MISSISSIPPI LEGISLATURE

SENATE BILL NO. 3081

To: Environment Prot, Cons and Water Res; Finance

By: Senator(s) Nunnelee, Dearing

To the Senate of the State of Mississippi:

The Senate of the State of Mississippi, summoned to a session by the Governor, hereby convenes, and in pursuance of law and the order of the Senate, doth deliberate, and to the end that justice may be done, doth ordain and establish the following Act:

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

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

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

SECTION 2. The Legislature finds:

(1) There are properties in Mississippi, often referred to as "brownfields," that were contaminated or were perceived to have...
been contaminated by past activities, but are attractive locations
for redevelopment.

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

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

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

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

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

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

(b) "Remediation costs" means reasonable costs paid for
the assessment, investigation, remediation, monitoring and related
activities at a brownfield agreement site which are consistent
with the remedy selected for the site. Remediation costs shall
not include (i) costs incurred before January 1, 2000; (ii) costs
incurred after the issuance of a No Further Action letter under
Section 49-35-15, Mississippi Code of 1972; (iii) costs incurred
before the acceptance of a brownfield agreement site into the
Mississippi Brownfields Voluntary Cleanup and Redevelopment
program; (iv) costs incurred for any legal services or litigation
costs; and (v) any funds provided by any federal, state or local
governmental agency or political subdivision.

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

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

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

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

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

(iv) A demonstration that the remediation costs
submitted for review were incurred by the brownfield party; and
(v) Any other information which the Commission on Environmental Quality or the State Tax Commission deems appropriate.

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

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

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

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

(4) (a) The annual credit provided for in this section shall not exceed the lesser of Forty Thousand Dollars ($40,000.00) or the amount of the income tax imposed upon the brownfield party at the brownfield agreement site for the taxable year as reduced by the sum of all other credits allowable to the brownfield party under this chapter, except for credit for tax payments made by or
on behalf of the brownfield party. Any unused portion of the
credit may be carried forward for succeeding tax years.

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

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

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

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

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

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

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

(c) Improvements in fire protection;

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

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

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

(g) Purchase of buildings for economic development
purposes;

(h) Construction or repair of railroad spurs for
industrial development;
(i) Construction of any county or municipally owned health care facilities, excluding any county health departments;

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

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

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

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

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

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

(b) The Local Governments Capital Improvements Revolving Loan Fund shall be divided into the Taxable Local Governments Capital Improvements Revolving Loan Subaccount and the Nontaxable Local Governments Capital Improvements Revolving Loan Subaccount. Funds allocated to the Nontaxable Local Governments Capital Improvements Revolving Loan Subaccount shall be utilized to provide loans for capital improvements that would qualify for the issuance of bonds whose interest is exempt from income taxation under the provisions of the Internal Revenue Code. Funds
allocated to the Taxable Local Governments Capital Improvements Revolving Loan Subaccount shall be utilized to provide loans for any eligible capital improvements, including, but not limited to, capital improvements that would qualify for the issuance of bonds whose interest is exempt from income taxation under the provisions of the Internal Revenue Code.

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

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

(3) (a) The Mississippi Development Authority shall establish a loan program by which loans, at the rate of interest provided for in paragraph (b) of this subsection, may be made available to counties and incorporated municipalities to assist counties and incorporated municipalities in making capital improvements. Loans from the revolving fund may be made to counties and municipalities as set forth in a loan agreement in amounts not to exceed one hundred percent (100%) of eligible project costs as established by the Mississippi Development Authority. The Mississippi Development Authority may require county or municipal participation or funding from other sources, or otherwise limit the percentage of costs covered by loans from the revolving fund. The Mississippi Development Authority may establish a maximum amount for any loan in order to provide for broad and equitable participation in the program.
(b) The rate of interest on loans made from the Local Governments Capital Improvements Revolving Loan Fund for capital improvements that would qualify for the issuance of bonds whose interest is exempt from income taxation under the provisions of the Internal Revenue Code shall be at the rate of three percent (3%) per annum, calculated according to the actuarial method. The rate of interest on loans for all other capital improvements shall be at the true interest cost on the most recent issue of twenty-year state general obligation bonds occurring prior to the date such loan is made. Notwithstanding the provisions of this paragraph to the contrary, loans made for the purposes of the capital project described in Section 57-1-301(2)(l) shall bear no interest.

