

By: Minor, Blackmon, Johnson
(19th)

To: Finance

SENATE BILL NO. 2001

1 AN ACT TO PROVIDE AN INCOME TAX CREDIT IN THE AMOUNT OF
2 \$5,000.00 FOR EACH NET NEW FULL-TIME EMPLOYEE JOB CREATED BY A
3 BUSINESS ENTERPRISE THAT OPERATES A PROJECT WITH AN INITIAL
4 CAPITAL INVESTMENT FROM ANY SOURCE OF NOT LESS THAN
5 \$750,000,000.00 AND CREATE AT LEAST 3,000 JOBS; TO PROVIDE THAT
6 THE ENTERPRISE MAY UTILIZE THE CREDIT FOR A PERIOD OF 20 YEARS
7 FROM THE DATE THE CREDIT COMMENCES; TO PROVIDE THAT THE ENTERPRISE
8 MAY SELECT THE COMMENCEMENT DATE BUT THE COMMENCEMENT DATE MAY NOT
9 BE MORE THAN FIVE YEARS FROM THE DATE THE BUSINESS ENTERPRISE
10 COMMENCES COMMERCIAL PRODUCTION; TO PROVIDE THAT EXCESS CREDITS
11 MAY BE CARRIED FORWARD FOR FIVE YEARS; TO AUTHORIZE A JOB TAX
12 CREDIT FOR CERTAIN SUPPLIERS LOCATED ON A PROJECT SITE OF CERTAIN
13 PROJECTS DEVELOPED UNDER THE MISSISSIPPI MAJOR ECONOMIC IMPACT
14 ACT; TO PROVIDE THAT THE AMOUNT OF SUCH CREDIT SHALL BE \$1,000.00
15 FOR EACH NET NEW FULL-TIME JOB; TO PROVIDE THAT THE DURATION OF
16 SUCH CREDIT SHALL NOT EXCEED FIVE YEARS; TO PROVIDE AN AD VALOREM
17 TAX EXEMPTION FOR CERTAIN SPECIAL TOOLS THAT ARE HELD FOR USE IN
18 MOTOR VEHICLE AND MOTOR VEHICLE PARTS PRODUCTION AND ASSEMBLY; TO
19 PROVIDE THAT THE BOARD OF SUPERVISORS OF A COUNTY MAY ENTER INTO
20 AN AGREEMENT WITH AN ENTERPRISE OPERATING A CERTAIN PROJECT AS
21 DEFINED IN THE MISSISSIPPI MAJOR ECONOMIC IMPACT ACT PROVIDING
22 THAT THE COUNTY WILL NOT LEVY ANY TAXES, FEES OR ASSESSMENTS UPON
23 THE ENTERPRISE OTHER THAN TAXES, FEES OR ASSESSMENTS THAT ARE
24 GENERALLY LEVIED UPON ALL TAXPAYERS; TO PROVIDE THAT SUCH AN
25 AGREEMENT MAY BE FOR A PERIOD NOT TO EXCEED 30 YEARS; TO PROVIDE
26 THAT THE BOARD OF SUPERVISORS OF A COUNTY OR MUNICIPAL GOVERNING
27 AUTHORITIES MAY ENTER INTO AN AGREEMENT WITH A SUPPLIER OF AN
28 ENTERPRISE OPERATING A CERTAIN PROJECT AS DEFINED IN THE
29 MISSISSIPPI MAJOR ECONOMIC IMPACT ACT PROVIDING THAT THE BOARD OF
30 SUPERVISORS OR GOVERNING AUTHORITIES WILL APPROVE ANY REQUEST FOR
31 EXEMPTION FROM AD VALOREM TAXES SUBMITTED BY THE SUPPLIER IN THE
32 MANNER PROVIDED BY LAW; TO PROVIDE THAT SUCH AN AGREEMENT MAY BE
33 FOR A PERIOD NOT TO EXCEED 20 YEARS AND THAT ANY SUCH EXEMPTION
34 SHALL BE FOR A PERIOD OF 10 YEARS; TO AMEND SECTIONS 57-75-5,
35 57-75-9, 57-75-11, 57-75-15 AND 57-75-17, MISSISSIPPI CODE OF
36 1972, TO REVISE THE DEFINITION OF THE TERM "PROJECT" UNDER THE
37 MISSISSIPPI MAJOR ECONOMIC IMPACT ACT TO INCLUDE ANY MAJOR CAPITAL
38 PROJECT WITH AN INITIAL CAPITAL INVESTMENT FROM ANY SOURCE OF NOT
39 LESS THAN \$750,000,000.00 WHICH CREATES NOT LESS THAN 3,000 NET

40 NEW FULL-TIME JOBS; TO REVISE THE DEFINITION OF THE TERM "PROJECT
41 AREA" TO EXPAND SUCH DEFINITION TO INCLUDE ANY AREA OR TERRITORY
42 WITHIN THE STATE FOR SUCH PROJECT; TO AUTHORIZE CONTRACTS FOR THE
43 ACQUISITION, PURCHASE, CONSTRUCTION OR INSTALLATION OF SUCH
44 PROJECT TO BE EXEMPT FROM THE BID LAW UNDER CERTAIN CIRCUMSTANCES;
45 TO AUTHORIZE THE MISSISSIPPI MAJOR ECONOMIC IMPACT AUTHORITY TO
46 EXERCISE THE RIGHT OF IMMEDIATE POSSESSION TO ACQUIRE PROPERTY FOR
47 SUCH PROJECT; TO AUTHORIZE THE MISSISSIPPI MAJOR ECONOMIC IMPACT
48 AUTHORITY TO ENTER INTO CONTRACTUAL AGREEMENTS TO WARRANT ANY SITE
49 WORK FOR SUCH PROJECT AND TO LIMIT THE AMOUNT OF SUCH WARRANTY; TO
50 AUTHORIZE THE MISSISSIPPI MAJOR ECONOMIC IMPACT AUTHORITY TO
51 PROVIDE GRANTS TO AN ENTERPRISE OPERATING SUCH PROJECT AND TO
52 LIMIT THE AMOUNT OF SUCH GRANTS; TO AUTHORIZE THE ISSUANCE OF
53 BONDS IN THE AMOUNT OF \$295,000,000.00 FOR SUCH PROJECT; TO
54 AUTHORIZE THE PROCEEDS OF BONDS ISSUED UNDER THE MISSISSIPPI MAJOR
55 ECONOMIC IMPACT ACT TO BE UTILIZED FOR CERTAIN PURPOSES; TO
56 AUTHORIZE ANY PUBLIC AGENCY PROVIDING ANY UTILITY SERVICE TO
57 CERTAIN PROJECTS DEVELOPED UNDER THE MISSISSIPPI MAJOR ECONOMIC
58 IMPACT ACT TO ENTER INTO LEASES OR SUBLEASES AND CERTAIN OTHER
59 AGREEMENTS FOR ANY PERIOD OF TIME NOT TO EXCEED 30 YEARS; TO AMEND
60 SECTIONS 11-27-81, 11-27-85 AND 31-7-13, MISSISSIPPI CODE OF 1972,
61 IN CONFORMITY THERETO; TO AMEND SECTION 27-65-101, MISSISSIPPI
62 CODE OF 1972, TO EXEMPT FROM SALES TAXATION SALES TO CERTAIN
63 MANUFACTURERS OF MOTOR VEHICLES OF MACHINERY AND CERTAIN SPECIAL
64 TOOLS OR REPAIR PARTS THEREFOR, FUEL AND SUPPLIES USED DIRECTLY IN
65 THE MANUFACTURE OF MOTOR VEHICLES OR MOTOR VEHICLE PARTS; TO
66 EXEMPT FROM SALES TAXATION THE SALE OF MATERIALS, MACHINERY AND
67 EQUIPMENT USED IN THE CONSTRUCTION OF A BUILDING, OR AN ADDITION
68 OR IMPROVEMENT THEREON TO AN ENTERPRISE OPERATING CERTAIN PROJECTS
69 DEFINED UNDER THE MISSISSIPPI MAJOR ECONOMIC IMPACT ACT; TO AMEND
70 SECTION 27-67-7, MISSISSIPPI CODE OF 1972, TO EXEMPT FROM USE
71 TAXATION CERTAIN PERSONAL PROPERTY USED BY A TAXPAYER OTHER THAN
72 THE MANUFACTURER, WHEN THE MANUFACTURER STILL HOLDS TITLE TO THE
73 GOODS AND THE ITEMS ARE PURCHASED AS PART OF CERTAIN PROJECTS
74 DEVELOPED UNDER THE MISSISSIPPI MAJOR ECONOMIC IMPACT ACT; TO
75 AMEND SECTIONS 28 AND 30, CHAPTER 1, LAWS OF 2000, SECOND
76 EXTRAORDINARY SESSION, TO PROVIDE THAT CERTAIN BUSINESSES THAT
77 QUALIFY FOR INCENTIVE PAYMENTS UNDER THE MISSISSIPPI ADVANTAGE
78 JOBS ACT MAY ELECT WHEN THE TEN-YEAR INCENTIVE PERIOD WILL BEGIN;
79 TO PROVIDE THAT SUCH DATE MAY NOT BE LATER THAN 60 MONTHS AFTER
80 THE DATE THE BUSINESS APPLIED FOR INCENTIVE PAYMENTS; TO PROVIDE
81 THAT CERTAIN BUSINESSES QUALIFIED TO RECEIVE PAYMENTS UNDER THE
82 MISSISSIPPI ADVANTAGE JOBS ACT MAY RECEIVE INCENTIVE PAYMENTS FOR
83 A PERIOD IN EXCESS OF TEN YEARS; TO PROVIDE THAT IN ORDER TO
84 QUALIFY FOR SUCH ADDITIONAL INCENTIVE PAYMENTS A BUSINESS MUST BE
85 A CERTAIN PROJECT AS DEFINED IN THE MISSISSIPPI MAJOR ECONOMIC
86 IMPACT ACT AND MUST CREATE AND MAINTAIN A CERTAIN NUMBER OF JOBS
87 WITH AN AVERAGE ANNUAL WAGE OF AT LEAST 150% OF THE MOST RECENT
88 AVERAGE ANNUAL WAGE OF THE STATE OR THE MOST RECENT AVERAGE ANNUAL
89 WAGE OF THE COUNTY IN WHICH THE QUALIFIED BUSINESS OR INDUSTRY IS
90 LOCATED, WHICHEVER IS THE LESSER; TO AMEND SECTION 21-1-59,
91 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT NO MUNICIPALITY SHALL BE
92 CREATED OR EXPAND ITS BOUNDARIES SO AS TO INCLUDE WITHIN THE
93 LIMITS OF SUCH MUNICIPALITY CERTAIN PROJECTS DEVELOPED UNDER THE
94 MISSISSIPPI MAJOR ECONOMIC IMPACT ACT; TO AMEND SECTION 27-19-309,

95 MISSISSIPPI CODE OF 1972, TO AUTHORIZE A MOTOR VEHICLE
96 MANUFACTURER OPERATING CERTAIN PROJECTS DEVELOPED UNDER THE
97 MISSISSIPPI MAJOR ECONOMIC IMPACT ACT TO PURCHASE A CERTAIN NUMBER
98 OF DISTINGUISHING NUMBER TAGS TO BE UTILIZED BY THE MANUFACTURER
99 FOR VEHICLES OWNED BY THE MANUFACTURER AND WHICH ARE USED
100 PRIMARILY FOR MAINTENANCE AT THE PROJECT SITE AND FOR TESTING,
101 DEMONSTRATION, EVALUATION, INCENTIVES AND PROMOTION; TO AMEND
102 SECTION 63-17-55, MISSISSIPPI CODE OF 1972, TO REVISE THE
103 DEFINITION OF THE TERM "MOTOR VEHICLE DEALER" FOR PURPOSES OF THE
104 MISSISSIPPI MOTOR VEHICLE COMMISSION LAW TO EXCLUDE A MOTOR
105 VEHICLE MANUFACTURER OPERATING A CERTAIN PROJECT AS DEFINED IN THE
106 MISSISSIPPI MAJOR ECONOMIC IMPACT ACT; TO PROVIDE THAT THE
107 MISSISSIPPI MOTOR VEHICLE COMMISSION LAW SHALL NOT APPLY TO ANY
108 LEASE BY SUCH A MOTOR VEHICLE MANUFACTURER OF THREE OR FEWER MOTOR
109 VEHICLES AT ANY ONE TIME AND RELATED VEHICLE MAINTENANCE, OF ANY
110 LINE OF VEHICLE PRODUCED BY THE MANUFACTURER OR ITS SUBSIDIARIES,
111 TO ANY ONE EMPLOYEE OF THE MANUFACTURER ON A DIRECT BASIS OR ANY
112 SALE OR OTHER DISPOSITION OF SUCH MOTOR VEHICLES BY THE
113 MANUFACTURER AT THE END OF A LEASE THROUGH DIRECT SALES TO
114 EMPLOYEES OF THE MANUFACTURER OR THROUGH AN OPEN AUCTION OR
115 AUCTION LIMITED TO DEALERS OF THE MANUFACTURER'S VEHICLE LINE OR
116 ITS SUBSIDIARIES' VEHICLE LINES; TO AMEND SECTION 63-17-103,
117 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO CREATE A NEW
118 CODE SECTION TO BE CODIFIED AS SECTION 57-75-22, MISSISSIPPI CODE
119 OF 1972, TO PROVIDE THAT CERTAIN HIGHWAY PROJECTS CONSTRUCTED OR
120 IMPROVED UNDER THE MISSISSIPPI MAJOR ECONOMIC IMPACT ACT SHALL BE
121 UNDER THE JURISDICTION OF THE MISSISSIPPI TRANSPORTATION
122 COMMISSION FOR CONSTRUCTION AND MAINTENANCE; AND FOR RELATED
123 PURPOSES.

124

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

126 SECTION 1. (1) Permanent business enterprises engaged in
127 operating a project and companies that are members of an
128 affiliated group that includes such permanent business enterprises
129 are allowed a job tax credit for taxes imposed by Section 27-7-5
130 equal to Five Thousand Dollars (\$5,000.00) annually for each net
131 new full-time employee job for a period of twenty (20) years from
132 the date the credit commences. The credit shall commence on the
133 date selected by the permanent business enterprise; provided,
134 however, that the commencement date shall not be more than five
135 (5) years from the date the business enterprise commences
136 commercial production. For the year in which the commencement

137 date occurs, the number of new full-time jobs shall be determined
138 by using the monthly average number of full-time employees subject
139 to the Mississippi income tax withholding. Thereafter, the number
140 of new full-time jobs shall be determined by comparing the monthly
141 average number of full-time employees subject to the Mississippi
142 income tax withholding for the taxable year with the corresponding
143 period of the prior taxable year. Once a permanent business
144 enterprise creates or increases employment three thousand (3,000)
145 or more, such enterprise and the members of the affiliated group
146 that include such enterprise, shall be eligible for the credit.
147 The credit is not allowed for any year of the twenty-year period
148 in which the overall monthly average number of full-time employees
149 subject to the Mississippi income tax withholding falls below
150 three thousand (3,000). The State Tax Commission shall adjust the
151 credit allowed each year for the net new employment fluctuations
152 above three thousand (3,000).

