

By: Senator(s) Nunnelee

To: Environment Prot, Cons
and Water Res; Finance

SENATE BILL NO. 2122

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; AND FOR RELATED PURPOSES.

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

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

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

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

38 (b) The safe development or redevelopment of
 39 brownfields would benefit the citizens of Mississippi in many
 40 ways, including improving the tax base of local governments and

41 creating job opportunities for citizens in the vicinity of
42 brownfields.

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

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

52 (e) Section 49-35-27, Mississippi Code of 1972,
53 requires the Department of Environmental Quality to conduct a
54 survey of incentive programs in other states for cleanup of
55 contaminated sites by January 1, 1999. The department has
56 conducted its survey and filed its report showing incentives
57 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 Sections 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 through 57-1-335,
152 "capital 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; * * *

177 (m) Construction, repair and renovation of parks,
178 swimming pools and recreational and athletic facilities; or

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

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

183 57-1-303. (1) (a) (i) There is created a special fund in
184 the State Treasury to be designated as the "Local Governments
185 Capital Improvements Revolving Loan Fund," which fund shall
186 consist of such monies as provided in Sections 57-1-307 through
187 57-1-335. The fund shall be maintained in perpetuity for the
188 purposes established in Sections 57-1-301 through 57-1-335.
189 Unexpended amounts remaining in the fund at the end of a fiscal
190 year shall not lapse into the State General Fund, and any interest
191 earned on amounts in the fund shall be deposited to the credit of
192 the fund. Monies in the fund may not be used or expended for any
193 purpose except as authorized under Sections 57-1-301 through
194 57-1-335.

195 (ii) Monies in the Local Governments Capital
196 Improvements Revolving Loan Fund which are derived from interest
197 on loan payments received by the Mississippi Development Authority
198 after January 1, 2002, for loans funded with proceeds of bonds
199 whose interest is not exempt from income taxation under the
200 provisions of the Internal Revenue Code may be used by the
201 Mississippi Development Authority for the ordinary and necessary
202 general support of the Mississippi Development Authority.

203 However, such monies may not be used for the purpose of providing
204 salary increases for Mississippi Development Authority employees.
205 The Mississippi Development Authority may escalate its budget and
206 expend such monies in accordance with rules and regulations of the
207 Department of Finance and Administration in a manner consistent
208 with the escalation of federal funds. This subparagraph (ii)
209 shall be repealed from and after July 1, 2005.

210 (b) The Local Governments Capital Improvements
211 Revolving Loan Fund shall be divided into the Taxable Local
212 Governments Capital Improvements Revolving Loan Subaccount and the
213 Nontaxable Local Governments Capital Improvements Revolving Loan
214 Subaccount. Funds allocated to the Nontaxable Local Governments
215 Capital Improvements Revolving Loan Subaccount shall be utilized
216 to provide loans for capital improvements that would qualify for
217 the issuance of bonds whose interest is exempt from income
218 taxation under the provisions of the Internal Revenue Code. Funds
219 allocated to the Taxable Local Governments Capital Improvements
220 Revolving Loan Subaccount shall be utilized to provide loans for
221 any eligible capital improvements, including, but not limited to,
222 capital improvements that would qualify for the issuance of bonds
223 whose interest is exempt from income taxation under the provisions
224 of the Internal Revenue Code.

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

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

236 (3) (a) The Mississippi Development Authority shall
237 establish a loan program by which loans, at the rate of interest
238 provided for in paragraph (b) of this subsection, may be made
239 available to counties and incorporated municipalities to assist
240 counties and incorporated municipalities in making capital
241 improvements. Loans from the revolving fund may be made to
242 counties and municipalities as set forth in a loan agreement in
243 amounts not to exceed one hundred percent (100%) of eligible
244 project costs as established by the Mississippi Development
245 Authority. The Mississippi Development Authority may require
246 county or municipal participation or funding from other sources,
247 or otherwise limit the percentage of costs covered by loans from
248 the revolving fund. The Mississippi Development Authority may
249 establish a maximum amount for any loan in order to provide for
250 broad and equitable participation in the program and loans for
251 projects described in Section 57-1-301(1)(m) shall not exceed Two
252 Hundred Fifty Thousand Dollars (\$250,000.00) per project.

