

By: Senator(s) Nunnelee

To: Environment Prot, Cons
and Water Res; Finance

SENATE BILL NO. 2103

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 ACT TO BE PAID INTO THE LOCAL GOVERNMENTS
23 BROWNFIELDS REDEVELOPMENT GRANT FUND; TO AMEND SECTION 57-73-21,
24 MISSISSIPPI CODE OF 1972, TO AUTHORIZE A JOB TAX CREDIT FOR
25 COMMERCIAL AND INDUSTRIAL PROPERTY OWNERS CLEANING UP A BROWNFIELD
26 AGREEMENT SITE UNDER THE MISSISSIPPI BROWNFIELDS VOLUNTARY CLEANUP
27 AND REDEVELOPMENT ACT; TO SPECIFY THE AMOUNT OF THE JOB TAX
28 CREDIT; TO AMEND SECTION 57-30-1, MISSISSIPPI CODE OF 1972, TO
29 CONFORM TO REORGANIZATION NOMENCLATURE; AND FOR RELATED PURPOSES.

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

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

34 **SECTION 2.** The Legislature finds:

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

39 (b) The safe development or redevelopment of
40 brownfields would benefit the citizens of Mississippi in many



41 ways, including improving the tax base of local governments and
42 creating job opportunities for citizens in the vicinity of
43 brownfields.

44 (c) Owners and prospective developers and redevelopers
45 of 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 (d) The reduction of public health and environmental
51 hazards on existing brownfield sites is essential to creating a
52 better quality of life for the citizens of this state.

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

59 **SECTION 3.** The following shall be codified as Section
60 27-7-22.16, Mississippi Code of 1972:

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

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



74 program; (iv) costs incurred for any legal services or litigation
75 costs; and (v) any funds provided by any federal, state or local
76 governmental agency or political subdivision.

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

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

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

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

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

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



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

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

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

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

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

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



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

139 (b) The maximum total credit under this section for a
140 brownfield agreement site is One Hundred Fifty Thousand Dollars
141 (\$150,000.00).

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

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

148 57-1-301. (1) There is established a local governments
149 capital improvements revolving loan program to be administered by
150 the Mississippi Development Authority for the purpose of assisting
151 counties and municipalities in making capital improvements.

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

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

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

158 (c) Improvements in fire protection;

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

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

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

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

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



- 169 (i) Construction of any county or municipally owned
170 health care facilities, excluding any county health departments;
171 (j) Construction, purchase, renovation or repair of any
172 building to be utilized as an auditorium or convention center;
173 (k) Construction of multipurpose facilities for tourism
174 development; * * *
175 (l) Loans to a county to aid in retiring
176 interest-bearing loans utilized for the purchase of a motion
177 picture sound stage; or
178 (m) Remediation of brownfield agreement sites in
179 accordance with Sections 49-35-1 through 49-35-25.

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

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

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



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

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

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

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



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

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

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



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

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

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

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



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

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

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

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

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



332 loans for capital improvements that would qualify for the issuance
333 of bonds whose interest is exempt from income taxation under the
334 provisions of the Internal Revenue Code. Of the additional bonds
335 authorized under Senate Bill No. 2103, 2002 Regular Session, Two
336 Million Five Hundred Thousand Dollars (\$2,500,000.00) shall be
337 used only to provide loans to counties and incorporated
338 municipalities for remediation of a brownfield agreement site
339 under Sections 49-35-1 through 49-35-25.

340 (2) Proceeds from the sale of bonds shall be deposited in
341 the special fund created in Section 57-1-303. Except as otherwise
342 provided in this section, any investment earnings on amounts
343 deposited into the special fund created in Section 57-1-303 shall
344 be used to pay debt service on bonds issued under Sections
345 57-1-307 through 57-1-335, in accordance with the proceedings
346 authorizing issuance of such bonds. The investment earnings on
347 the additional bonds authorized to be issued under Senate Bill No.
348 2103, 2002 Regular Session, fifty percent (50%) shall be deposited
349 into the Local Governments Brownfield Site Remediation Grant Fund
350 created under Section 57-1-303. The remaining fifty percent (50%)
351 of the interest earnings shall be used as otherwise provided in
352 this subsection.

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

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



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

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



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

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



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

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

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



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

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

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



497 manner as subsections (2), (3) and (4), except the landowner shall
498 not be 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 8.** Section 57-30-1, Mississippi Code of 1972, is
556 amended as follows:

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



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

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

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

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

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



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

602 **SECTION 10.** This act shall take effect and be in force from
603 and after January 1, 2003.