153 (2) Any tax credit claimed under this section but not used
154 in any taxable year may be carried forward for five (5)
155 consecutive years from the close of the tax year in which the
156 credits were earned. The credit that may be utilized each year
157 shall be limited to an amount not greater than the total state
158 income tax liability of the permanent business enterprise and the
159 state income tax liability of any member of the affiliated group
160 that includes such enterprise that is generated by, or arises out
161 of, the project.

162 (3) The tax credits provided for in this section shall be in
163 lieu of the tax credits provided for in Section 57-73-21 and any
164 permanent business enterprise or any member of the affiliated

165 group that includes such enterprise utilizing the tax credit
166 authorized in this section shall not utilize the tax credit
167 authorized in Section 57-73-21.

168 (4) As used in this section:

169 (a) "Project" means a project as defined in Section
170 57-75-5(f)(iv).

171 (b) "Affiliated group" means one or more corporations
172 connected through stock ownership with a common parent corporation
173 where at least eighty percent (80%) of the voting power of all
174 classes of stock and at least eighty percent (80%) of each class
175 of the nonvoting stock of each of the member corporations, except
176 the common parent corporation, is directly owned by one or more of
177 the other member corporations; and the common parent corporation
178 directly owns stock possessing at least eighty percent (80%) of
179 the voting power of all classes of stock and at least eighty
180 percent (80%) of each class of the nonvoting stock of at least one
181 (1) of the other member corporations. As used in this subsection,
182 the term "stock" does not include nonvoting stock that is limited
183 and preferred as to dividends.

184 SECTION 2. (1) Integrated suppliers are allowed a job tax
185 credit for taxes imposed by Section 27-7-5 equal to One Thousand
186 Dollars (\$1,000.00) annually for each net new full-time employee
187 for five (5) years from the date the credit commences. The credit
188 shall commence on the date selected by the integrated supplier;
189 provided, however, that the commencement date shall not be more
190 than five (5) years from the date the integrated supplier
191 commences commercial production. For the year in which the
192 commencement date occurs, the number of new full-time jobs shall

193 be determined by using the monthly average number of full-time
194 employees subject to Mississippi income tax withholding.
195 Thereafter, the number of new full-time jobs shall be determined
196 by comparing the monthly average number of full-time employees
197 subject to Mississippi income tax withholding for the taxable year
198 with the corresponding period of the prior taxable year. Only
199 those integrated suppliers that increase employment by twenty (20)
200 or more are eligible for the credit. The credit is not allowed
201 during any of the five (5) years if the net employment increase
202 falls below twenty (20). The State Tax Commission shall adjust
203 the credit allowed each year for the net new employment
204 fluctuations above the minimum level of twenty (20).

205 (2) Any tax credit claimed under this section but not used
206 in any taxable year may be carried forward for five (5)
207 consecutive years from the close of the tax year in which the
208 credits were earned. The credit that may be utilized each year
209 shall be limited to an amount not greater than the taxpayer's
210 state income tax liability which is attributable to income derived
211 from operation in the state for that year.

212 (3) The tax credits provided for in this section shall be in
213 lieu of the tax credits provided for in Section 57-73-21, and any
214 integrated supplier utilizing the tax credit authorized in this
215 section shall not utilize the tax credit authorized in Section
216 57-73-21.

217 (4) As used in this section the term "integrated supplier"
218 means a supplier located on the project site which provides goods
219 or services on the project site solely for a project as defined in
220 Section 57-75-5(f)(iv)1.

221 SECTION 3. (1) As used in this section, the term "vendor
222 tooling" means any special tools such as dies, molds, jigs and
223 similar items treated as special tooling for federal income tax
224 purposes, owned by a business enterprise operating a motor vehicle
225 production and assembly plant that are held for use in motor
226 vehicle and motor vehicle parts production and assembly and are
227 located off the site of the motor vehicle production and assembly
228 plant of such business enterprise. For purposes of this
229 subsection "business enterprise operating a motor vehicle
230 production and assembly plant" means a business enterprise that
231 produces not less than fifty thousand (50,000) motor vehicles
232 annually.

233 (2) Vendor tooling shall be exempt from ad valorem taxation.

234 SECTION 4. The board of supervisors of a county may enter
235 into an agreement with an enterprise operating a project as
236 defined in Section 57-75-5(f)(iv)1 providing that the county will
237 not levy any taxes, fees or assessments upon the enterprise other
238 than taxes, fees or assessments that are generally levied upon all
239 taxpayers. Such an agreement may be for a period not to exceed
240 thirty (30) years.

241 SECTION 5. The board of supervisors of a county or the
242 governing authorities of a municipality may enter into an
243 agreement with an enterprise operating a project as defined in
244 Section 57-75-5(f)(iv)1 providing that the board of supervisors or
245 governing authorities will agree in advance to approve any request
246 for exemption from ad valorem taxes submitted by a supplier of
247 such enterprise in the manner provided by law and that any such
248 exemption shall be for a period of ten (10) years. Such an

249 agreement on the part of the board of supervisors or governing
250 authorities may be for a period not to exceed twenty (20) years.

251 SECTION 6. Section 57-75-5, Mississippi Code of 1972, is
252 amended as follows:[CR1]

253 57-75-5. Words and phrases used in this chapter shall have
254 meanings as follows, unless the context clearly indicates a
255 different meaning:

256 (a) "Act" means the Mississippi Major Economic Impact
257 Act as originally enacted or as hereafter amended.

258 (b) "Authority" means the Mississippi Major Economic
259 Impact Authority created pursuant to the act.

260 (c) "Bonds" means general obligation bonds, interim
261 notes and other evidences of debt of the State of Mississippi
262 issued pursuant to this chapter.

263 (d) "Facility related to the project" means and
264 includes any of the following, as the same may pertain to the
265 project within the project area: (i) facilities to provide
266 potable and industrial water supply systems, sewage and waste
267 disposal systems and water, natural gas and electric transmission
268 systems to the site of the project; (ii) airports, airfields and
269 air terminals; (iii) rail lines; (iv) port facilities; (v)
270 highways, streets and other roadways; (vi) public school
271 buildings, classrooms and instructional facilities, training
272 facilities and equipment, including any functionally related
273 facilities; (vii) parks, outdoor recreation facilities and
274 athletic facilities; (viii) auditoriums, pavilions, campgrounds,
275 art centers, cultural centers, folklore centers and other public
276 facilities; * * * (ix) health care facilities, public or private;

277 and (x) fire protection facilities, equipment and elevated water
278 tanks.

279 (e) "Person" means any natural person, corporation,
280 association, partnership, receiver, trustee, guardian, executor,
281 administrator, fiduciary, governmental unit, public agency,
282 political subdivision, or any other group acting as a unit, and
283 the plural as well as the singular.

284 (f) "Project" means:

285 (i) Any industrial, commercial, research and
286 development, warehousing, distribution, transportation,
287 processing, mining, United States government or tourism enterprise
288 together with all real property required for construction,
289 maintenance and operation of the enterprise with an initial
290 capital investment of not less than Three Hundred Million Dollars
291 (\$300,000,000.00) from private or United States government sources
292 together with all buildings, and other supporting land and
293 facilities, structures or improvements of whatever kind required
294 or useful for construction, maintenance and operation of the
295 enterprise; or with an initial capital investment of not less than
296 One Hundred Fifty Million Dollars (\$150,000,000.00) from private
297 or United States government sources together with all buildings
298 and other supporting land and facilities, structures or
299 improvements of whatever kind required or useful for construction,
300 maintenance and operation of the enterprise and which creates at
301 least one thousand (1,000) net new full-time jobs; or which
302 creates at least one thousand (1,000) net new full-time jobs which
303 provides an average salary, excluding benefits which are not
304 subject to Mississippi income taxation, of at least one hundred

305 twenty-five percent (125%) of the most recently published average
306 annual wage of the state as determined by the Mississippi
307 Employment Security Commission. "Project" shall include any
308 addition to or expansion of an existing enterprise if such
309 addition or expansion has an initial capital investment of not
310 less than Three Hundred Million Dollars (\$300,000,000.00) from
311 private or United States government sources, or has an initial
312 capital investment of not less than One Hundred Fifty Million
313 Dollars (\$150,000,000.00) from private or United States government
314 sources together with all buildings and other supporting land and
315 facilities, structures or improvements of whatever kind required
316 or useful for construction, maintenance and operation of the
317 enterprise and which creates at least one thousand (1,000) net new
318 full-time jobs; or which creates at least one thousand (1,000) net
319 new full-time jobs which provides an average salary, excluding
320 benefits which are not subject to Mississippi income taxation, of
321 at least one hundred twenty-five percent (125%) of the most
322 recently published average annual wage of the state as determined
323 by the Mississippi Employment Security Commission. "Project"
324 shall also include any ancillary development or business resulting
325 from the enterprise, of which the authority is notified, within
326 three (3) years from the date that the enterprise entered into
327 commercial production, that the project area has been selected as
328 the site for the ancillary development or business.

329 (ii) Any major capital project designed to
330 improve, expand or otherwise enhance any active duty United States
331 Air Force or Navy training bases or naval stations, their support
332 areas or their military operations, upon designation by the

333 authority that any such base was or is at risk to be recommended
334 for closure or realignment pursuant to the Defense Base Closure
335 and Realignment Act of 1990; or any major development project
336 determined by the authority to be necessary to acquire base
337 properties and to provide employment opportunities through
338 construction of projects as defined in Section 57-3-5, which shall
339 be located on or provide direct support service or access to such
340 military installation property as such property exists on July 1,
341 1993, in the event of closure or reduction of military operations
342 at the installation. From and after July 1, 1997, projects
343 described in this subparagraph (ii) shall not be considered to be
344 within the meaning of the term "project" for purposes of this
345 section, unless such projects are commenced before July 1, 1997,
346 and shall not be eligible for any funding provided under the
347 Mississippi Major Economic Impact Act.

348 (iii) Any enterprise to be maintained, improved or
349 constructed in Tishomingo County by or for a National Aeronautics
350 and Space Administration facility in such county.

351 (iv) 1. Any major capital project with an initial
352 capital investment from private sources of not less than Seven
353 Hundred Fifty Million Dollars (\$750,000,000.00) which will create
354 at least three thousand (3,000) new direct jobs as defined in
355 Section 26, Chapter 1, Laws of 2000, Second Extraordinary
356 Session. * * *

357 2. "Project" shall also include any ancillary
358 development or business resulting from an enterprise operating a
359 project as defined in item 1 of this paragraph (f)(iv), of which
360 the authority is notified, within three (3) years from the date

361 that the enterprise entered into commercial production, that the
362 state has been selected as the site for the ancillary development
363 or business.

364 (v) Any major capital project designed to
365 construct the corporate headquarters and initial factory, to be
366 located in the Golden Triangle Region of the state, for any
367 Mississippi corporation that develops, constructs and operates
368 automated robotic systems to improve the quality of, and reduce
369 the costs of, manufacturing wire harness assemblies for certain
370 industries, or manufactures thin film polymer lithium-ion
371 rechargeable batteries which project has a ten-year strategic plan
372 of supporting one thousand (1,000) direct project-related jobs for
373 each group of wire harness contracts amounting to Thirty-five
374 Million Dollars (\$35,000,000.00), or which has a ten-year
375 strategic plan of supporting one thousand five hundred (1,500)
376 direct project-related jobs for each group of polymer lithium-ion
377 rechargeable battery contracts amounting to Forty Million Dollars
378 (\$40,000,000.00).

379 (vi) Any real property owned or controlled by the
380 National Aeronautics and Space Administration, the United States
381 government, or any agency thereof, which is legally conveyed to
382 the State of Mississippi or to the State of Mississippi for the
383 benefit of the Mississippi Major Economic Impact Authority, its
384 successors and assigns pursuant to Section 212 of Public Law
385 104-99, enacted January 26, 1996 (110 Stat. 26 at 38).

386 (vii) Any major capital project designed to
387 manufacture, produce and transmit electrical power using natural
388 gas as its primary raw material to be constructed and maintained

389 in Panola County, Mississippi, with an initial capital investment
390 of not less than Two Hundred Fifty Million Dollars
391 (\$250,000,000.00).

392 (g) "Project area" means the project site, together
393 with any area or territory within the state lying within
394 sixty-five (65) miles of any portion of the project site whether
395 or not such area or territory be contiguous; provided, however,
396 that for the project defined in paragraph (f)(iv) of this section
397 the term "project area" means any area or territory within the
398 state. The project area shall also include all territory within a
399 county if any portion of such county lies within sixty-five (65)
400 miles of any portion of the project site. "Project site" means
401 the real property on which the principal facilities of the
402 enterprise will operate.

403 (h) "Public agency" means:

404 (i) Any department, board, commission, institution
405 or other agency or instrumentality of the state;

406 (ii) Any city, town, county, political
407 subdivision, school district or other district created or existing
408 under the laws of the state or any public agency of any such city,
409 town, county, political subdivision or district or any other
410 public entity created or existing under local and private
411 legislation;

412 (iii) Any department, commission, agency or
413 instrumentality of the United States of America; and

414 (iv) Any other state of the United States of
415 America which may be cooperating with respect to location of the
416 project within the state, or any agency thereof.

417 (i) "State" means State of Mississippi.

418 (j) "Fee-in-lieu" means a negotiated fee to be paid by
419 the project in lieu of any franchise taxes imposed on the project
420 by Chapter 13, Title 27, Mississippi Code of 1972. The
421 fee-in-lieu shall not be less than Twenty-five Thousand Dollars
422 (\$25,000.00) annually. A fee-in-lieu shall not be negotiated for
423 existing enterprises that fall within the definition of the term
424 "project."

425 SECTION 7. Section 57-75-9, Mississippi Code of 1972, is
426 amended as follows:[CR2]

427 57-75-9. (1) The authority is hereby designated and
428 empowered to act on behalf of the state in submitting a siting
429 proposal for any project eligible for assistance under this act.
430 The authority is empowered to take all steps appropriate or
431 necessary to effect the siting, development, and operation of the
432 project within the state, including the negotiation of a
433 fee-in-lieu. If the state is selected as the preferred site for
434 the project, the authority is hereby designated and empowered to
435 act on behalf of the state and to represent the state in the
436 planning, financing, development, construction and operation of
437 the project or any facility related to the project, with the
438 concurrence of the affected public agency. The authority may take
439 affirmative steps to coordinate fully all aspects of the
440 submission of a siting proposal for the project and, if the state
441 is selected as the preferred site, to coordinate fully, with the
442 concurrence of the affected public agency, the development of the
443 project or any facility related to the project with private
444 business, the United States government and other public agencies.

