

By: Representative Franks

To: Ways and Means

COMMITTEE SUBSTITUTE
FOR
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 CERTIFY THOSE BROWNFIELD PROPERTIES THAT
9 HAVE BEEN REMEDIATED; TO PROVIDE FOR SUBMISSION OF SUPPORTING
10 INFORMATION TO THE STATE TAX COMMISSION; TO AMEND SECTION
11 57-1-301, MISSISSIPPI CODE OF 1972, TO MODIFY THE DEFINITION OF
12 CAPITAL IMPROVEMENT TO INCLUDE BROWNFIELD SITE REMEDIATION; TO
13 AMEND SECTION 57-1-303, MISSISSIPPI CODE OF 1972, TO CREATE THE
14 LOCAL GOVERNMENTS BROWNFIELDS REDEVELOPMENT GRANT FUND AND
15 PROGRAM; TO AMEND SECTION 57-1-307, MISSISSIPPI CODE OF 1972, TO
16 INCREASE THE AMOUNT OF GENERAL OBLIGATION BONDS AUTHORIZED TO BE
17 ISSUED UNDER THE LOCAL GOVERNMENTS AND CAPITAL IMPROVEMENTS
18 REVOLVING LOAN PROGRAM; TO DEDICATE A PORTION OF THE PROCEEDS OF
19 THE ADDITIONAL BONDS FOR LOANS TO LOCAL GOVERNMENTS FOR
20 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, and costs paid to the
68 Department of Environmental Quality for the processing of the
69 brownfield agreement application and administration of a
70 brownfield agreement. Remediation costs shall not include (i)
71 costs incurred before June 24, 1999; (ii) costs incurred after the
72 issuance of a No Further Action letter under Section 49-35-15,
73 Mississippi Code of 1972; (iii) costs incurred before the

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

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

92 (3) (a) Before applying for the tax credit authorized in
93 this section, a brownfield party shall submit an application to
94 the Department of Environmental Quality for certification that the
95 brownfield party has conducted remediation at a brownfield
96 agreement site in accordance with Sections 49-35-1 through
97 49-35-25 during the tax year(s) for which the credit is sought.
98 The application shall be on forms prescribed by the Commission on
99 Environmental Quality and provided by the Department. The
100 application shall include the following:

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

104 (ii) A certification that the costs to be
105 submitted to the State Tax Commission are remediation costs
106 incurred by the brownfield party during the tax year(s) for which

107 the credit is sought. The certification shall include a listing
108 of all remediation conducted and the associated costs; and

109 (iii) Any other information which the Commission
110 on Environmental Quality or the State Tax Commission deems
111 appropriate.

112 (b) Within sixty (60) days after receipt by the
113 Department of a completed application, the department shall
114 approve or disapprove the application. The Department shall
115 notify the brownfield party in writing of its decision. If the
116 department approves the application, the department shall provide
117 the brownfield party with certification that the brownfield party
118 has conducted remediation at a brownfield agreement site in
119 accordance with Sections 49-35-1 through 49-35-25 during the tax
120 year(s) for which the credit is sought. If the Department
121 disapproves the application, the Department shall notify the
122 brownfield party in writing and state the reasons for the
123 disapproval.

124 (c) Within thirty (30) days after receipt of the
125 Department's decision, the brownfield party may request a hearing
126 before the Commission regarding the Department's decision to
127 disapprove the application. An appeal of the Commission's
128 decision may be taken as provided under Section 49-17-41.

129 (d) The Department's review of the application under
130 this section shall be considered a part of the administration of
131 the brownfield agreement.

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

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

140 under this chapter, except for credit for tax payments made by or
141 on behalf of the brownfield party. Any unused portion of the
142 credit may be carried forward for succeeding tax years.

143 (b) The maximum total credit under this section for a
144 brownfield agreement site is One Hundred Fifty Thousand Dollars
145 (\$150,000.00).

