued
597 and the execution of any warrant under such laws before the date
598 on which this act becomes effective, and for the imposition of any
599 penalties, forfeitures or claims for failure to comply with such
600 laws.

601 SECTION 10. This act shall take effect and be in force from
602 and after January 1, 2002.