445 All public agencies are encouraged to cooperate to the fullest
446 extent possible to effectuate the duties of the authority;
447 however, the development of the project or any facility related to
448 the project by the authority may be done only with the concurrence
449 of the affected public agency.

450 (2) (a) Contracts, by the authority or a public agency,
451 including, but not limited to, design and construction contracts,
452 for the acquisition, purchase, construction or installation of a
453 project defined in Section 57-75-5(f)(iv) or any facility related
454 to the project shall be exempt from the provisions of Section
455 31-7-13 if:

456 (i) The authority finds and records such finding
457 on its minutes, that because of availability or the particular
458 nature of a project, it would not be in the public interest or
459 would less effectively achieve the purposes of this chapter to
460 enter into such contracts on the basis of Section 31-7-13; and

461 (ii) The enterprise that is involved in the
462 project concurs in such finding.

463 (b) When the requirements of paragraph (a) of this
464 subsection are met:

465 (i) The requirements of Section 31-7-13 shall not
466 apply to such contracts; and

467 (ii) The contracts may be entered into on the
468 basis of negotiation.

469 (c) The enterprise involved with the project may, upon
470 approval of the authority, negotiate such contracts in the name of
471 the authority.

472 SECTION 8. Section 57-75-11, Mississippi Code of 1972, is

473 amended as follows:[CR3]

474 **[Through June 30, 2001, this section shall read as follows:]**

475 57-75-11. The authority, in addition to any and all powers
476 now or hereafter granted to it, is empowered and shall exercise
477 discretion and the use of these powers depending on the
478 circumstances of the project or projects:

479 (a) To maintain an office at a place or places within
480 the state.

481 (b) To employ or contract with architects, engineers,
482 attorneys, accountants, construction and financial experts and
483 such other advisors, consultants and agents as may be necessary in
484 its judgment and to fix and pay their compensation.

485 (c) To make such applications and enter into such
486 contracts for financial assistance as may be appropriate under
487 applicable federal or state law.

488 (d) To apply for, accept and utilize grants, gifts and
489 other funds or aid from any source for any purpose contemplated by
490 the act, and to comply, subject to the provisions of this act,
491 with the terms and conditions thereof.

492 (e) (i) To acquire by purchase, lease, gift, or in
493 other manner, including quick-take eminent domain, or obtain
494 options to acquire, and to own, maintain, use, operate and convey
495 any and all property of any kind, real, personal, or mixed, or any
496 interest or estate therein, within the project area, necessary for
497 the project or any facility related to the project. The
498 provisions of this paragraph that allow the acquisition of
499 property by quick-take eminent domain shall be repealed by
500 operation of law on July 1, 1994; and

501 (ii) Notwithstanding any other provision of this
502 paragraph (e), from and after the effective date of Senate Bill
503 No. 2001, 2000 Third Extraordinary Session, to exercise the right
504 of immediate possession pursuant to the provisions of Sections
505 11-27-81 through 11-27-89 for the purpose of acquiring land,
506 property and/or rights-of-way in the county in which a project as
507 defined in Section 57-75-5(f)(iv)1 is located, that are necessary
508 for such project or any facility related to the project.

509 (f) To acquire by purchase or lease any public lands
510 and public property, including sixteenth section lands and lieu
511 lands, within the project area, which are necessary for the
512 project. Sixteenth section lands or lieu lands acquired under
513 this act shall be deemed to be acquired for the purposes of
514 industrial development thereon and such acquisition will serve a
515 higher public interest in accordance with the purposes of this
516 act.

517 (g) If the authority identifies any land owned by the
518 state as being necessary, for the location or use of the project,
519 or any facility related to the project, to recommend to the
520 Legislature the conveyance of such land or any interest therein,
521 as the Legislature deems appropriate.

522 (h) To make or cause to be made such examinations and
523 surveys as may be necessary to the planning, design, construction
524 and operation of the project.

525 (i) From and after the date of notification to the
526 authority by the enterprise that the state has been finally
527 selected as the site of the project, to acquire by condemnation
528 and to own, maintain, use, operate and convey or otherwise dispose

529 of any and all property of any kind, real, personal or mixed, or
530 any interest or estate therein, within the project area, necessary
531 for the project or any facility related to the project, with the
532 concurrence of the affected public agency, and the exercise of the
533 powers granted by this act, according to the procedures provided
534 by Chapter 27, Title 11, Mississippi Code of 1972, except as
535 modified by this act.

536 (i) Except as otherwise provided in subparagraph
537 (iii) of this paragraph (i), in acquiring lands by condemnation,
538 the authority shall not acquire minerals or royalties in minerals
539 unless a competent registered professional engineer shall have
540 certified that the acquisition of such minerals and royalties in
541 minerals is necessary for purposes of the project; provided that
542 limestone, clay, chalk, sand and gravel shall not be considered as
543 minerals for the purposes of subparagraphs (i) and (ii) of this
544 paragraph (i); * * *

545 (ii) Unless minerals or royalties in minerals have
546 been acquired by condemnation or otherwise, no person or persons
547 owning the drilling rights or the right to share in production of
548 minerals shall be prevented from exploring, developing, or
549 producing oil or gas with necessary rights-of-way for ingress and
550 egress, pipelines and other means of transporting interests on any
551 land or interest therein of the authority held or used for the
552 purposes of this act; but any such activities shall be under such
553 reasonable regulation by the authority as will adequately protect
554 the project contemplated by this act as provided in paragraph (r)
555 of this section; and

556 (iii) In acquiring lands by condemnation,

557 including the exercise of immediate possession, for a project, as
558 defined in Section 57-75-5(f)(iv)1, the authority may acquire
559 minerals or royalties in minerals.

560 (j) To negotiate the necessary relocation or rerouting
561 of roads and highways, railroad, telephone and telegraph lines and
562 properties, electric power lines, pipelines and related
563 facilities, or to require the anchoring or other protection of any
564 of these, provided due compensation is paid to the owners thereof
565 or agreement is had with such owners regarding the payment of the
566 cost of such relocation, and to acquire by condemnation or
567 otherwise easements or rights-of-way for such relocation or
568 rerouting and to convey the same to the owners of the facilities
569 being relocated or rerouted in connection with the purposes of
570 this act.

571 (k) To negotiate the necessary relocation of graves and
572 cemeteries and to pay all reasonable costs thereof.

573 (l) To perform or have performed any and all acts and
574 make all payments necessary to comply with all applicable federal
575 laws, rules or regulations including, but not limited to, the
576 Uniform Relocation Assistance and Real Property Acquisition
577 Policies Act of 1970 (42 USCS 4601, 4602, 4621 to 4638, and 4651
578 to 4655) and relocation rules and regulations promulgated by any
579 agency or department of the federal government.

580 (m) To construct, extend, improve, maintain, and
581 reconstruct, to cause to be constructed, extended, improved,
582 maintained, and reconstructed, and to use and operate any and all
583 components of the project or any facility related to the project,
584 with the concurrence of the affected public agency, within the

585 project area, necessary to the project and to the exercise of such
586 powers, rights, and privileges granted the authority.

587 (n) To incur or defray any designated portion of the
588 cost of any component of the project or any facility related to
589 the project acquired or constructed by any public agency.

590 (o) To lease, sell or convey any or all property
591 acquired by the authority under the provisions of this act to the
592 enterprise, its successors or assigns, and in connection therewith
593 to pay the costs of title search, perfection of title, title
594 insurance and recording fees as may be required. The authority
595 may provide in the instrument conveying such property a provision
596 that such property shall revert to the authority if, as and when
597 the property is declared by the enterprise to be no longer needed.

598 (p) To enter into contracts with any person or public
599 agency including, but not limited to, contracts authorized by
600 Section 57-75-17, in furtherance of any of the purposes authorized
601 by this act upon such consideration as the authority and such
602 person or public agency may agree. Any such contract may extend
603 over any period of time, notwithstanding any rule of law to the
604 contrary, may be upon such terms as the parties thereto shall
605 agree, and may provide that it shall continue in effect until
606 bonds specified therein, refunding bonds issued in lieu of such
607 bonds, and all other obligations specified therein are paid or
608 terminated. Any such contract shall be binding upon the parties
609 thereto according to its terms. Such contracts may include an
610 agreement to reimburse the enterprise, its successors and assigns
611 for any assistance provided by the enterprise in the acquisition
612 of real property for the project or any facility related to the

613 project.

614 (q) To establish and maintain reasonable rates and
615 charges for the use of any facility within the project area owned
616 or operated by the authority, and from time to time to adjust such
617 rates and to impose penalties for failure to pay such rates and
618 charges when due.

619 (r) To adopt and enforce with the concurrence of the
620 affected public agency all necessary and reasonable rules and
621 regulations to carry out and effectuate the implementation of the
622 project and any land use plan or zoning classification adopted for
623 the project area, including, but not limited to, rules,
624 regulations, and restrictions concerning mining, construction,
625 excavation or any other activity the occurrence of which may
626 endanger the structure or operation of the project. Such rules
627 may be enforced within the project area and without the project
628 area as necessary to protect the structure and operation of the
629 project. The authority is authorized to plan or replan, zone or
630 rezone, and make exceptions to any regulations, whether local or
631 state, with the concurrence of the affected public agency which
632 are inconsistent with the design, planning, construction or
633 operation of the project and facilities related to the project.

634 (s) To plan, design, coordinate and implement measures
635 and programs to mitigate impacts on the natural environment caused
636 by the project or any facility related to the project.

637 (t) To develop plans for technology transfer activities
638 to ensure private sector conduits for exchange of information,
639 technology and expertise related to the project to generate
640 opportunities for commercial development within the state.

641 (u) To consult with the State Department of Education
642 and other public agencies for the purpose of improving public
643 schools and curricula within the project area.

644 (v) To consult with the State Board of Health and other
645 public agencies for the purpose of improving medical centers,
646 hospitals and public health centers in order to provide
647 appropriate health care facilities within the project area.

648 (w) To consult with the Office of Minority Business
649 Enterprise Development and other public agencies for the purpose
650 of developing plans for technical assistance and loan programs to
651 maximize the economic impact related to the project for minority
652 business enterprises within the State of Mississippi.

653 (x) To deposit into the "Yellow Creek Project Area
654 Fund" created pursuant to Section 57-75-31:

655 (i) Any funds or aid received as authorized in
656 this section for the project described in Section 57-75-5(f)(vi),
657 and

658 (ii) Any funds received from the sale or lease of
659 property from the project described in Section 57-75-5(f)(vi)
660 pursuant to the powers exercised under this section.

661 (y) To manage and develop the project described in
662 Section 57-75-5(f)(vi) subject to the provisions of Section
663 57-75-29.

664 (z) To promulgate rules and regulations necessary to
665 effectuate the purposes of this act.

666 (aa) To negotiate a fee-in-lieu with the owners of the
667 project.

668 (bb) To enter into contractual agreements to warrant

669 any site work for a project defined in Section 57-75-5(f)(iv)1;
670 provided, however, that the amount of any such warranty shall not
671 exceed Ten Million Dollars (\$10,000,000.00).

672 (cc) To provide grant funds to an enterprise operating
673 a project defined in Section 57-75-5(f)(iv)1 in an amount not to
674 exceed Seventeen Million Dollars (\$17,000,000.00).

675 **[From and after July 1, 2001, this section shall read as**
676 **follows:]**

677 57-75-11. The authority, in addition to any and all powers
678 now or hereafter granted to it, is empowered and shall exercise
679 discretion and the use of these powers depending on the
680 circumstances of the project or projects:

681 (a) To maintain an office at a place or places within
682 the state.

683 (b) To employ or contract with architects, engineers,
684 attorneys, accountants, construction and financial experts and
685 such other advisors, consultants and agents as may be necessary in
686 its judgment and to fix and pay their compensation.

687 (c) To make such applications and enter into such
688 contracts for financial assistance as may be appropriate under
689 applicable federal or state law.

690 (d) To apply for, accept and utilize grants, gifts and
691 other funds or aid from any source for any purpose contemplated by
692 the act, and to comply, subject to the provisions of this act,
693 with the terms and conditions thereof.

694 (e) (i) To acquire by purchase, lease, gift, or in
695 other manner, including quick-take eminent domain, or obtain
696 options to acquire, and to own, maintain, use, operate and convey

697 any and all property of any kind, real, personal, or mixed, or any
698 interest or estate therein, within the project area, necessary for
699 the project or any facility related to the project. The
700 provisions of this paragraph that allow the acquisition of
701 property by quick-take eminent domain shall be repealed by
702 operation of law on July 1, 1994; and

703 (ii) Notwithstanding any other provision of this
704 paragraph (e), from and after the effective date of Senate Bill
705 No. 2001, 2000 Third Extraordinary Session, to exercise the right
706 of immediate possession pursuant to the provisions of Sections
707 11-27-81 through 11-27-89 for the purpose of acquiring land,
708 property and/or rights-of-way in the county in which a project as
709 defined in Section 57-75-5(f)(iv)1 is located, that are necessary
710 for such project or any facility related to the project.

711 (f) To acquire by purchase or lease any public lands
712 and public property, including sixteenth section lands and lieu
713 lands, within the project area, which are necessary for the
714 project. Sixteenth section lands or lieu lands acquired under
715 this act shall be deemed to be acquired for the purposes of
716 industrial development thereon and such acquisition will serve a
717 higher public interest in accordance with the purposes of this
718 act.

719 (g) If the authority identifies any land owned by the
720 state as being necessary, for the location or use of the project,
721 or any facility related to the project, to recommend to the
722 Legislature the conveyance of such land or any interest therein,
723 as the Legislature deems appropriate.

724 (h) To make or cause to be made such examinations and

725 surveys as may be necessary to the planning, design, construction
726 and operation of the project.

727 (i) From and after the date of notification to the
728 authority by the enterprise that the state has been finally
729 selected as the site of the project, to acquire by condemnation
730 and to own, maintain, use, operate and convey or otherwise dispose
731 of any and all property of any kind, real, personal or mixed, or
732 any interest or estate therein, within the project area, necessary
733 for the project or any facility related to the project, with the
734 concurrence of the affected public agency, and the exercise of the
735 powers granted by this act, according to the procedures provided
736 by Chapter 27, Title 11, Mississippi Code of 1972, except as
737 modified by this act.

738 (i) Except as otherwise provided in subparagraph
739 (iii) of this paragraph (i), in acquiring lands by condemnation,
740 the authority shall not acquire minerals or royalties in minerals
741 unless a competent registered professional engineer shall have
742 certified that the acquisition of such minerals and royalties in
743 minerals is necessary for purposes of the project; provided that
744 limestone, clay, chalk, sand and gravel shall not be considered as
745 minerals for the purposes of subparagraphs (i) and (ii) of this
746 paragraph (i); * * *

747 (ii) Unless minerals or royalties in minerals have
748 been acquired by condemnation or otherwise, no person or persons
749 owning the drilling rights or the right to share in production of
750 minerals shall be prevented from exploring, developing, or
751 producing oil or gas with necessary rights-of-way for ingress and
752 egress, pipelines and other means of transporting interests on any

753 land or interest therein of the authority held or used for the
754 purposes of this act; but any such activities shall be under such
755 reasonable regulation by the authority as will adequately protect
756 the project contemplated by this act as provided in paragraph (r)
757 of this section; and

758 (iii) In acquiring lands by condemnation,
759 including the exercise of immediate possession, for a project, as
760 defined in Section 57-75-5(f)(iv)1, the authority may acquire
761 minerals or royalties in minerals.