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

(5) The State Auditor, upon request of the Mississippi Development Authority, shall audit the receipts and expenditures of a county or an incorporated municipality whose loan payments appear to be in arrears, and if he finds that the county or municipality is in arrears in such payments, he shall immediately notify the Executive Director of the Department of Finance and
Administration who shall withhold all future payments to the county of homestead exemption reimbursements under Section 27-33-77 and all sums allocated to the county or the municipality under Section 27-65-75 until such time as the county or the municipality is again current in its loan payments as certified by the Department of Economic and Community Development.

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

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

(8) (a) The Mississippi Development Authority shall establish a local governments brownfields redevelopment grant program to provide funds to counties and incorporated municipalities for coordination of activities related to brownfields redevelopment. Activities eligible for funding under this program include identification of brownfield sites, site assessment and investigation, and development of remedial action plans. The implementation of remedial action plans or site remediation and post-remediation monitoring shall not be considered eligible activities. The authority shall provide grants to counties or incorporated municipalities, if the county or incorporated municipality demonstrates and the authority
determines that following remediation the site will be directly
associated with the creation or retention of jobs.

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

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

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

57-1-307. (1) The State Bond Commission, at one time, or from time to time, may declare by resolution the necessity for issuance of general obligation bonds of the State of Mississippi to provide funds for all costs incurred or to be incurred for the purposes described in Section 57-1-303. Upon the adoption of a resolution by the Department of Economic and Community Development, declaring the necessity for the issuance of any part or all of the general obligation bonds authorized by this section, the Department of Economic and Community Development shall deliver a certified copy of its resolution or resolutions to the State Bond Commission. Upon receipt of such resolution, the State Bond Commission, in its discretion, may act as the issuing agent, prescribe the form of the bonds, advertise for and accept bids, issue and sell the bonds so authorized to be sold and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds. The total amount of bonds issued under Sections 57-1-307 through 57-1-335 shall not exceed One Hundred Five Million Dollars ($105,000,000.00); provided, however, that an additional amount of bonds may be issued under Sections 57-1-307 and 57-1-335 in an amount not to exceed Thirteen Million Dollars ($13,000,000.00), and the proceeds of any such additional amount of bonds so issued shall be utilized solely to provide
loans for capital improvements that would qualify for the issuance of bonds whose interest is exempt from income taxation under the provisions of the Internal Revenue Code. Of the additional bonds authorized under Senate Bill No. ____, 2001 Regular Session, Two Million Five Hundred Thousand Dollars ($2,500,000.00) shall be used only to provide loans to counties and incorporated municipalities for remediation of a brownfield agreement site under Sections 49-35-1 through 49-35-25.

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

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

57-73-21. (1) Annually by December 31, using the most current data available from the University Research Center, Mississippi State Employment Security Commission and the United States Department of Commerce, the State Tax Commission shall rank and designate the state's counties as provided in this section. The twenty-eight (28) counties in this state having a combination of the highest unemployment rate and lowest per capita income for the most recent thirty-six-month period, with equal weight being given to each category, are designated Tier Three areas. The twenty-seven (27) counties in the state with a combination of the...
next highest unemployment rate and next lowest per capita income
for the most recent thirty-six-month period, with equal weight
being given to each category, are designated Tier Two areas. The
twenty-seven (27) counties in the state with a combination of the
lowest unemployment rate and the highest per capita income for the
most recent thirty-six-month period, with equal weight being given
to each category, are designated Tier One areas. Counties
designated by the Tax Commission qualify for the appropriate tax
credit for jobs as provided in subsections (2), (3) and (4) of
this section. The designation by the Tax Commission is effective
for the tax years of permanent business enterprises which begin
after the date of designation. For companies which plan an
expansion in their labor forces, the Tax Commission shall
prescribe certification procedures to ensure that the companies
can claim credits in future years without regard to whether or not
a particular county is removed from the list of Tier Three or Tier
Two areas.