253 (b) (i) Except as otherwise provided in this paragraph
254 (b), the rate of interest on loans made from the Local Governments
255 Capital Improvements Revolving Loan Fund for capital improvements
256 that would qualify for the issuance of bonds whose interest is
257 exempt from income taxation under the provisions of the Internal
258 Revenue Code shall be at the rate of three percent (3%) per annum,
259 calculated according to the actuarial method. The rate of
260 interest on loans for all other capital improvements shall be at
261 the true interest cost on the most recent issue of twenty-year
262 state general obligation bonds occurring prior to the date such
263 loan is made.

264 (ii) The rate of interest on loans made after
265 April 9, 2002, from the Local Governments Capital Improvements
266 Revolving Loan Fund for capital improvements that would qualify
267 for the issuance of bonds whose interest is exempt from income
268 taxation under the provisions of the Internal Revenue Code shall

269 be at the rate of two percent (2%) per annum, calculated according
270 to the actuarial method. The rate of interest on loans made after
271 April 9, 2002, for all other capital improvements shall be at the
272 rate of three percent (3%) per annum, calculated according to the
273 actuarial method.

274 (iii) Notwithstanding the provisions of this
275 paragraph to the contrary, loans made for the purposes of the
276 capital project described in Section 57-1-301(2)(1) shall bear no
277 interest.

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

292 (5) The State Auditor, upon request of the Mississippi
293 Development Authority, shall audit the receipts and expenditures
294 of a county or an incorporated municipality whose loan payments
295 appear to be in arrears, and if he finds that the county or
296 municipality is in arrears in such payments, he shall immediately
297 notify the Executive Director of the Department of Finance and
298 Administration who shall withhold all future payments to the
299 county of homestead exemption reimbursements under Section
300 27-33-77 and all sums allocated to the county or the municipality
301 under Section 27-65-75 until such time as the county or the

302 municipality is again current in its loan payments as certified by
303 the Mississippi Development Authority.

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

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

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

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

335 (c) Grant amounts shall not exceed seventy-five percent
336 (75%) of the total project amount. The remaining twenty-five
337 percent (25%) shall be provided by the county or incorporated
338 municipality as local matching funds.

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

341 57-1-307. (1) The State Bond Commission, at one time, or
342 from time to time, may declare by resolution the necessity for
343 issuance of general obligation bonds of the State of Mississippi
344 to provide funds for all costs incurred or to be incurred for the
345 purposes described in Section 57-1-303. Upon the adoption of a
346 resolution by the Department of Economic and Community
347 Development, declaring the necessity for the issuance of any part
348 or all of the general obligation bonds authorized by this section,
349 the Department of Economic and Community Development shall deliver
350 a certified copy of its resolution or resolutions to the State
351 Bond Commission. Upon receipt of such resolution, the State Bond
352 Commission, in its discretion, may act as the issuing agent,
353 prescribe the form of the bonds, advertise for and accept bids,
354 issue and sell the bonds so authorized to be sold and do any and
355 all other things necessary and advisable in connection with the
356 issuance and sale of such bonds. The total amount of bonds issued
357 under Sections 57-1-307 through 57-1-335 shall not exceed One
358 Hundred Five Million Dollars (\$105,000,000.00); provided, however,
359 that an additional amount of bonds may be issued under Sections
360 57-1-307 and 57-1-335 in an amount not to exceed Thirteen Million
361 Dollars (\$13,000,000.00), and the proceeds of any such additional
362 amount of bonds so issued shall be utilized solely to provide
363 loans for capital improvements that would qualify for the issuance
364 of bonds whose interest is exempt from income taxation under the
365 provisions of the Internal Revenue Code. Of the additional bonds
366 authorized under Senate Bill No. 2122, 2004 Regular Session, Two
367 Million Five Hundred Thousand Dollars (\$2,500,000.00) shall be

368 used only to provide loans to counties and incorporated
369 municipalities for remediation of a brownfield agreement site
370 under Sections 49-35-1 through 49-35-25.