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

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

152 57-1-301. (1) There is established a local governments
153 capital improvements revolving loan program to be administered by
154 the Mississippi Development Authority for the purpose of assisting
155 counties and municipalities in making capital improvements.

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

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

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

162 (c) Improvements in fire protection;

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

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

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

169 (g) Purchase of buildings for economic development
170 purposes;

171 (h) Construction or repair of railroad spurs for
172 industrial development;

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

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

188 57-1-303. (1) (a) (i) There is created a special fund in
189 the State Treasury to be designated as the "Local Governments
190 Capital Improvements Revolving Loan Fund," which fund shall
191 consist of such monies as provided in Sections 57-1-307 through
192 57-1-335. The fund shall be maintained in perpetuity for the
193 purposes established in Sections 57-1-301 through 57-1-335.
194 Unexpended amounts remaining in the fund at the end of a fiscal
195 year shall not lapse into the State General Fund, and any interest
196 earned on amounts in the fund shall be deposited to the credit of
197 the fund. Monies in the fund may not be used or expended for any
198 purpose except as authorized under Sections 57-1-301 through
199 57-1-335.

200 (ii) Monies in the Local Governments Capital
201 Improvements Revolving Loan Fund which are derived from interest
202 on loan payments received by the Mississippi Development Authority
203 after January 1, 2002, for loans funded with proceeds of bonds
204 whose interest is not exempt from income taxation under the
205 provisions of the Internal Revenue Code may be used by the

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

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

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

237 (2) A county or an incorporated municipality may apply to
238 the Mississippi Development Authority for a loan under the local

239 governments capital improvements revolving loan program
240 established under Sections 57-1-301 through 57-1-335.

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

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

269 (ii) The rate of interest on loans made after
270 April 9, 2002, from the Local Governments Capital Improvements
271 Revolving Loan Fund for capital improvements that would qualify

272 for the issuance of bonds whose interest is exempt from income
273 taxation under the provisions of the Internal Revenue Code shall
274 be at the rate of two percent (2%) per annum, calculated according
275 to the actuarial method. The rate of interest on loans made after
276 April 9, 2002, for all other capital improvements shall be at the
277 rate of three percent (3%) per annum, calculated according to the
278 actuarial method.

279 (iii) Notwithstanding the provisions of this
280 paragraph to the contrary, loans made for the purposes of the
281 capital project described in Section 57-1-301(2)(1) shall bear no
282 interest.

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

297 (5) The State Auditor, upon request of the Mississippi
298 Development Authority, shall audit the receipts and expenditures
299 of a county or an incorporated municipality whose loan payments
300 appear to be in arrears, and if he finds that the county or
301 municipality is in arrears in such payments, he shall immediately
302 notify the Executive Director of the Department of Finance and
303 Administration who shall withhold all future payments to the
304 county of homestead exemption reimbursements under Section

305 27-33-77 and all sums allocated to the county or the municipality
306 under Section 27-65-75 until such time as the county or the
307 municipality is again current in its loan payments as certified by
308 the Mississippi Development Authority.

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

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

323 (8) (a) The Mississippi Development Authority shall
324 establish a local governments brownfields redevelopment grant
325 program to provide funds to counties and incorporated
326 municipalities for coordination of activities related to
327 brownfields redevelopment. Activities eligible for funding under
328 this program include identification of brownfield sites, site
329 assessments that have been conducted in accordance with Sections
330 49-35-1 through 49-35-25, and development of remedial action plans
331 that have been conducted in accordance with Sections 49-35-1
332 through 49-35-25. The implementation of remedial action plans or
333 site remediation and post-remediation monitoring shall not be
334 considered eligible activities. The authority shall provide
335 grants to counties or incorporated municipalities, if the county
336 or incorporated municipality demonstrates and the authority

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

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

342 (c) Grant amounts shall not exceed seventy-five percent
343 (75%) of the total project amount. The remaining twenty-five
344 percent (25%) shall be provided by the county or incorporated
345 municipality as local matching funds.