(2) Permanent business enterprises primarily engaged in
manufacturing, processing, warehousing, distribution, wholesaling
and research and development, or permanent business enterprises
designated by rule and regulation of the Mississippi Development
Authority as air transportation and maintenance facilities, final
destination or resort hotels having a minimum of one hundred fifty
(150) guest rooms, recreational facilities that impact tourism,
movie industry studios, telecommunications enterprises, data or
information processing enterprises or computer software
development enterprises or any technology intensive facility or
enterprise, in counties designated by the Tax Commission as Tier
Three areas, are allowed a job tax credit for taxes imposed by
Section 27-7-5 equal to Two Thousand Dollars ($2,000.00) annually
for each net new full-time employee job for five (5) years
beginning with years two (2) through six (6) after the creation of
the job. The number of new full-time jobs must be determined by
comparing the monthly average number of full-time employees subject to the Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. Only those permanent businesses that increase employment by ten (10) or more in a Tier Three area are eligible for the credit. Credit is not allowed during any of the five (5) years if the net employment increase falls below ten (10). The Tax Commission shall adjust the credit allowed each year for the net new employment fluctuations above the minimum level of ten (10).

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

The Tax Commission shall adjust the credit allowed each year for
the net new employment fluctuations above the minimum level of fifteen (15).

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

(5) In addition to the credits authorized in subsections (2), (3) and (4), an additional Five Hundred Dollars ($500.00) credit for each net new full-time employee or an additional One Thousand Dollars ($1,000.00) credit for each net new full-time employee who is paid a salary, excluding benefits which are not subject to Mississippi income taxation, of at least one hundred
twenty-five percent (125%) of the average annual wage of the state or an additional Two Thousand Dollars ($2,000.00) credit for each net new full-time employee who is paid a salary, excluding benefits which are not subject to Mississippi income taxation, of at least two hundred percent (200%) of the average annual wage of the state, shall be allowed for any company establishing or transferring its national or regional headquarters from within or outside the State of Mississippi. A minimum of thirty-five (35) jobs must be created to qualify for the additional credit. The State Tax Commission shall establish criteria and prescribe procedures to determine if a company qualifies as a national or regional headquarters for purposes of receiving the credit awarded in this subsection. As used in this subsection, the average annual wage of the state is the most recently published average annual wage as determined by the Mississippi Employment Security Commission.

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

(7) In lieu of the tax credits provided in subsections (2) through (6), any commercial or industrial property owner which remediates contaminated property in accordance with Sections 49-35-1 through 49-35-25, is allowed a job tax credit for taxes imposed by Section 27-7-5 equal to the amounts provided in subsection (2), (3) or (4) for each net new full-time employee job for five (5) years beginning with years two (2) through six (6) after the creation of the job. The number of new full-time jobs must be determined by comparing the monthly average number of full-time employees subject to Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. This subsection shall be administered in the same
manner as subsections (2), (3) and (4), except the landowner shall not be required to increase employment by the levels provided in subsections (2), (3) and (4) to be eligible for the tax credit.

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

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

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

(11) No business enterprise for the transportation, handling, storage, processing or disposal of hazardous waste is eligible to receive the tax credits provided in this section.
(12) The credits allowed under this section shall not be used by any business enterprise or corporation other than the business enterprise actually qualifying for the credits.

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

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

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

57-30-1. As used in this chapter, the following terms and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:
(a) "Approved participant" means a person, corporation or other entity issued a certificate by the Mississippi Development Authority under Section 57-30-3.

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

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

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

SECTION 9. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for
taxes due or accrued under the income tax laws before the date on which this act becomes effective or are begun thereafter. The provisions of the income tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws.

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