

By: Representative Franks

To: Ways and Means

HOUSE BILL NO. 1341  
(As Sent to Governor)

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, as  
187 amended by House Bill No. 310, 2005 Regular Session, is amended as  
188 follows:

189 57-1-303. (1) (a) (i) There is created a special fund in  
190 the State Treasury to be designated as the "Local Governments  
191 Capital Improvements Revolving Loan Fund," which fund shall  
192 consist of such monies as provided in Sections 57-1-307 through  
193 57-1-335. The fund shall be maintained in perpetuity for the  
194 purposes established in Sections 57-1-301 through 57-1-335.  
195 Unexpended amounts remaining in the fund at the end of a fiscal  
196 year shall not lapse into the State General Fund, and any interest  
197 earned on amounts in the fund shall be deposited to the credit of  
198 the fund. Monies in the fund may not be used or expended for any  
199 purpose except as authorized under Sections 57-1-301 through  
200 57-1-335.

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

206 provisions of the Internal Revenue Code may be used by the  
207 Mississippi Development Authority for the ordinary and necessary  
208 general support of the Mississippi Development Authority.  
209 However, such monies may not be used for the purpose of providing  
210 salary increases for Mississippi Development Authority employees.  
211 The Mississippi Development Authority may escalate its budget and  
212 expend such monies in accordance with rules and regulations of the  
213 Department of Finance and Administration in a manner consistent  
214 with the escalation of federal funds. This subparagraph (ii)  
215 shall be repealed from and after July 1, 2007.

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

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

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

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

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



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

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

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

298           (5) The State Auditor, upon request of the Mississippi  
299 Development Authority, shall audit the receipts and expenditures  
300 of a county or an incorporated municipality whose loan payments  
301 appear to be in arrears, and if he finds that the county or  
302 municipality is in arrears in such payments, he shall immediately

303 notify the Executive Director of the Department of Finance and  
304 Administration who shall withhold all future payments to the  
305 county of homestead exemption reimbursements under Section  
306 27-33-77 and all sums allocated to the county or the municipality  
307 under Section 27-65-75 until such time as the county or the  
308 municipality is again current in its loan payments as certified by  
309 the Mississippi Development Authority.

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

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

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

336 grants to counties or incorporated municipalities, if the county  
337 or incorporated municipality demonstrates and the authority  
338 determines that following remediation the site will be directly  
339 associated with the creation or retention of jobs.

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

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

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

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

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

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

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

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

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