

By: Representative Franks

To: Ways and Means

## HOUSE BILL NO. 1341

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 located  
45 and federal and state government agencies should be encouraged to  
46 provide capital and labor to improve brownfields so that the  
47 property can be determined to be safe or made safe for appropriate  
48 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 Mississippi Development Authority, declaring the  
347 necessity for the issuance of any part or all of the general  
348 obligation bonds authorized by this section, the Mississippi  
349 Development Authority shall deliver a certified copy of its  
350 resolution or resolutions to the State Bond Commission. Upon  
351 receipt of such resolution, the State Bond Commission, in its  
352 discretion, may act as the issuing agent, prescribe the form of  
353 the bonds, advertise for and accept bids, issue and sell the bonds  
354 so authorized to be sold and do any and all other things necessary  
355 and advisable in connection with the issuance and sale of such  
356 bonds. The total amount of bonds issued under Sections 57-1-307  
357 through 57-1-335 shall not exceed One Hundred Five Million Dollars  
358 (\$105,000,000.00); provided, however, that an additional amount of  
359 bonds may be issued under Sections 57-1-307 and 57-1-335 in an  
360 amount not to exceed Thirteen Million Dollars (\$13,000,000.00),  
361 and the proceeds of any such additional amount of bonds so issued  
362 shall be utilized solely to provide loans for capital improvements  
363 that would qualify for the issuance of bonds whose interest is  
364 exempt from income taxation under the provisions of the Internal  
365 Revenue Code. Of the additional bonds authorized under House Bill  
366 No. 1341, 2005 Regular Session, Two Million Five Hundred Thousand  
367 Dollars (\$2,500,000.00) shall be used only to provide loans to

368 counties and incorporated municipalities for remediation of a  
369 brownfield agreement site under Sections 49-35-1 through 49-35-25.

370 (2) Proceeds from the sale of bonds shall be deposited in  
371 the special fund created in Section 57-1-303. Except as otherwise  
372 provided in this section, any investment earnings on amounts  
373 deposited into the special fund created in Section 57-1-303 shall  
374 be used to pay debt service on bonds issued under Sections  
375 57-1-307 through 57-1-335, in accordance with the proceedings  
376 authorizing issuance of such bonds. The investment earnings on  
377 the additional bonds authorized to be issued under House Bill No.  
378 1341, 2005 Regular Session, fifty percent (50%) shall be deposited  
379 into the Local Governments Brownfield Site Remediation Grant Fund  
380 created under Section 57-1-303. The remaining fifty percent (50%)  
381 of the interest earnings shall be used as otherwise provided in  
382 this subsection.

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

385 57-73-21. (1) Annually by December 31, using the most  
386 current data available from the University Research Center,  
387 Mississippi State Employment Security Commission and the United  
388 States Department of Commerce, the State Tax Commission shall rank  
389 and designate the state's counties as provided in this section.  
390 The twenty-eight (28) counties in this state having a combination  
391 of the highest unemployment rate and lowest per capita income for  
392 the most recent thirty-six-month period, with equal weight being  
393 given to each category, are designated Tier Three areas. The  
394 twenty-seven (27) counties in the state with a combination of the  
395 next highest unemployment rate and next lowest per capita income  
396 for the most recent thirty-six-month period, with equal weight  
397 being given to each category, are designated Tier Two areas. The  
398 twenty-seven (27) counties in the state with a combination of the  
399 lowest unemployment rate and the highest per capita income for the  
400 most recent thirty-six-month period, with equal weight being given

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

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

434 employment increase falls below ten (10). The Tax Commission  
435 shall adjust the credit allowed each year for the net new  
436 employment fluctuations above the minimum level of ten (10).

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

463 (4) Permanent business enterprises primarily engaged in  
464 manufacturing, processing, warehousing, distribution, wholesaling  
465 and research and development, or permanent business enterprises  
466 designated by rule and regulation of the Mississippi Development

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

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

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

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

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

530 (8) Tax credits for five (5) years for the taxes imposed by  
531 Section 27-7-5 shall be awarded for additional net new full-time  
532 jobs created by business enterprises qualified under subsections



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

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

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

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

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

561 (13) The tax credits provided for in this section shall be  
562 in addition to any tax credits described in Sections 57-51-13(b),  
563 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official  
564 action by the Department of Economic Development prior to July 1,  
565 1989, to any business enterprise determined prior to July 1, 1989,

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

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

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

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