762 (j) To negotiate the necessary relocation or rerouting
763 of roads and highways, railroad, telephone and telegraph lines and
764 properties, electric power lines, pipelines and related
765 facilities, or to require the anchoring or other protection of any
766 of these, provided due compensation is paid to the owners thereof
767 or agreement is had with such owners regarding the payment of the
768 cost of such relocation, and to acquire by condemnation or
769 otherwise easements or rights-of-way for such relocation or
770 rerouting and to convey the same to the owners of the facilities
771 being relocated or rerouted in connection with the purposes of
772 this act.

773 (k) To negotiate the necessary relocation of graves and
774 cemeteries and to pay all reasonable costs thereof.

775 (l) To perform or have performed any and all acts and
776 make all payments necessary to comply with all applicable federal
777 laws, rules or regulations including, but not limited to, the
778 Uniform Relocation Assistance and Real Property Acquisition
779 Policies Act of 1970 (42 USCS 4601, 4602, 4621 to 4638, and 4651
780 to 4655) and relocation rules and regulations promulgated by any

781 agency or department of the federal government.

782 (m) To construct, extend, improve, maintain, and
783 reconstruct, to cause to be constructed, extended, improved,
784 maintained, and reconstructed, and to use and operate any and all
785 components of the project or any facility related to the project,
786 with the concurrence of the affected public agency, within the
787 project area, necessary to the project and to the exercise of such
788 powers, rights, and privileges granted the authority.

789 (n) To incur or defray any designated portion of the
790 cost of any component of the project or any facility related to
791 the project acquired or constructed by any public agency.

792 (o) To lease, sell or convey any or all property
793 acquired by the authority under the provisions of this act to the
794 enterprise, its successors or assigns, and in connection therewith
795 to pay the costs of title search, perfection of title, title
796 insurance and recording fees as may be required. The authority
797 may provide in the instrument conveying such property a provision
798 that such property shall revert to the authority if, as and when
799 the property is declared by the enterprise to be no longer needed.

800 (p) To enter into contracts with any person or public
801 agency including, but not limited to, contracts authorized by
802 Section 57-75-17, in furtherance of any of the purposes authorized
803 by this act upon such consideration as the authority and such
804 person or public agency may agree. Any such contract may extend
805 over any period of time, notwithstanding any rule of law to the
806 contrary, may be upon such terms as the parties thereto shall
807 agree, and may provide that it shall continue in effect until
808 bonds specified therein, refunding bonds issued in lieu of such

809 bonds, and all other obligations specified therein are paid or
810 terminated. Any such contract shall be binding upon the parties
811 thereto according to its terms. Such contracts may include an
812 agreement to reimburse the enterprise, its successors and assigns
813 for any assistance provided by the enterprise in the acquisition
814 of real property for the project or any facility related to the
815 project.

816 (q) To establish and maintain reasonable rates and
817 charges for the use of any facility within the project area owned
818 or operated by the authority, and from time to time to adjust such
819 rates and to impose penalties for failure to pay such rates and
820 charges when due.

821 (r) To adopt and enforce with the concurrence of the
822 affected public agency all necessary and reasonable rules and
823 regulations to carry out and effectuate the implementation of the
824 project and any land use plan or zoning classification adopted for
825 the project area, including, but not limited to, rules,
826 regulations, and restrictions concerning mining, construction,
827 excavation or any other activity the occurrence of which may
828 endanger the structure or operation of the project. Such rules
829 may be enforced within the project area and without the project
830 area as necessary to protect the structure and operation of the
831 project. The authority is authorized to plan or replan, zone or
832 rezone, and make exceptions to any regulations, whether local or
833 state, with the concurrence of the affected public agency which
834 are inconsistent with the design, planning, construction or
835 operation of the project and facilities related to the project.

836 (s) To plan, design, coordinate and implement measures

837 and programs to mitigate impacts on the natural environment caused
838 by the project or any facility related to the project.

839 (t) To develop plans for technology transfer activities
840 to ensure private sector conduits for exchange of information,
841 technology and expertise related to the project to generate
842 opportunities for commercial development within the state.

843 (u) To consult with the State Department of Education
844 and other public agencies for the purpose of improving public
845 schools and curricula within the project area.

846 (v) To consult with the State Board of Health and other
847 public agencies for the purpose of improving medical centers,
848 hospitals and public health centers in order to provide
849 appropriate health care facilities within the project area.

850 (w) To consult with the Office of Minority Business
851 Enterprise Development and other public agencies for the purpose
852 of developing plans for technical assistance and loan programs to
853 maximize the economic impact related to the project for minority
854 business enterprises within the State of Mississippi.

855 (x) To deposit into the "Yellow Creek Project Area
856 Fund" created pursuant to Section 57-75-31:

857 (i) Any funds or aid received as authorized in
858 this section for the project described in Section 57-75-5(f)(vi),
859 and

860 (ii) Any funds received from the sale or lease of
861 property from the project described in Section 57-75-5(f)(vi)
862 pursuant to the powers exercised under this section.

863 (y) To manage and develop the project described in
864 Section 57-75-5(f)(vi).

865 (z) To promulgate rules and regulations necessary to
866 effectuate the purposes of this act.

867 (aa) To negotiate a fee-in-lieu with the owners of the
868 project.

869 **(bb) To enter into contractual agreements to warrant**
870 **any site work for a project defined in Section 57-75-5(f)(iv)1;**
871 **provided, however, that the amount of any such warranty shall not**
872 **exceed Ten Million Dollars (\$10,000,000.00).**

873 **(cc) To provide grant funds to an enterprise operating**
874 **a project defined in Section 57-75-5(f)(iv)1 in an amount not to**
875 **exceed Seventeen Million Dollars (\$17,000,000.00).**

876 SECTION 9. Section 57-75-15, Mississippi Code of 1972, is
877 amended as follows:[CR4]

878 57-75-15. (1) Upon notification to the authority by the
879 enterprise that the state has been finally selected as the site
880 for the project, the State Bond Commission shall have the power
881 and is hereby authorized and directed, upon receipt of a
882 declaration from the authority as hereinafter provided, to borrow
883 money and issue general obligation bonds of the state in one or
884 more series for the purposes herein set out. Upon such
885 notification, the authority may thereafter from time to time
886 declare the necessity for the issuance of general obligation bonds
887 as authorized by this section and forward such declaration to the
888 State Bond Commission, provided that before such notification, the
889 authority may enter into agreements with the United States
890 government, private companies and others that will commit the
891 authority to direct the State Bond Commission to issue bonds for
892 eligible undertakings set out in subsection (4) of this section,

893 conditioned on the siting of the project in the state.

894 (2) Upon receipt of any such declaration from the authority,
895 the State Bond Commission shall verify that the state has been
896 selected as the site of the project and shall act as the issuing
897 agent for the series of bonds directed to be issued in such
898 declaration pursuant to authority granted in this section.

899 (3) (a) Bonds issued under the authority of this section
900 for projects as defined in Section 57-75-5(f)(i) shall not exceed
901 an aggregate principal amount in the sum of Sixty-four Million Two
902 Hundred Fifty Thousand Dollars (\$64,250,000.00).

903 (b) Bonds issued under the authority of this section
904 for projects as defined in Section 57-75-5(f)(ii) shall not exceed
905 Fifty Million Dollars (\$50,000,000.00), nor shall the bonds issued
906 for projects related to any single military installation exceed
907 Sixteen Million Six Hundred Sixty-seven Thousand Dollars
908 (\$16,667,000.00). If any proceeds of bonds issued for projects
909 related to the Meridian Naval Auxiliary Air Station ("NAAS") are
910 used for the development of a water and sewer service system by
911 the City of Meridian, Mississippi, to serve the NAAS and if the
912 City of Meridian annexes any of the territory served by the water
913 and sewer service system, the city shall repay the State of
914 Mississippi the amount of all bond proceeds expended on any
915 portion of the water and sewer service system project; and if
916 there are any monetary proceeds derived from the disposition of
917 any improvements located on real property in Kemper County
918 purchased pursuant to this act for projects related to the NAAS
919 and if there are any monetary proceeds derived from the
920 disposition of any timber located on real property in Kemper

921 County purchased pursuant to this act for projects related to the
922 NAAS, all of such proceeds (both from the disposition of
923 improvements and the disposition of timber) commencing July 1,
924 1996, through June 30, 2010, shall be paid to the Board of
925 Education of Kemper County, Mississippi, for expenditure by such
926 board of education to benefit the public schools of Kemper County.

927 No bonds shall be issued under this paragraph (b) until the State
928 Bond Commission by resolution adopts a finding that the issuance
929 of such bonds will improve, expand or otherwise enhance the
930 military installation, its support areas or military operations,
931 or will provide employment opportunities to replace those lost by
932 closure or reductions in operations at the military installation.

933 From and after July 1, 1997, bonds shall not be issued for any
934 projects, as defined in Section 57-75-5(f)(ii), which are not
935 commenced before July 1, 1997. The proceeds of any bonds issued
936 for projects commenced before July 1, 1997, shall be used for the
937 purposes for which the bonds were issued until completion of the
938 projects.

939 (c) Bonds issued under the authority of this section
940 for projects as defined in Section 57-75-5(f)(iii) shall not
941 exceed Ten Million Dollars (\$10,000,000.00). No bonds shall be
942 issued under this paragraph after December 31, 1996.

943 (d) Bonds issued under the authority of this section
944 for projects defined in Section 57-75-5(f)(iv) shall not exceed
945 Two Hundred Ninety-five Million Dollars (\$295,000,000.00). No
946 bonds shall be issued under this paragraph after June 30, 2003.

947 (e) Bonds issued under the authority of this section
948 for the project defined in Section 57-75-5(f)(v) shall not exceed

949 Twenty Million Three Hundred Seventy Thousand Dollars
950 (\$20,370,000.00). No bonds shall be issued under this paragraph
951 (e) until the State Bond Commission by resolution adopts a finding
952 that the project has secured wire harness contracts or contracts
953 to manufacture thin film polymer lithium-ion rechargeable
954 batteries, or any combination of such contracts, in the aggregate
955 amount of Twenty Million Dollars (\$20,000,000.00), either from the
956 United States government or the private sector. No bonds shall be
957 issued under this paragraph after June 30, 2001.

958 (f) Bonds issued under the authority of this section
959 for projects defined in Section 57-75-5(f)(vii) shall not exceed
960 Twenty-six Million Dollars (\$26,000,000.00). No bonds shall be
961 issued after June 30, 2001.

962 (4) The proceeds from the sale of the bonds issued under
963 this section may be applied for the purposes of: (a) defraying
964 all or any designated portion of the costs incurred with respect
965 to acquisition, planning, design, construction, installation,
966 rehabilitation, improvement, relocation and with respect to
967 state-owned property, operation and maintenance of the project and
968 any facility related to the project located within the project
969 area, including costs of design and engineering, all costs
970 incurred to provide land, easements and rights-of-way, relocation
971 costs with respect to the project and with respect to any facility
972 related to the project located within the project area, and costs
973 associated with mitigation of environmental impacts and
974 environmental impact studies; (b) defraying the cost of providing
975 for the recruitment, screening, selection, training or retraining
976 of employees, candidates for employment or replacement employees

977 of the project and any related activity; (c) reimbursing the
978 Mississippi Development Authority for expenses it incurred in
979 regard to projects defined in Section 57-75-5(f)(iv) prior to the
980 effective date of Senate Bill No. 2001, 2000 Third Extraordinary
981 Session. The Mississippi Development Authority shall submit an
982 itemized list of expenses it incurred in regard to such projects
983 to the Chairmen of the Finance and Appropriations Committees of
984 the Senate and the Chairmen of the Ways and Means and
985 Appropriations Committees of the House of Representatives; (d)
986 providing grants to enterprises operating projects defined in
987 Section 57-75-5(f)(iv)1; (e) paying any warranty made by the
988 authority regarding site work for a project defined in Section
989 57-75-5(f)(iv)1; (f) defraying the cost of marketing and promotion
990 of a project as defined in Section 57-75-5(f)(iv)1. The authority
991 shall submit an itemized list of costs incurred for marketing and
992 promotion of such project to the Chairmen of the Finance and
993 Appropriations Committees of the Senate and the Chairmen of the
994 Ways and Means and Appropriations Committees of the House of
995 Representatives; (g) providing for the payment of interest on the
996 bonds; (h) providing debt service reserves; and (i) paying
997 underwriters' discount, original issue discount, accountants'
998 fees, engineers' fees, attorneys' fees, rating agency fees and
999 other fees and expenses in connection with the issuance of the
1000 bonds. Such bonds shall be issued from time to time and in such
1001 principal amounts as shall be designated by the authority, not to
1002 exceed in aggregate principal amounts the amount authorized in
1003 subsection (3) of this section. Proceeds from the sale of the
1004 bonds issued under this section may be invested, subject to

1005 federal limitations, pending their use, in such securities as may
1006 be specified in the resolution authorizing the issuance of the
1007 bonds or the trust indenture securing them, and the earning on
1008 such investment applied as provided in such resolution or trust
1009 indenture.

1010 (5) The principal of and the interest on the bonds shall be
1011 payable in the manner hereinafter set forth. The bonds shall bear
1012 date or dates; be in such denomination or denominations; bear
1013 interest at such rate or rates; be payable at such place or places
1014 within or without the state; mature absolutely at such time or
1015 times; be redeemable before maturity at such time or times and
1016 upon such terms, with or without premium; bear such registration
1017 privileges; and be substantially in such form; all as shall be
1018 determined by resolution of the State Bond Commission except that
1019 such bonds shall mature or otherwise be retired in annual
1020 installments beginning not more than five (5) years from the date
1021 thereof and extending not more than twenty-five (25) years from
1022 the date thereof. The bonds shall be signed by the Chairman of
1023 the State Bond Commission, or by his facsimile signature, and the
1024 official seal of the State Bond Commission shall be imprinted on
1025 or affixed thereto, attested by the manual or facsimile signature
1026 of the Secretary of the State Bond Commission. Whenever any such
1027 bonds have been signed by the officials herein designated to sign
1028 the bonds, who were in office at the time of such signing but who
1029 may have ceased to be such officers before the sale and delivery
1030 of such bonds, or who may not have been in office on the date such
1031 bonds may bear, the signatures of such officers upon such bonds
1032 shall nevertheless be valid and sufficient for all purposes and

1033 have the same effect as if the person so officially signing such
1034 bonds had remained in office until the delivery of the same to the
1035 purchaser, or had been in office on the date such bonds may bear.