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

348 57-1-307. (1) The State Bond Commission, at one time, or
349 from time to time, may declare by resolution the necessity for
350 issuance of general obligation bonds of the State of Mississippi
351 to provide funds for all costs incurred or to be incurred for the
352 purposes described in Section 57-1-303. Upon the adoption of a
353 resolution by the Mississippi Development Authority, declaring the
354 necessity for the issuance of any part or all of the general
355 obligation bonds authorized by this section, the Mississippi
356 Development Authority shall deliver a certified copy of its
357 resolution or resolutions to the State Bond Commission. Upon
358 receipt of such resolution, the State Bond Commission, in its
359 discretion, may act as the issuing agent, prescribe the form of
360 the bonds, advertise for and accept bids, issue and sell the bonds
361 so authorized to be sold and do any and all other things necessary
362 and advisable in connection with the issuance and sale of such
363 bonds. The total amount of bonds issued under Sections 57-1-307
364 through 57-1-335 shall not exceed One Hundred Five Million Dollars
365 (\$105,000,000.00); provided, however, that an additional amount of
366 bonds may be issued under Sections 57-1-307 and 57-1-335 in an
367 amount not to exceed Thirteen Million Dollars (\$13,000,000.00),
368 and the proceeds of any such additional amount of bonds so issued
369 shall be utilized solely to provide loans for capital improvements

370 that would qualify for the issuance of bonds whose interest is
371 exempt from income taxation under the provisions of the Internal
372 Revenue Code. Of the additional bonds authorized under House Bill
373 No. 1341, 2005 Regular Session, Two Million Five Hundred Thousand
374 Dollars (\$2,500,000.00) shall be used only to provide loans to
375 counties and incorporated municipalities for remediation of a
376 brownfield agreement site under Sections 49-35-1 through 49-35-25.

377 (2) Proceeds from the sale of bonds shall be deposited in
378 the special fund created in Section 57-1-303. Except as otherwise
379 provided in this section, any investment earnings on amounts
380 deposited into the special fund created in Section 57-1-303 shall
381 be used to pay debt service on bonds issued under Sections
382 57-1-307 through 57-1-335, in accordance with the proceedings
383 authorizing issuance of such bonds. The investment earnings on
384 the additional bonds authorized to be issued under House Bill No.
385 1341, 2005 Regular Session, fifty percent (50%) shall be deposited
386 into the Local Governments Brownfield Site Remediation Grant Fund
387 created under Section 57-1-303. The remaining fifty percent (50%)
388 of the interest earnings shall be used as otherwise provided in
389 this subsection.

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

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

403 for the most recent thirty-six-month period, with equal weight
404 being given to each category, are designated Tier Two areas. The
405 twenty-seven (27) counties in the state with a combination of the
406 lowest unemployment rate and the highest per capita income for the
407 most recent thirty-six-month period, with equal weight being given
408 to each category, are designated Tier One areas. Counties
409 designated by the Tax Commission qualify for the appropriate tax
410 credit for jobs as provided in subsections (2), (3) and (4) of
411 this section. The designation by the Tax Commission is effective
412 for the tax years of permanent business enterprises which begin
413 after the date of designation. For companies which plan an
414 expansion in their labor forces, the Tax Commission shall
415 prescribe certification procedures to ensure that the companies
416 can claim credits in future years without regard to whether or not
417 a particular county is removed from the list of Tier Three or Tier
418 Two areas.

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

436 subject to the Mississippi income tax withholding for the taxable
437 year with the corresponding period of the prior taxable year.
438 Only those permanent businesses that increase employment by ten
439 (10) or more in a Tier Three area are eligible for the credit.
440 Credit is not allowed during any of the five (5) years if the net
441 employment increase falls below ten (10). The Tax Commission
442 shall adjust the credit allowed each year for the net new
443 employment fluctuations above the minimum level of ten (10).