371 (2) Proceeds from the sale of bonds shall be deposited in
372 the special fund created in Section 57-1-303. Except as otherwise
373 provided in this section, any investment earnings on amounts
374 deposited into the special fund created in Section 57-1-303 shall
375 be used to pay debt service on bonds issued under Sections
376 57-1-307 through 57-1-335, in accordance with the proceedings
377 authorizing issuance of such bonds. The investment earnings on
378 the additional bonds authorized to be issued under Senate Bill No.
379 2122, 2004 Regular Session, fifty percent (50%) shall be deposited
380 into the Local Governments Brownfield Site Remediation Grant Fund
381 created under Section 57-1-303. The remaining fifty percent (50%)
382 of the interest earnings shall be used as otherwise provided in
383 this subsection.

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

386 57-73-21. (1) Annually by December 31, using the most
387 current data available from the University Research Center,
388 Mississippi State Employment Security Commission and the United
389 States Department of Commerce, the State Tax Commission shall rank
390 and designate the state's counties as provided in this section.
391 The twenty-eight (28) counties in this state having a combination
392 of the highest unemployment rate and lowest per capita income for
393 the most recent thirty-six-month period, with equal weight being
394 given to each category, are designated Tier Three areas. The
395 twenty-seven (27) counties in the state with a combination of the
396 next highest unemployment rate and next lowest per capita income
397 for the most recent thirty-six-month period, with equal weight
398 being given to each category, are designated Tier Two areas. The
399 twenty-seven (27) counties in the state with a combination of the
400 lowest unemployment rate and the highest per capita income for the

401 most recent thirty-six-month period, with equal weight being given
402 to each category, are designated Tier One areas. Counties
403 designated by the Tax Commission qualify for the appropriate tax
404 credit for jobs as provided in subsections (2), (3) and (4) of
405 this section. The designation by the Tax Commission is effective
406 for the tax years of permanent business enterprises which begin
407 after the date of designation. For companies which plan an
408 expansion in their labor forces, the Tax Commission shall
409 prescribe certification procedures to ensure that the companies
410 can claim credits in future years without regard to whether or not
411 a particular county is removed from the list of Tier Three or Tier
412 Two areas.

413 (2) Permanent business enterprises primarily engaged in
414 manufacturing, processing, warehousing, distribution, wholesaling
415 and research and development, or permanent business enterprises
416 designated by rule and regulation of the Mississippi Development
417 Authority as air transportation and maintenance facilities, final
418 destination or resort hotels having a minimum of one hundred fifty
419 (150) guest rooms, recreational facilities that impact tourism,
420 movie industry studios, telecommunications enterprises, data or
421 information processing enterprises or computer software
422 development enterprises or any technology intensive facility or
423 enterprise, in counties designated by the Tax Commission as Tier
424 Three areas are allowed a job tax credit for taxes imposed by
425 Section 27-7-5 equal to Two Thousand Dollars (\$2,000.00) annually
426 for each net new full-time employee job for five (5) years
427 beginning with years two (2) through six (6) after the creation of
428 the job. The number of new full-time jobs must be determined by
429 comparing the monthly average number of full-time employees
430 subject to the Mississippi income tax withholding for the taxable
431 year with the corresponding period of the prior taxable year.
432 Only those permanent businesses that increase employment by ten
433 (10) or more in a Tier Three area are eligible for the credit.

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

438 (3) Permanent business enterprises primarily engaged in
439 manufacturing, processing, warehousing, distribution, wholesaling
440 and research and development, or permanent business enterprises
441 designated by rule and regulation of the Mississippi Development
442 Authority as air transportation and maintenance facilities, final
443 destination or resort hotels having a minimum of one hundred fifty
444 (150) guest rooms, recreational facilities that impact tourism,
445 movie industry studios, telecommunications enterprises, data or
446 information processing enterprises or computer software
447 development enterprises or any technology intensive facility or
448 enterprise, in counties that have been designated by the Tax
449 Commission as Tier Two areas are allowed a job tax credit for
450 taxes imposed by Section 27-7-5 equal to One Thousand Dollars
451 (\$1,000.00) annually for each net new full-time employee job for
452 five (5) years beginning with years two (2) through six (6) after
453 the creation of the job. The number of new full-time jobs must be
454 determined by comparing the monthly average number of full-time
455 employees subject to Mississippi income tax withholding for the
456 taxable year with the corresponding period of the prior taxable
457 year. Only those permanent businesses that increase employment by
458 fifteen (15) or more in Tier Two areas are eligible for the
459 credit. The credit is not allowed during any of the five (5)
460 years if the net employment increase falls below fifteen (15).
461 The Tax Commission shall adjust the credit allowed each year for
462 the net new employment fluctuations above the minimum level of
463 fifteen (15).