1036 (6) All bonds issued under the provisions of this section
1037 shall be and are hereby declared to have all the qualities and
1038 incidents of negotiable instruments under the provisions of the
1039 Uniform Commercial Code and in exercising the powers granted by
1040 this chapter, the State Bond Commission shall not be required to
1041 and need not comply with the provisions of the Uniform Commercial
1042 Code.

1043 (7) The State Bond Commission shall sell the bonds on sealed
1044 bids at public sale, and for such price as it may determine to be
1045 for the best interest of the State of Mississippi, but no such
1046 sale shall be made at a price less than par plus accrued interest
1047 to date of delivery of the bonds to the purchaser. The bonds
1048 shall bear interest at such rate or rates not exceeding the limits
1049 set forth in Section 75-17-101 as shall be fixed by the State Bond
1050 Commission. All interest accruing on such bonds so issued shall
1051 be payable semiannually or annually; provided that the first
1052 interest payment may be for any period of not more than one (1)
1053 year.

1054 Notice of the sale of any bonds shall be published at least
1055 one (1) time, the first of which shall be made not less than ten
1056 (10) days prior to the date of sale, and shall be so published in
1057 one or more newspapers having a general circulation in the City of
1058 Jackson and in one or more other newspapers or financial journals
1059 with a large national circulation, to be selected by the State
1060 Bond Commission.

1061 The State Bond Commission, when issuing any bonds under the
1062 authority of this section, may provide that the bonds, at the
1063 option of the state, may be called in for payment and redemption
1064 at the call price named therein and accrued interest on such date
1065 or dates named therein.

1066 (8) State bonds issued under the provisions of this section
1067 shall be the general obligations of the state and backed by the
1068 full faith and credit of the state. The Legislature shall
1069 appropriate annually an amount sufficient to pay the principal of
1070 and the interest on such bonds as they become due. All bonds
1071 shall contain recitals on their faces substantially covering the
1072 foregoing provisions of this section.

1073 (9) The State Treasurer is authorized to certify to the
1074 Department of Finance and Administration the necessity for
1075 warrants, and the Department of Finance and Administration is
1076 authorized and directed to issue such warrants payable out of any
1077 funds appropriated by the Legislature under this section for such
1078 purpose, in such amounts as may be necessary to pay when due the
1079 principal of and interest on all bonds issued under the provisions
1080 of this section. The State Treasurer shall forward the necessary
1081 amount to the designated place or places of payment of such bonds
1082 in ample time to discharge such bonds, or the interest thereon, on
1083 the due dates thereof.

1084 (10) The bonds may be issued without any other proceedings
1085 or the happening of any other conditions or things other than
1086 those proceedings, conditions and things which are specified or
1087 required by this chapter. Any resolution providing for the
1088 issuance of general obligation bonds under the provisions of this

1089 section shall become effective immediately upon its adoption by
1090 the State Bond Commission, and any such resolution may be adopted
1091 at any regular or special meeting of the State Bond Commission by
1092 a majority of its members.

1093 (11) In anticipation of the issuance of bonds hereunder, the
1094 State Bond Commission is authorized to negotiate and enter into
1095 any purchase, loan, credit or other agreement with any bank, trust
1096 company or other lending institution or to issue and sell interim
1097 notes for the purpose of making any payments authorized under this
1098 section. All borrowings made under this provision shall be
1099 evidenced by notes of the state which shall be issued from time to
1100 time, for such amounts not exceeding the amount of bonds
1101 authorized herein, in such form and in such denomination and
1102 subject to such terms and conditions of sale and issuance,
1103 prepayment or redemption and maturity, rate or rates of interest
1104 not to exceed the maximum rate authorized herein for bonds, and
1105 time of payment of interest as the State Bond Commission shall
1106 agree to in such agreement. Such notes shall constitute general
1107 obligations of the state and shall be backed by the full faith and
1108 credit of the state. Such notes may also be issued for the
1109 purpose of refunding previously issued notes; except that no notes
1110 shall mature more than three (3) years following the date of
1111 issuance of the first note hereunder and provided further, that
1112 all outstanding notes shall be retired from the proceeds of the
1113 first issuance of bonds hereunder. The State Bond Commission is
1114 authorized to provide for the compensation of any purchaser of the
1115 notes by payment of a fixed fee or commission and for all other
1116 costs and expenses of issuance and service, including paying agent

1117 costs. Such costs and expenses may be paid from the proceeds of
1118 the notes.

1119 (12) The bonds and interim notes authorized under the
1120 authority of this section may be validated in the First Judicial
1121 District of the Chancery Court of Hinds County, Mississippi, in
1122 the manner and with the force and effect provided now or hereafter
1123 by Chapter 13, Title 31, Mississippi Code of 1972, for the
1124 validation of county, municipal, school district and other bonds.

1125 The necessary papers for such validation proceedings shall be
1126 transmitted to the state bond attorney, and the required notice
1127 shall be published in a newspaper published in the City of
1128 Jackson, Mississippi.

1129 (13) Any bonds or interim notes issued under the provisions
1130 of this chapter, a transaction relating to the sale or securing of
1131 such bonds or interim notes, their transfer and the income
1132 therefrom shall at all times be free from taxation by the state or
1133 any local unit or political subdivision or other instrumentality
1134 of the state, excepting inheritance and gift taxes.

1135 (14) All bonds issued under this chapter shall be legal
1136 investments for trustees, other fiduciaries, savings banks, trust
1137 companies and insurance companies organized under the laws of the
1138 State of Mississippi; and such bonds shall be legal securities
1139 which may be deposited with and shall be received by all public
1140 officers and bodies of the state and all municipalities and other
1141 political subdivisions thereof for the purpose of securing the
1142 deposit of public funds.

1143 (15) The Attorney General of the State of Mississippi shall
1144 represent the State Bond Commission in issuing, selling and

1145 validating bonds herein provided for, and the bond commission is
1146 hereby authorized and empowered to expend from the proceeds
1147 derived from the sale of the bonds authorized hereunder all
1148 necessary administrative, legal and other expenses incidental and
1149 related to the issuance of bonds authorized under this chapter.

1150 (16) There is hereby created a special fund in the State
1151 Treasury to be known as the Mississippi Major Economic Impact
1152 Authority Fund wherein shall be deposited the proceeds of the
1153 bonds issued under this chapter and all monies received by the
1154 authority to carry out the purposes of this chapter. Expenditures
1155 authorized herein shall be paid by the State Treasurer upon
1156 warrants drawn from the fund, and the Department of Finance and
1157 Administration shall issue warrants upon requisitions signed by
1158 the director of the authority.

1159 (17) (a) There is hereby created the Mississippi Economic
1160 Impact Authority Sinking Fund from which the principal of and
1161 interest on such bonds shall be paid by appropriation. All monies
1162 paid into the sinking fund not appropriated to pay accruing bonds
1163 and interest shall be invested by the State Treasurer in such
1164 securities as are provided by law for the investment of the
1165 sinking funds of the state.

1166 (b) In the event that all or any part of the bonds and
1167 notes are purchased, they shall be canceled and returned to the
1168 loan and transfer agent as canceled and paid bonds and notes and
1169 thereafter all payments of interest thereon shall cease and the
1170 canceled bonds, notes and coupons, together with any other
1171 canceled bonds, notes and coupons, shall be destroyed as promptly
1172 as possible after cancellation but not later than two (2) years

1173 after cancellation. A certificate evidencing the destruction of
1174 the canceled bonds, notes and coupons shall be provided by the
1175 loan and transfer agent to the seller.

1176 (c) The State Treasurer shall determine and report to
1177 the Department of Finance and Administration and Legislative
1178 Budget Office by September 1 of each year the amount of money
1179 necessary for the payment of the principal of and interest on
1180 outstanding obligations for the following fiscal year and the
1181 times and amounts of the payments. It shall be the duty of the
1182 Governor to include in every executive budget submitted to the
1183 Legislature full information relating to the issuance of bonds and
1184 notes under the provisions of this chapter and the status of the
1185 sinking fund for the payment of the principal of and interest on
1186 the bonds and notes.

1187 SECTION 10. Section 57-75-17, Mississippi Code of 1972, is
1188 amended as follows:[CR5]

1189 57-75-17. For the purpose of aiding in the planning, design,
1190 undertaking and carrying out of the project or any facility
1191 related to the project, any public agency is authorized and
1192 empowered upon such terms, with or without consideration, as it
1193 may determine: (a) to enter into agreements, which may extend
1194 over any period, with the authority respecting action to be taken
1195 by such public agency with respect to the acquisition, planning,
1196 construction, improvement, operation, maintenance or funding of
1197 the project or any such facility, and which agreements may include
1198 (i) the appropriation or payment of funds to the authority or to a
1199 trustee in amounts which shall be sufficient to enable the
1200 authority to defray any designated portion or percentage of the

1201 expenses of administering, planning, designing, constructing,
1202 acquiring, improving, operating, and maintaining the project or
1203 any facility related to the project, (ii) the appropriation or
1204 payment of funds to the authority or to a trustee to pay interest
1205 and principal (whether at maturity or upon sinking fund
1206 redemption) on bonds of the authority issued pursuant to this act
1207 and to fund reserves for debt service, for operation and
1208 maintenance and for renewals and replacements, and to fulfill
1209 requirements of any covenant with respect to debt service
1210 contained in any resolution, trust indenture or other security
1211 agreement relating to the bonds of the authority issued pursuant
1212 to this act, and (iii) the furnishing of other assistance in
1213 connection with the project or facility related to the project;
1214 (b) to dedicate, sell, donate, convey or lease any property or
1215 interest in property to the authority or grant easements, licenses
1216 or other rights or privileges therein to the authority; (c) to
1217 incur the expense of any public improvements made or to be made by
1218 such public agency in exercising the powers granted in this
1219 section; (d) to lend, grant or contribute funds to the authority;
1220 (e) to cause public buildings and public facilities, including
1221 parks, playgrounds, recreational areas, community meeting
1222 facilities, water, sewer or drainage facilities, or any other
1223 works which it is otherwise empowered to undertake, to be
1224 furnished to or with respect to the project or any such facility;
1225 (f) to furnish, dedicate, close, vacate, pave, install, upgrade or
1226 improve highways, streets, roads, sidewalks, airports, railroads,
1227 or ports; (g) to plan or replan, zone or rezone any parcel of land
1228 within the public agency or make exceptions from land use,

1229 building and zoning regulations; and (h) to cause administrative
1230 and other services to be furnished to the authority, including
1231 services pertaining to the acquisition of real property and the
1232 furnishing of relocation assistance. Any contract between a
1233 public agency entered into with the authority pursuant to any of
1234 the powers granted by this act shall be binding upon said public
1235 agency according to its terms, and such public agency shall have
1236 the power to enter into such contracts as in the discretion of the
1237 governing authorities thereof would be to the best interest of the
1238 people of such public agency. Such contracts may include within
1239 the discretion of such governing authorities of public agencies
1240 defined under Section 57-75-5(h)(ii) a pledge of the full faith
1241 and credit of such public agency for the performance thereof. If
1242 at any time title to or possession of the project or any such
1243 facility is held by any public body or governmental agency other
1244 than the authority, including any agency or instrumentality of the
1245 United States of America, the agreements referred to in this
1246 section shall inure to the benefit of and may be enforced by such
1247 public body or governmental agency.

1248 Notwithstanding any provisions of this act to the contrary,
1249 any contract entered into between the authority and any public
1250 agency for the appropriation or payment of funds to the authority
1251 under item (a)(ii) of this section shall contain a provision
1252 therein requiring monthly payments by the public agency to pay its
1253 indebtedness and, if the public agency is not a county or
1254 municipality, such contract shall include as an additional party
1255 to the contract the county or municipality (referred to in this
1256 paragraph as "levying authority") that levies and collects taxes

1257 for the contracting public agency. If the public agency fails to
1258 pay its indebtedness for any month, the authority shall certify to
1259 the State Tax Commission, or other appropriate agency, the amount
1260 of the delinquency, and the State Tax Commission shall deduct such
1261 amount from the public agency's or levying authority's, as the
1262 case may be, next allocation of sales taxes, petroleum taxes,
1263 highway privilege taxes, severance taxes, Tennessee Valley
1264 Authority payments in lieu of taxes and homestead exemption
1265 reimbursements in that order of priority. The State Tax
1266 Commission, or other appropriate agency, shall pay the sums so
1267 deducted to the authority to be applied to the discharge of the
1268 contractual obligation.

1269 Any public agency providing any utility service or services,
1270 to any project defined in Section 57-75-5(f)(iv)1 may enter into
1271 leases or subleases for any period of time not to exceed thirty
1272 (30) years, in the capacity as lessor or lessee or sublessor or
1273 sublessee of lands alone, or lands and facilities located thereon,
1274 whether the facilities are owned by the owner of the land, a
1275 lessee, sublessee or a third party, and whether the public agency
1276 is a lessor, lessee or owner of the land. Any such public agency
1277 may also enter into operating agreements and/or lease-purchase
1278 agreements with respect to land or utility facilities as owner,
1279 operator, lessor or lessee for any period of time not to exceed
1280 thirty (30) years. Any such public agency may also enter into
1281 contracts for the provision of utilities for any period of time
1282 not to exceed thirty (30) years and may set a special rate
1283 structure for such utilities.

1284 SECTION 11. Section 11-27-81, Mississippi Code of 1972, is

1285 amended as follows:[MS6]

1286 11-27-81. The right of immediate possession pursuant to
1287 Sections 11-27-81 through 11-27-89, Mississippi Code of 1972, may
1288 be exercised only:

1289 (a) By the State Highway Commission for the acquisition
1290 of highway rights-of-way only;

1291 (b) By any county or municipality for the purpose of
1292 acquiring rights-of-way to connect existing roads and streets to
1293 highways constructed or to be constructed by the State Highway
1294 Commission;

1295 (c) By any county or municipality for the purpose of
1296 acquiring rights-of-way for widening existing roads and streets of
1297 such county or municipality; provided, however, that said
1298 rights-of-way shall not displace a property owner from his
1299 dwelling or place of business;

1300 (d) By the boards of supervisors of any county of this
1301 state for the acquisition of highway or road rights-of-way in
1302 connection with a state-aid project designated and approved in
1303 accordance with Sections 65-9-1 through 65-9-31, Mississippi Code
1304 of 1972;

1305 (e) By the Mississippi Wayport Authority for the
1306 purposes of acquiring land and easements for the Southeastern
1307 United States Wayport Project as authorized by Sections 61-4-1
1308 through 61-4-13, Mississippi Code of 1972;

1309 (f) By any county or municipality for the purpose of
1310 acquiring rights-of-way for water, sewer, drainage and other
1311 public utility purposes; provided, however, that such acquisition
1312 shall not displace a property owner from his dwelling or place of

1313 business; * * *

1314 (g) By any county authorized to exercise the power of
1315 eminent domain under Section 19-7-41 for the purpose of acquiring
1316 land for construction of a federal correctional facility or other
1317 federal penal institution; or

1318 (h) By the Mississippi Major Economic Impact Authority
1319 for the purpose of acquiring land, property and rights-of-way for
1320 a project as defined in Section 57-75-5(f)(iv)1 or any facility
1321 related to the project as provided in Section 57-75-11(e)(ii).