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

468 the net new employment fluctuations above the minimum level of
469 fifteen (15).

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

495 (5) In addition to the credits authorized in subsections
496 (2), (3) and (4), an additional Five Hundred Dollars (\$500.00)
497 credit for each net new full-time employee or an additional One
498 Thousand Dollars (\$1,000.00) credit for each net new full-time
499 employee who is paid a salary, excluding benefits which are not
500 subject to Mississippi income taxation, of at least one hundred

501 twenty-five percent (125%) of the average annual wage of the state
502 or an additional Two Thousand Dollars (\$2,000.00) credit for each
503 net new full-time employee who is paid a salary, excluding
504 benefits which are not subject to Mississippi income taxation, of
505 at least two hundred percent (200%) of the average annual wage of
506 the state, shall be allowed for any company establishing or
507 transferring its national or regional headquarters from within or
508 outside the State of Mississippi. A minimum of thirty-five (35)
509 jobs must be created to qualify for the additional credit. The
510 State Tax Commission shall establish criteria and prescribe
511 procedures to determine if a company qualifies as a national or
512 regional headquarters for purposes of receiving the credit awarded
513 in this subsection. As used in this subsection, the average
514 annual wage of the state is the most recently published average
515 annual wage as determined by the Department of Employment
516 Security.

517 (6) In addition to the credits authorized in subsections
518 (2), (3), (4) and (5), any job requiring research and development
519 skills (chemist, engineer, etc.) shall qualify for an additional
520 One Thousand Dollars (\$1,000.00) credit for each net new full-time
521 employee.

522 (7) In lieu of the tax credits provided in subsections (2)
523 through (6), any commercial or industrial property owner which
524 remediates contaminated property in accordance with Sections
525 49-35-1 through 49-35-25, is allowed a job tax credit for taxes
526 imposed by Section 27-7-5 equal to the amounts provided in
527 subsection (2), (3) or (4) for each net new full-time employee job
528 for five (5) years beginning with years two (2) through six (6)
529 after the creation of the job. The number of new full-time jobs
530 must be determined by comparing the monthly average number of
531 full-time employees subject to Mississippi income tax withholding
532 for the taxable year with the corresponding period of the prior
533 taxable year. This subsection shall be administered in the same

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

537 (8) Tax credits for five (5) years for the taxes imposed by
538 Section 27-7-5 shall be awarded for additional net new full-time
539 jobs created by business enterprises qualified under subsections
540 (2), (3), (4), (5), (6) and (7) of this section. Except as
541 otherwise provided, the Tax Commission shall adjust the credit
542 allowed in the event of employment fluctuations during the
543 additional five (5) years of credit.

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

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

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

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

568 (13) The tax credits provided for in this section shall be
569 in addition to any tax credits described in Sections 57-51-13(b),
570 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official
571 action by the Department of Economic Development prior to July 1,
572 1989, to any business enterprise determined prior to July 1, 1989,
573 by the Department of Economic Development to be a qualified
574 business as defined in Section 57-51-5(f) or Section 57-54-5(d) or
575 a qualified company as described in Section 57-53-1, as the case
576 may be; however, from and after July 1, 1989, tax credits shall be
577 allowed only under either this section or Sections 57-51-13(b),
578 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time
579 employee.

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

592 **SECTION 8.** Nothing in this act shall affect or defeat any
593 claim, assessment, appeal, suit, right or cause of action for
594 taxes due or accrued under the income tax laws before the date on
595 which this act becomes effective or are begun thereafter. The
596 provisions of the income tax laws are expressly continued in full
597 force, effect and operation for the purpose of the assessment,

598 collection and enrollment of liens for any taxes due or accrued
599 and the execution of any warrant under such laws before the date
600 on which this act becomes effective, and for the imposition of any
601 penalties, forfeitures or claims for failure to comply with such
602 laws.

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