464 (4) Permanent business enterprises primarily engaged in
465 manufacturing, processing, warehousing, distribution, wholesaling
466 and research and development, or permanent business enterprises

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

489 (5) In addition to the credits authorized in subsections
490 (2), (3) and (4), an additional Five Hundred Dollars (\$500.00)
491 credit for each net new full-time employee or an additional One
492 Thousand Dollars (\$1,000.00) credit for each net new full-time
493 employee who is paid a salary, excluding benefits which are not
494 subject to Mississippi income taxation, of at least one hundred
495 twenty-five percent (125%) of the average annual wage of the state
496 or an additional Two Thousand Dollars (\$2,000.00) credit for each
497 net new full-time employee who is paid a salary, excluding
498 benefits which are not subject to Mississippi income taxation, of
499 at least two hundred percent (200%) of the average annual wage of

500 the state, shall be allowed for any company establishing or
501 transferring its national or regional headquarters from within or
502 outside the State of Mississippi. A minimum of thirty-five (35)
503 jobs must be created to qualify for the additional credit. The
504 State Tax Commission shall establish criteria and prescribe
505 procedures to determine if a company qualifies as a national or
506 regional headquarters for purposes of receiving the credit awarded
507 in this subsection. As used in this subsection, the average
508 annual wage of the state is the most recently published average
509 annual wage as determined by the Mississippi Employment Security
510 Commission.

511 (6) In addition to the credits authorized in subsections
512 (2), (3), (4) and (5), any job requiring research and development
513 skills (chemist, engineer, etc.) shall qualify for an additional
514 One Thousand Dollars (\$1,000.00) credit for each net new full-time
515 employee.

516 (7) In lieu of the tax credits provided in subsections (2)
517 through (6), any commercial or industrial property owner which
518 remediates contaminated property in accordance with Sections
519 49-35-1 through 49-35-25, is allowed a job tax credit for taxes
520 imposed by Section 27-7-5 equal to the amounts provided in
521 subsection (2), (3) or (4) for each net new full-time employee job
522 for five (5) years beginning with years two (2) through six (6)
523 after the creation of the job. The number of new full-time jobs
524 must be determined by comparing the monthly average number of
525 full-time employees subject to Mississippi income tax withholding
526 for the taxable year with the corresponding period of the prior
527 taxable year. This subsection shall be administered in the same
528 manner as subsections (2), (3) and (4), except the landowner shall
529 not be required to increase employment by the levels provided in
530 subsections (2), (3) and (4) to be eligible for the tax credit.

531 (8) Tax credits for five (5) years for the taxes imposed by
532 Section 27-7-5 shall be awarded for additional net new full-time

533 jobs created by business enterprises qualified under subsections
534 (2), (3), (4), (5), (6) and (7) of this section. Except as
535 otherwise provided, the Tax Commission shall adjust the credit
536 allowed in the event of employment fluctuations during the
537 additional five (5) years of credit.

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

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

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

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

562 (13) The tax credits provided for in this section shall be
563 in addition to any tax credits described in Sections 57-51-13(b),
564 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official
565 action by the Department of Economic Development prior to July 1,

566 1989, to any business enterprise determined prior to July 1, 1989,
567 by the Department of Economic Development to be a qualified
568 business as defined in Section 57-51-5(f) or Section 57-54-5(d) or
569 a qualified company as described in Section 57-53-1, as the case
570 may be; however, from and after July 1, 1989, tax credits shall be
571 allowed only under either this section or Sections 57-51-13(b),
572 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time
573 employee.

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

586 **SECTION 8.** Nothing in this act shall affect or defeat any
587 claim, assessment, appeal, suit, right or cause of action for
588 taxes due or accrued under the income tax laws before the date on
589 which this act becomes effective or are begun thereafter. The
590 provisions of the income tax laws are expressly continued in full
591 force, effect and operation for the purpose of the assessment,
592 collection and enrollment of liens for any taxes due or accrued
593 and the execution of any warrant under such laws before the date
594 on which this act becomes effective, and for the imposition of any
595 penalties, forfeitures or claims for failure to comply with such
596 laws.

597 **SECTION 9.** This act shall take effect and be in force from
598 and after January 1, 2005.