1322 SECTION 12. Section 11-27-85, Mississippi Code of 1972, is
1323 amended as follows:[CR7]

1324 11-27-85. (1) Upon the filing of the report of the
1325 appraiser, the clerk shall within three (3) days mail notice to
1326 the parties and the court that the report has been filed. The
1327 court shall review the report of the appraiser and shall, after
1328 not less than five (5) days' notice thereof to the defendants,
1329 enter an order granting to the plaintiff title to the property,
1330 less and except all oil, gas and other minerals which may be
1331 produced through a well bore, and the right to immediate entry
1332 unless, for other cause shown or for uncertainty concerning the
1333 immediate public need for such property pursuant to Section
1334 11-27-83, the judge shall determine that such passing of title,
1335 and right of entry should be denied. However, no person lawfully
1336 occupying real property shall be required to move from a dwelling
1337 or to move his business or farm operation without at least ninety
1338 (90) days' written notice prior to the date by which such move is
1339 required.

1340 (2) Upon entry of said order, the plaintiff may deposit not

1341 less than eighty-five percent (85%) of the amount of the
1342 compensation and damages as determined by the appraiser with the
1343 clerk of the court, and upon so doing, the plaintiff shall be
1344 granted title to the property, less and except all oil, gas and
1345 other minerals which may be produced through a well bore, and
1346 shall have the right to immediate entry to said property. The
1347 defendant, or defendants, shall be entitled to receive the amount
1348 so paid to the clerk of the court, which shall be disbursed as
1349 their interest may appear, pursuant to order of the court.

1350 (3) Notwithstanding any provisions of subsections (1) and
1351 (2) of this section to the contrary, title and immediate
1352 possession to real property, including oil, gas and other mineral
1353 interests, may be granted under this section to (a) any county
1354 authorized to exercise the power of eminent domain under Section
1355 19-7-41 for the purpose of acquiring land for construction of a
1356 federal correctional facility or other federal penal institution,
1357 and (b) the Mississippi Major Economic Impact Authority for the
1358 purpose of acquiring land, property and rights-of-way for a
1359 project as defined in Section 57-75-5(f)(iv)1 and any facility
1360 related to such project.

1361 SECTION 13. Section 31-7-13, Mississippi Code of 1972, is
1362 amended as follows:

1363 31-7-13. All agencies and governing authorities shall
1364 purchase their commodities and printing; contract for garbage
1365 collection or disposal; contract for solid waste collection or
1366 disposal; contract for sewage collection or disposal; contract for
1367 public construction; and contract for rentals as herein provided.

1368 (a) **Bidding procedure for purchases not over \$1,500.00.**

1369 Purchases which do not involve an expenditure of more than One
1370 Thousand Five Hundred Dollars (\$1,500.00), exclusive of freight or
1371 shipping charges, may be made without advertising or otherwise
1372 requesting competitive bids. Provided, however, that nothing
1373 contained in this paragraph (a) shall be construed to prohibit any
1374 agency or governing authority from establishing procedures which
1375 require competitive bids on purchases of One Thousand Five Hundred
1376 Dollars (\$1,500.00) or less.

1377 (b) **Bidding procedure for purchases over \$1,500.00 but**
1378 **not over \$10,000.00.** Purchases which involve an expenditure of
1379 more than One Thousand Five Hundred Dollars (\$1,500.00) but not
1380 more than Ten Thousand Dollars (\$10,000.00), exclusive of freight
1381 and shipping charges may be made from the lowest and best bidder
1382 without publishing or posting advertisement for bids, provided at
1383 least two (2) competitive written bids have been obtained. Any
1384 governing authority purchasing commodities pursuant to this
1385 paragraph (b) may authorize its purchasing agent, or his designee,
1386 with regard to governing authorities other than counties, or its
1387 purchase clerk, or his designee, with regard to counties, to
1388 accept the lowest and best competitive written bid. Such
1389 authorization shall be made in writing by the governing authority
1390 and shall be maintained on file in the primary office of the
1391 agency and recorded in the official minutes of the governing
1392 authority, as appropriate. The purchasing agent or the purchase
1393 clerk, or their designee, as the case may be, and not the
1394 governing authority, shall be liable for any penalties and/or
1395 damages as may be imposed by law for any act or omission of the
1396 purchasing agent or purchase clerk, or their designee,

1397 constituting a violation of law in accepting any bid without
1398 approval by the governing authority. The term "competitive
1399 written bid" shall mean a bid submitted on a bid form furnished by
1400 the buying agency or governing authority and signed by authorized
1401 personnel representing the vendor, or a bid submitted on a
1402 vendor's letterhead or identifiable bid form and signed by
1403 authorized personnel representing the vendor. Bids may be
1404 submitted by facsimile, electronic mail or other generally
1405 accepted method of information distribution. Bids submitted by
1406 electronic transmission shall not require the signature of the
1407 vendor's representative unless required by agencies or governing
1408 authorities.

1409 (c) **Bidding procedure for purchases over \$10,000.00.**

1410 (i) **Publication requirement.** Purchases which
1411 involve an expenditure of more than Ten Thousand Dollars
1412 (\$10,000.00), exclusive of freight and shipping charges may be
1413 made from the lowest and best bidder after advertising for
1414 competitive sealed bids once each week for two (2) consecutive
1415 weeks in a regular newspaper published in the county or
1416 municipality in which such agency or governing authority is
1417 located. The date as published for the bid opening shall not be
1418 less than seven (7) working days after the last published notice;
1419 however, if the purchase involves a construction project in which
1420 the estimated cost is in excess of Fifteen Thousand Dollars
1421 (\$15,000.00), such bids shall not be opened in less than fifteen
1422 (15) working days after the last notice is published and the
1423 notice for the purchase of such construction shall be published
1424 once each week for two (2) consecutive weeks. The notice of

1425 intention to let contracts or purchase equipment shall state the
1426 time and place at which bids shall be received, list the contracts
1427 to be made or types of equipment or supplies to be purchased, and,
1428 if all plans and/or specifications are not published, refer to the
1429 plans and/or specifications on file. If there is no newspaper
1430 published in the county or municipality, then such notice shall be
1431 given by posting same at the courthouse, or for municipalities at
1432 the city hall, and at two (2) other public places in the county or
1433 municipality, and also by publication once each week for two (2)
1434 consecutive weeks in some newspaper having a general circulation
1435 in the county or municipality in the above provided manner. On
1436 the same date that the notice is submitted to the newspaper for
1437 publication, the agency or governing authority involved shall mail
1438 written notice to, or provide electronic notification to the main
1439 office of the Mississippi Contract Procurement Center that
1440 contains the same information as that in the published notice.

1441 (ii) **Bidding process amendment procedure.** If all
1442 plans and/or specifications are published in the notification,
1443 then the plans and/or specifications may not be amended. If all
1444 plans and/or specifications are not published in the notification,
1445 then amendments to the plans/specifications, bid opening date, bid
1446 opening time and place may be made, provided that the agency or
1447 governing authority maintains a list of all prospective bidders
1448 who are known to have received a copy of the bid documents and all
1449 such prospective bidders are sent copies of all amendments. This
1450 notification of amendments may be made via mail, facsimile,
1451 electronic mail or other generally accepted method of information
1452 distribution. No addendum to bid specifications may be issued

1453 within forty-eight (48) working hours of the time established for
1454 the receipt of bids unless such addendum also amends the bid
1455 opening to a date not less than five (5) working days after the
1456 date of the addendum.

1457 (iii) **Filing requirement.** In all cases involving
1458 governing authorities, before the notice shall be published or
1459 posted, the plans or specifications for the construction or
1460 equipment being sought shall be filed with the clerk of the board
1461 of the governing authority. In addition to these requirements, a
1462 bid file shall be established which shall indicate those vendors
1463 to whom such solicitations and specifications were issued, and
1464 such file shall also contain such information as is pertinent to
1465 the bid.

1466 (iv) **Specification restrictions.** Specifications
1467 pertinent to such bidding shall be written so as not to exclude
1468 comparable equipment of domestic manufacture. Provided, however,
1469 that should valid justification be presented, the Department of
1470 Finance and Administration or the board of a governing authority
1471 may approve a request for specific equipment necessary to perform
1472 a specific job. Further, such justification, when placed on the
1473 minutes of the board of a governing authority, may serve as
1474 authority for that governing authority to write specifications to
1475 require a specific item of equipment needed to perform a specific
1476 job. In addition to these requirements, from and after July 1,
1477 1990, vendors of relocatable classrooms and the specifications for
1478 the purchase of such relocatable classrooms published by local
1479 school boards shall meet all pertinent regulations of the State
1480 Board of Education, including prior approval of such bid by the

1481 State Department of Education.

1482 (d) **Lowest and best bid decision procedure.**

1483 (i) **Decision procedure.** Purchases may be made
1484 from the lowest and best bidder. In determining the lowest and
1485 best bid, freight and shipping charges shall be included.
1486 Life-cycle costing, total cost bids, warranties, guaranteed
1487 buy-back provisions and other relevant provisions may be included
1488 in the best bid calculation. All best bid procedures for state
1489 agencies must be in compliance with regulations established by the
1490 Department of Finance and Administration. If any governing
1491 authority accepts a bid other than the lowest bid actually
1492 submitted, it shall place on its minutes detailed calculations and
1493 narrative summary showing that the accepted bid was determined to
1494 be the lowest and best bid, including the dollar amount of the
1495 accepted bid and the dollar amount of the lowest bid. No agency
1496 or governing authority shall accept a bid based on items not
1497 included in the specifications.

1498 (ii) **Construction project negotiations authority.**

1499 If the lowest and best bid is not more than ten percent (10%)
1500 above the amount of funds allocated for a public construction or
1501 renovation project, then the agency or governing authority shall
1502 be permitted to negotiate with the lowest bidder in order to enter
1503 into a contract for an amount not to exceed the funds allocated.

1504 (e) **Lease-purchase authorization.** For the purposes of
1505 this section, the term "equipment" shall mean equipment, furniture
1506 and, if applicable, associated software and other applicable
1507 direct costs associated with the acquisition. Any lease-purchase
1508 of equipment which an agency is not required to lease-purchase

1509 under the master lease-purchase program pursuant to Section
1510 31-7-10 and any lease-purchase of equipment which a governing
1511 authority elects to lease-purchase may be acquired by a
1512 lease-purchase agreement under this paragraph (e). Lease-purchase
1513 financing may also be obtained from the vendor or from a
1514 third-party source after having solicited and obtained at least
1515 two (2) written competitive bids, as defined in paragraph (b) of
1516 this section, for such financing without advertising for such
1517 bids. Solicitation for the bids for financing may occur before or
1518 after acceptance of bids for the purchase of such equipment or,
1519 where no such bids for purchase are required, at any time before
1520 the purchase thereof. No such lease-purchase agreement shall be
1521 for an annual rate of interest which is greater than the overall
1522 maximum interest rate to maturity on general obligation
1523 indebtedness permitted under Section 75-17-101, and the term of
1524 such lease-purchase agreement shall not exceed the useful life of
1525 equipment covered thereby as determined according to the upper
1526 limit of the asset depreciation range (ADR) guidelines for the
1527 Class Life Asset Depreciation Range System established by the
1528 Internal Revenue Service pursuant to the United States Internal
1529 Revenue Code and regulations thereunder as in effect on December
1530 31, 1980, or comparable depreciation guidelines with respect to
1531 any equipment not covered by ADR guidelines. Any lease-purchase
1532 agreement entered into pursuant to this paragraph (e) may contain
1533 any of the terms and conditions which a master lease-purchase
1534 agreement may contain under the provisions of Section 31-7-10(5),
1535 and shall contain an annual allocation dependency clause
1536 substantially similar to that set forth in Section 31-7-10(8).

1537 Each agency or governing authority entering into a lease-purchase
1538 transaction pursuant to this paragraph (e) shall maintain with
1539 respect to each such lease-purchase transaction the same
1540 information as required to be maintained by the Department of
1541 Finance and Administration pursuant to Section 31-7-10(13).
1542 However, nothing contained in this section shall be construed to
1543 permit agencies to acquire items of equipment with a total
1544 acquisition cost in the aggregate of less than Ten Thousand
1545 Dollars (\$10,000.00) by a single lease-purchase transaction. All
1546 equipment, and the purchase thereof by any lessor, acquired by
1547 lease-purchase under this paragraph and all lease-purchase
1548 payments with respect thereto shall be exempt from all Mississippi
1549 sales, use and ad valorem taxes. Interest paid on any
1550 lease-purchase agreement under this section shall be exempt from
1551 State of Mississippi income taxation.

1552 (f) **Alternate bid authorization.** When necessary to
1553 ensure ready availability of commodities for public works and the
1554 timely completion of public projects, no more than two (2)
1555 alternate bids may be accepted by a governing authority for
1556 commodities. No purchases may be made through use of such
1557 alternate bids procedure unless the lowest and best bidder, for
1558 reasons beyond his control, cannot deliver the commodities
1559 contained in his bid. In that event, purchases of such
1560 commodities may be made from one (1) of the bidders whose bid was
1561 accepted as an alternate.

1562 (g) **Construction contract change authorization.** In the
1563 event a determination is made by an agency or governing authority
1564 after a construction contract is let that changes or modifications

1565 to the original contract are necessary or would better serve the
1566 purpose of the agency or the governing authority, such agency or
1567 governing authority may, in its discretion, order such changes
1568 pertaining to the construction that are necessary under the
1569 circumstances without the necessity of further public bids;
1570 provided that such change shall be made in a commercially
1571 reasonable manner and shall not be made to circumvent the public
1572 purchasing statutes. In addition to any other authorized person,
1573 the architect or engineer hired by an agency or governing
1574 authority with respect to any public construction contract shall
1575 have the authority, when granted by an agency or governing
1576 authority, to authorize changes or modifications to the original
1577 contract without the necessity of prior approval of the agency or
1578 governing authority when any such change or modification is less
1579 than one percent (1%) of the total contract amount. The agency or
1580 governing authority may limit the number, manner or frequency of
1581 such emergency changes or modifications.

1582 (h) **Petroleum purchase alternative.** In addition to
1583 other methods of purchasing authorized in this chapter, when any
1584 agency or governing authority shall have a need for gas, diesel
1585 fuel, oils and/or other petroleum products in excess of the amount
1586 set forth in paragraph (a) of this section, such agency or
1587 governing authority may purchase the commodity after having
1588 solicited and obtained at least two (2) competitive written bids,
1589 as defined in paragraph (b) of this section. If two (2)
1590 competitive written bids are not obtained the entity shall comply
1591 with the procedures set forth in paragraph (c) of this section.
1592 In the event any agency or governing authority shall have

1593 advertised for bids for the purchase of gas, diesel fuel, oils and
1594 other petroleum products and coal and no acceptable bids can be
1595 obtained, such agency or governing authority is authorized and
1596 directed to enter into any negotiations necessary to secure the
1597 lowest and best contract available for the purchase of such
1598 commodities.

1599 (i) **Road construction petroleum products price**
1600 **adjustment clause authorization.** Any agency or governing
1601 authority authorized to enter into contracts for the construction,
1602 maintenance, surfacing or repair of highways, roads or streets,
1603 may include in its bid proposal and contract documents a price
1604 adjustment clause with relation to the cost to the contractor,
1605 including taxes, based upon an industry-wide cost index, of
1606 petroleum products including asphalt used in the performance or
1607 execution of the contract or in the production or manufacture of
1608 materials for use in such performance. Such industry-wide index
1609 shall be established and published monthly by the Mississippi
1610 Department of Transportation with a copy thereof to be mailed,
1611 upon request, to the clerks of the governing authority of each
1612 municipality and the clerks of each board of supervisors
1613 throughout the state. The price adjustment clause shall be based
1614 on the cost of such petroleum products only and shall not include
1615 any additional profit or overhead as part of the adjustment. The
1616 bid proposals or document contract shall contain the basis and
1617 methods of adjusting unit prices for the change in the cost of
1618 such petroleum products.

1619 (j) **State agency emergency purchase procedure.** If the
1620 executive head of any agency of the state shall determine that an

1621 emergency exists in regard to the purchase of any commodities or
1622 repair contracts, so that the delay incident to giving opportunity
1623 for competitive bidding would be detrimental to the interests of
1624 the state, then the provisions herein for competitive bidding
1625 shall not apply and the head of such agency shall be authorized to
1626 make the purchase or repair. Total purchases so made shall only
1627 be for the purpose of meeting needs created by the emergency
1628 situation. In the event such executive head is responsible to an
1629 agency board, at the meeting next following the emergency
1630 purchase, documentation of the purchase, including a description
1631 of the commodity purchased, the purchase price thereof and the
1632 nature of the emergency shall be presented to the board and placed
1633 on the minutes of the board of such agency. The head of such
1634 agency shall, at the earliest possible date following such
1635 emergency purchase, file with the Department of Finance and
1636 Administration (i) a statement under oath certifying the
1637 conditions and circumstances of the emergency, and (ii) a
1638 certified copy of the appropriate minutes of the board of such
1639 agency, if applicable.

1640 (k) **Governing authority emergency purchase procedure.**

1641 If the governing authority, or the governing authority acting
1642 through its designee, shall determine that an emergency exists in
1643 regard to the purchase of any commodities or repair contracts, so
1644 that the delay incident to giving opportunity for competitive
1645 bidding would be detrimental to the interest of the governing
1646 authority, then the provisions herein for competitive bidding
1647 shall not apply and any officer or agent of such governing
1648 authority having general or special authority therefor in making

1649 such purchase or repair shall approve the bill presented therefor,
1650 and he shall certify in writing thereon from whom such purchase
1651 was made, or with whom such a repair contract was made. At the
1652 board meeting next following the emergency purchase or repair
1653 contract, documentation of the purchase or repair contract,
1654 including a description of the commodity purchased, the price
1655 thereof and the nature of the emergency shall be presented to the
1656 board and shall be placed on the minutes of the board of such
1657 governing authority.

1658 (1) **Hospital purchase or lease authorization.** The
1659 commissioners or board of trustees of any hospital owned or owned
1660 and operated separately or jointly by one or more counties,
1661 cities, towns, supervisors districts or election districts, or
1662 combinations thereof, may contract with such lowest and best
1663 bidder for the purchase or lease of any commodity under a contract
1664 of purchase or lease-purchase agreement whose obligatory terms do
1665 not exceed five (5) years. In addition to the authority granted
1666 herein, the commissioners or board of trustees are authorized to
1667 enter into contracts for the lease of equipment or services, or
1668 both, which it considers necessary for the proper care of patients
1669 if, in its opinion, it is not financially feasible to purchase the
1670 necessary equipment or services. Any such contract for the lease
1671 of equipment or services executed by the commissioners or board
1672 shall not exceed a maximum of five (5) years' duration and shall
1673 include a cancellation clause based on unavailability of funds.
1674 If such cancellation clause is exercised, there shall be no
1675 further liability on the part of the lessee.

1676 (m) **Exceptions from bidding requirements.** Excepted

1677 from bid requirements are:

1678 (i) **Purchasing agreements approved by department.**

1679 Purchasing agreements, contracts and maximum price regulations
1680 executed or approved by the Department of Finance and
1681 Administration.

1682 (ii) **Outside equipment repairs.** Repairs to
1683 equipment, when such repairs are made by repair facilities in the
1684 private sector; however, engines, transmissions, rear axles and/or
1685 other such components shall not be included in this exemption when
1686 replaced as a complete unit instead of being repaired and the need
1687 for such total component replacement is known before disassembly
1688 of the component; provided, however, that invoices identifying the
1689 equipment, specific repairs made, parts identified by number and
1690 name, supplies used in such repairs, and the number of hours of
1691 labor and costs therefor shall be required for the payment for
1692 such repairs.

1693 (iii) **In-house equipment repairs.** Purchases of
1694 parts for repairs to equipment, when such repairs are made by
1695 personnel of the agency or governing authority; however, entire
1696 assemblies, such as engines or transmissions, shall not be
1697 included in this exemption when the entire assembly is being
1698 replaced instead of being repaired.

1699 (iv) **Raw gravel or dirt.** Raw unprocessed deposits
1700 of gravel or fill dirt which are to be removed and transported by
1701 the purchaser.

1702 (v) **Governmental equipment auctions.** Motor
1703 vehicles or other equipment purchased from a federal or state
1704 agency or a governing authority at a public auction held for the

1705 purpose of disposing of such vehicles or other equipment. Any
1706 purchase by a governing authority under the exemption authorized
1707 by this paragraph (v) shall require advance authorization spread
1708 upon the minutes of the governing authority to include the listing
1709 of the item or items authorized to be purchased and the maximum
1710 bid authorized to be paid for each item or items.

1711 (vi) **Intergovernmental sales and transfers.**

1712 Purchases, sales, transfers or trades by governing authorities or
1713 state agencies when such purchases, sales, transfers or trades are
1714 made by a private treaty agreement or through means of
1715 negotiation, from any federal agency or authority, another
1716 governing authority or state agency of the State of Mississippi,
1717 or any state agency of another state. Nothing in this section
1718 shall permit such purchases through public auction except as
1719 provided for in paragraph (v) of this section. It is the intent
1720 of this section to allow governmental entities to dispose of
1721 and/or purchase commodities from other governmental entities at a
1722 price that is agreed to by both parties. This shall allow for
1723 purchases and/or sales at prices which may be determined to be
1724 below the market value if the selling entity determines that the
1725 sale at below market value is in the best interest of the
1726 taxpayers of the state. Governing authorities shall place the
1727 terms of the agreement and any justification on the minutes, and
1728 state agencies shall obtain approval from the Department of
1729 Finance and Administration, prior to releasing or taking
1730 possession of the commodities.

1731 (vii) **Perishable supplies or food.** Perishable
1732 supplies or foods purchased for use in connection with hospitals,

1733 the school lunch programs, homemaking programs and for the feeding
1734 of county or municipal prisoners.

1735 (viii) **Single source items.** Noncompetitive items
1736 available from one (1) source only. In connection with the
1737 purchase of noncompetitive items only available from one (1)
1738 source, a certification of the conditions and circumstances
1739 requiring the purchase shall be filed by the agency with the
1740 Department of Finance and Administration and by the governing
1741 authority with the board of the governing authority. Upon receipt
1742 of that certification the Department of Finance and Administration
1743 or the board of the governing authority, as the case may be, may,
1744 in writing, authorize the purchase, which authority shall be noted
1745 on the minutes of the body at the next regular meeting thereafter.

1746 In those situations, a governing authority is not required to
1747 obtain the approval of the Department of Finance and
1748 Administration.

1749 (ix) **Waste disposal facility construction**
1750 **contracts.** Construction of incinerators and other facilities for
1751 disposal of solid wastes in which products either generated
1752 therein, such as steam, or recovered therefrom, such as materials
1753 for recycling, are to be sold or otherwise disposed of; provided,
1754 however, in constructing such facilities a governing authority or
1755 agency shall publicly issue requests for proposals, advertised for
1756 in the same manner as provided herein for seeking bids for public
1757 construction projects, concerning the design, construction,
1758 ownership, operation and/or maintenance of such facilities,
1759 wherein such requests for proposals when issued shall contain
1760 terms and conditions relating to price, financial responsibility,

1761 technology, environmental compatibility, legal responsibilities
1762 and such other matters as are determined by the governing
1763 authority or agency to be appropriate for inclusion; and after
1764 responses to the request for proposals have been duly received,
1765 the governing authority or agency may select the most qualified
1766 proposal or proposals on the basis of price, technology and other
1767 relevant factors and from such proposals, but not limited to the
1768 terms thereof, negotiate and enter contracts with one or more of
1769 the persons or firms submitting proposals.

1770 (x) **Hospital group purchase contracts.** Supplies,
1771 commodities and equipment purchased by hospitals through group
1772 purchase programs pursuant to Section 31-7-38.

1773 (xi) **Information technology products.** Purchases
1774 of information technology products made by governing authorities
1775 under the provisions of purchase schedules, or contracts executed
1776 or approved by the Mississippi Department of Information
1777 Technology Services and designated for use by governing
1778 authorities.

1779 (xii) **Energy efficiency services and equipment.**
1780 Energy efficiency services and equipment acquired by school
1781 districts, community and junior colleges, institutions of higher
1782 learning and state agencies or other applicable governmental
1783 entities on a shared-savings, lease or lease-purchase basis
1784 pursuant to Section 31-7-14.

1785 (xiii) **Municipal electrical utility system fuel.**
1786 Purchases of coal and/or natural gas by municipally-owned electric
1787 power generating systems that have the capacity to use both coal
1788 and natural gas for the generation of electric power.

1789 (xiv) **Library books and other reference materials.**

1790 Purchases by libraries or for libraries of books and periodicals;
1791 processed film, video cassette tapes, filmstrips and slides;
1792 recorded audio tapes, cassettes and diskettes; and any such items
1793 as would be used for teaching, research or other information
1794 distribution; however, equipment such as projectors, recorders,
1795 audio or video equipment, and monitor televisions are not exempt
1796 under this paragraph.

1797 (xv) **Unmarked vehicles.** Purchases of unmarked
1798 vehicles when such purchases are made in accordance with
1799 purchasing regulations adopted by the Department of Finance and
1800 Administration pursuant to Section 31-7-9(2).

1801 (xvi) **Election ballots.** Purchases of ballots
1802 printed pursuant to Section 23-15-351.

1803 (xvii) **Multichannel interactive video systems.**
1804 From and after July 1, 1990, contracts by Mississippi Authority
1805 for Educational Television with any private educational
1806 institution or private nonprofit organization whose purposes are
1807 educational in regard to the construction, purchase, lease or
1808 lease-purchase of facilities and equipment and the employment of
1809 personnel for providing multichannel interactive video systems
1810 (ITSF) in the school districts of this state.

1811 (xviii) **Purchases of prison industry products.**
1812 From and after January 1, 1991, purchases made by state agencies
1813 or governing authorities involving any item that is manufactured,
1814 processed, grown or produced from the state's prison industries.

1815 (xix) **Undercover operations equipment.** Purchases
1816 of surveillance equipment or any other high-tech equipment to be

1817 used by law enforcement agents in undercover operations, provided
1818 that any such purchase shall be in compliance with regulations
1819 established by the Department of Finance and Administration.

1820 (xx) **Junior college books for rent.** Purchases by
1821 community or junior colleges of textbooks which are obtained for
1822 the purpose of renting such books to students as part of a book
1823 service system.

1824 (xxi) **Certain school district purchases.**
1825 Purchases of commodities made by school districts from vendors
1826 with which any levying authority of the school district, as
1827 defined in Section 37-57-1, has contracted through competitive
1828 bidding procedures for purchases of the same commodities.

1829 (xxii) **Garbage, solid waste and sewage contracts.**
1830 Contracts for garbage collection or disposal, contracts for solid
1831 waste collection or disposal and contracts for sewage collection
1832 or disposal.

1833 (xxiii) **Municipal water tank maintenance**
1834 **contracts.** Professional maintenance program contracts for the
1835 repair or maintenance of municipal water tanks, which provide
1836 professional services needed to maintain municipal water storage
1837 tanks for a fixed annual fee for a duration of two (2) or more
1838 years.

1839 (xxiv) **Purchases of Mississippi Industries for the**
1840 **Blind products.** Purchases made by state agencies or governing
1841 authorities involving any item that is manufactured, processed or
1842 produced by the Mississippi Industries for the Blind.

1843 (xxv) **Purchases of state-adopted textbooks.**
1844 Purchases of state-adopted textbooks by public school districts.

1845 (xxvi) Certain purchases under the Mississippi
1846 Major Economic Impact Act. Contracts entered into pursuant to the
1847 provisions of Section 57-75-9(2).

1848 (n) **Term contract authorization.** All contracts for the
1849 purchase of:

1850 (i) All contracts for the purchase of commodities,
1851 equipment and public construction (including, but not limited to,
1852 repair and maintenance), may be let for periods of not more than
1853 sixty (60) months in advance, subject to applicable statutory
1854 provisions prohibiting the letting of contracts during specified
1855 periods near the end of terms of office. Term contracts for a
1856 period exceeding twenty-four (24) months shall also be subject to
1857 ratification or cancellation by governing authority boards taking
1858 office subsequent to the governing authority board entering the
1859 contract.

1860 (ii) Bid proposals and contracts may include price
1861 adjustment clauses with relation to the cost to the contractor
1862 based upon a nationally published industry-wide or nationally
1863 published and recognized cost index. The cost index used in a
1864 price adjustment clause shall be determined by the Department of
1865 Finance and Administration for the state agencies and by the
1866 governing board for governing authorities. The bid proposal and
1867 contract documents utilizing a price adjustment clause shall
1868 contain the basis and method of adjusting unit prices for the
1869 change in the cost of such commodities, equipment and public
1870 construction.

1871 (o) **Purchase law violation prohibition and vendor**
1872 **penalty.** No contract or purchase as herein authorized shall be

1873 made for the purpose of circumventing the provisions of this
1874 section requiring competitive bids, nor shall it be lawful for any
1875 person or concern to submit individual invoices for amounts within
1876 those authorized for a contract or purchase where the actual value
1877 of the contract or commodity purchased exceeds the authorized
1878 amount and the invoices therefor are split so as to appear to be
1879 authorized as purchases for which competitive bids are not
1880 required. Submission of such invoices shall constitute a
1881 misdemeanor punishable by a fine of not less than Five Hundred
1882 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),
1883 or by imprisonment for thirty (30) days in the county jail, or
1884 both such fine and imprisonment. In addition, the claim or claims
1885 submitted shall be forfeited.

1886 (p) **Electrical utility petroleum-based equipment**
1887 **purchase procedure.** When in response to a proper advertisement
1888 therefor, no bid firm as to price is submitted to an electric
1889 utility for power transformers, distribution transformers, power
1890 breakers, reclosers or other articles containing a petroleum
1891 product, the electric utility may accept the lowest and best bid
1892 therefor although the price is not firm.

1893 (q) **Fuel management system bidding procedure.** Any
1894 governing authority or agency of the state shall, before
1895 contracting for the services and products of a fuel management or
1896 fuel access system, enter into negotiations with not fewer than
1897 two (2) sellers of fuel management or fuel access systems for
1898 competitive written bids to provide the services and products for
1899 the systems. In the event that the governing authority or agency
1900 cannot locate two (2) sellers of such systems or cannot obtain

1901 bids from two (2) sellers of such systems, it shall show proof
1902 that it made a diligent, good-faith effort to locate and negotiate
1903 with two (2) sellers of such systems. Such proof shall include,
1904 but not be limited to, publications of a request for proposals and
1905 letters soliciting negotiations and bids. For purposes of this
1906 paragraph (q), a fuel management or fuel access system is an
1907 automated system of acquiring fuel for vehicles as well as
1908 management reports detailing fuel use by vehicles and drivers, and
1909 the term "competitive written bid" shall have the meaning as
1910 defined in paragraph (b) of this section. Governing authorities
1911 and agencies shall be exempt from this process when contracting
1912 for the services and products of a fuel management or fuel access
1913 systems under the terms of a state contract established by the
1914 Office of Purchasing and Travel.

1915 (r) **Solid waste contract proposal procedure.** Before
1916 entering into any contract for garbage collection or disposal,
1917 contract for solid waste collection or disposal or contract for
1918 sewage collection or disposal, which involves an expenditure of
1919 more than Fifty Thousand Dollars (\$50,000.00), a governing
1920 authority or agency shall issue publicly a request for proposals
1921 concerning the specifications for such services which shall be
1922 advertised for in the same manner as provided in this section for
1923 seeking bids for purchases which involve an expenditure of more
1924 than Ten Thousand Dollars (\$10,000.00). Any request for proposals
1925 when issued shall contain terms and conditions relating to price,
1926 financial responsibility, technology, legal responsibilities and
1927 other relevant factors as are determined by the governing
1928 authority or agency to be appropriate for inclusion; all factors

1929 determined relevant by the governing authority or agency or
1930 required by this paragraph (r) shall be duly included in the
1931 advertisement to elicit proposals. After responses to the request
1932 for proposals have been duly received, the governing authority or
1933 agency shall select the most qualified proposal or proposals on
1934 the basis of price, technology and other relevant factors and from
1935 such proposals, but not limited to the terms thereof, negotiate
1936 and enter contracts with one or more of the persons or firms
1937 submitting proposals. If the governing authority or agency deems
1938 none of the proposals to be qualified or otherwise acceptable, the
1939 request for proposals process may be reinitiated. Notwithstanding
1940 any other provisions of this paragraph, where a county with at
1941 least thirty-five thousand (35,000) nor more than forty thousand
1942 (40,000) population, according to the 1990 federal decennial
1943 census, owns or operates a solid waste landfill, the governing
1944 authorities of any other county or municipality may contract with
1945 the governing authorities of the county owning or operating the
1946 landfill, pursuant to a resolution duly adopted and spread upon
1947 the minutes of each governing authority involved, for garbage or
1948 solid waste collection or disposal services through contract
1949 negotiations.

1950 (s) **Minority set aside authorization.** Notwithstanding
1951 any provision of this section to the contrary, any agency or
1952 governing authority, by order placed on its minutes, may, in its
1953 discretion, set aside not more than twenty percent (20%) of its
1954 anticipated annual expenditures for the purchase of commodities
1955 from minority businesses; however, all such set-aside purchases
1956 shall comply with all purchasing regulations promulgated by the

1957 Department of Finance and Administration and shall be subject to
1958 bid requirements under this section. Set-aside purchases for
1959 which competitive bids are required shall be made from the lowest
1960 and best minority business bidder. For the purposes of this
1961 paragraph, the term "minority business" means a business which is
1962 owned by a majority of persons who are United States citizens or
1963 permanent resident aliens (as defined by the Immigration and
1964 Naturalization Service) of the United States, and who are Asian,
1965 Black, Hispanic or Native American, according to the following
1966 definitions:

1967 (i) "Asian" means persons having origins in any of
1968 the original people of the Far East, Southeast Asia, the Indian
1969 subcontinent, or the Pacific Islands.

1970 (ii) "Black" means persons having origins in any
1971 black racial group of Africa.

1972 (iii) "Hispanic" means persons of Spanish or
1973 Portuguese culture with origins in Mexico, South or Central
1974 America, or the Caribbean Islands, regardless of race.

1975 (iv) "Native American" means persons having
1976 origins in any of the original people of North America, including
1977 American Indians, Eskimos and Aleuts.

1978 (t) **Construction punch list restriction.** The
1979 architect, engineer or other representative designated by the
1980 agency or governing authority that is contracting for public
1981 construction or renovation may prepare and submit to the
1982 contractor only one (1) preliminary punch list of items that do
1983 not meet the contract requirements at the time of substantial
1984 completion and one (1) final list immediately before final

1985 completion and final payment.

1986 (u) **Purchase authorization clarification.** Nothing in
1987 this section shall be construed as authorizing any purchase not
1988 authorized by law.

1989 SECTION 14. Section 27-65-101, Mississippi Code of 1972, is
1990 amended as follows:[JWB8]

1991 27-65-101. (1) The exemptions from the provisions of this
1992 chapter which are of an industrial nature or which are more
1993 properly classified as industrial exemptions than any other
1994 exemption classification of this chapter shall be confined to
1995 those persons or property exempted by this section or by the
1996 provisions of the Constitution of the United States or the State
1997 of Mississippi. No industrial exemption as now provided by any
1998 other section except Section 57-3-33 shall be valid as against the
1999 tax herein levied. Any subsequent industrial exemption from the
2000 tax levied hereunder shall be provided by amendment to this
2001 section. No exemption provided in this section shall apply to
2002 taxes levied by Section 27-65-15 or 27-65-21.

2003 The tax levied by this chapter shall not apply to the
2004 following:

2005 (a) Sales of boxes, crates, cartons, cans, bottles and
2006 other packaging materials to manufacturers and wholesalers for use
2007 as containers or shipping materials to accompany goods sold by
2008 said manufacturers or wholesalers where possession thereof will
2009 pass to the customer at the time of sale of the goods contained
2010 therein and sales to anyone of containers or shipping materials
2011 for use in ships engaged in international commerce.

2012 (b) Sales of raw materials, catalysts, processing

2013 chemicals, welding gases or other industrial processing gases
2014 (except natural gas) to a manufacturer for use directly in
2015 manufacturing or processing a product for sale or rental or
2016 repairing or reconditioning vessels or barges of fifty (50) tons
2017 load displacement and over. This exemption shall not apply to any
2018 property used as fuel except to the extent that such fuel
2019 comprises by-products which have no market value.

2020 (c) The gross proceeds of sales of dry docks, offshore
2021 drilling equipment for use in oil exploitation or production,
2022 vessels or barges of fifty (50) tons load displacement and over,
2023 when sold by the manufacturer or builder thereof.

2024 (d) Sales to commercial fishermen of commercial fishing
2025 boats of over five (5) tons load displacement and not more than
2026 fifty (50) tons load displacement as registered with the United
2027 States Coast Guard and licensed by the Mississippi Commission on
2028 Marine Resources.

2029 (e) The gross income from repairs to vessels and barges
2030 engaged in foreign trade or interstate transportation.

2031 (f) Sales of petroleum products to vessels or barges
2032 for consumption in marine international commerce or interstate
2033 transportation businesses.

2034 (g) Sales and rentals of rail rolling stock (and
2035 component parts thereof) for ultimate use in interstate commerce
2036 and gross income from services with respect to manufacturing,
2037 repairing, cleaning, altering, reconditioning or improving such
2038 rail rolling stock (and component parts thereof).

2039 (h) Sales of raw materials, catalysts, processing
2040 chemicals, welding gases or other industrial processing gases

2041 (except natural gas) used or consumed directly in manufacturing,
2042 repairing, cleaning, altering, reconditioning or improving such
2043 rail rolling stock (and component parts thereof). This exemption
2044 shall not apply to any property used as fuel.

2045 (i) Sales of machinery or tools or repair parts
2046 therefor or replacements thereof, fuel or supplies used directly
2047 in manufacturing, converting or repairing ships of three thousand
2048 (3,000) tons load displacement and over, but not to include office
2049 and plant supplies or other equipment not directly used on the
2050 ship being built, converted or repaired.

2051 (j) Sales of tangible personal property to persons
2052 operating ships in international commerce for use or consumption
2053 on board such ships. This exemption shall be limited to cases in
2054 which procedures satisfactory to the commissioner, ensuring
2055 against use in this state other than on such ships, are
2056 established.

2057 (k) Sales of materials used in the construction of a
2058 building, or any addition or improvement thereon, and sales of any
2059 machinery and equipment not later than three (3) months after the
2060 completion of construction of the building, or any addition
2061 thereon, to be used therein, to qualified businesses, as defined
2062 in Section 57-51-5, which are located in a county or portion
2063 thereof designated as an enterprise zone pursuant to Sections
2064 57-51-1 through 57-51-15.

2065 (l) Sales of materials used in the construction of a
2066 building, or any addition or improvement thereon, and sales of any
2067 machinery and equipment not later than three (3) months after the
2068 completion of construction of the building, or any addition

2069 thereon, to be used therein, to qualified businesses, as defined
2070 in Section 57-54-5.

2071 (m) Income from storage and handling of perishable
2072 goods by a public storage warehouse.

2073 (n) The value of natural gas lawfully injected into the
2074 earth for cycling, repressuring or lifting of oil, or lawfully
2075 vented or flared in connection with the production of oil;
2076 however, if any gas so injected into the earth is sold for such
2077 purposes, then the gas so sold shall not be exempt.

2078 (o) The gross collections from self-service commercial
2079 laundering, drying, cleaning and pressing equipment.

2080 (p) Sales of materials used in the construction of a
2081 building, or any addition or improvement thereon, and sales of any
2082 machinery and equipment not later than three (3) months after the
2083 completion of construction of the building, or any addition
2084 thereon, to be used therein, to qualified companies, certified as
2085 such by the Mississippi Development Authority under Section
2086 57-53-1.

2087 (q) Sales of component materials used in the
2088 construction of a building, or any addition or improvement
2089 thereon, sales of machinery and equipment to be used therein, and
2090 sales of manufacturing or processing machinery and equipment which
2091 is permanently attached to the ground or to a permanent foundation
2092 and which is not by its nature intended to be housed within a
2093 building structure, not later than three (3) months after the
2094 initial start-up date, to permanent business enterprises engaging
2095 in manufacturing or processing in Tier Three areas (as such term
2096 is defined in Section 57-73-21), which businesses are certified by

2097 the State Tax Commission as being eligible for the exemption
2098 granted in this paragraph (q).

2099 (r) Sales of component materials used in the
2100 construction of a building, or any addition or improvement
2101 thereon, and sales of any machinery and equipment not later than
2102 three (3) months after the completion of the building, addition or
2103 improvement thereon, to be used therein, for any company
2104 establishing or transferring its national or regional headquarters
2105 from within or outside the State of Mississippi and creating a
2106 minimum of thirty-five (35) jobs at the new headquarters in this
2107 state. The Tax Commission shall establish criteria and prescribe
2108 procedures to determine if a company qualifies as a national or
2109 regional headquarters for the purpose of receiving the exemption
2110 provided in this paragraph.

2111 (s) The gross proceeds from the sale of semitrailers,
2112 trailers, boats, travel trailers, motorcycles and all-terrain
2113 cycles if exported from this state within forty-eight (48) hours
2114 and registered and first used in another state.

2115 (t) Gross income from the storage and handling of
2116 natural gas in underground salt domes and in other underground
2117 reservoirs, caverns, structures and formations suitable for such
2118 storage.

2119 (u) Sales of machinery and equipment to nonprofit
2120 organizations if the organization: (i) is tax-exempt pursuant to
2121 Section 501(c)(4) of the Internal Revenue Code of 1986, as
2122 amended; (ii) assists in the implementation of the national
2123 contingency plan or area contingency plan, and which is created in
2124 response to the requirements of Title IV, Subtitle B of the Oil

2125 Pollution Act of 1990, P.L. 101-380; and (iii) engages primarily
2126 in programs to contain, clean up and otherwise mitigate spills of
2127 oil or other substances occurring in the United States coastal and
2128 tidal waters. For purposes of this exemption, "machinery and
2129 equipment" means any ocean-going vessels, barges, booms, skimmers
2130 and other capital equipment used primarily in the operations of
2131 nonprofit organizations referred to herein.

2132 (v) Sales of component materials and equipment to
2133 approved business enterprises as provided under the Growth and
2134 Prosperity Act.

2135 (w) From and after July 1, 2001, sales of pollution
2136 control equipment to manufacturers or custom processors for
2137 industrial use. For the purposes of this exemption, "pollution
2138 control equipment" means equipment, devices, machinery or systems
2139 used or acquired to prevent, control, monitor or reduce air, water
2140 or groundwater pollution, or solid or hazardous waste as required
2141 by federal or state law or regulation.

2142 (x) Sales or leases to a manufacturer of motor vehicles
2143 operating a project that has been certified by the Mississippi
2144 Major Economic Impact Authority as a project as defined in Section
2145 57-75-5(f)(iv)1 of machinery and equipment; special tooling such
2146 as dies, molds, jigs and similar items treated as special tooling
2147 for federal income tax purposes; or repair parts therefor or
2148 replacements thereof; repair services thereon; fuel, supplies,
2149 electricity, coal and natural gas used directly in the manufacture
2150 of motor vehicles or motor vehicle parts or used to provide
2151 climate control for manufacturing areas.

2152 (y) Sales or leases of component materials, machinery

2153 and equipment used in the construction of a building, or any
2154 addition or improvement thereon to an enterprise operating a
2155 project that has been certified by the Mississippi Major Economic
2156 Impact Authority as a project as defined in Section
2157 57-75-5(f)(iv)1 and any other sales or leases required to
2158 establish or operate such project.

2159 (2) Sales of component materials used in the construction of
2160 a building, or any addition or improvement thereon, sales of
2161 machinery and equipment to be used therein, and sales of
2162 manufacturing or processing machinery and equipment which is
2163 permanently attached to the ground or to a permanent foundation
2164 and which is not by its nature intended to be housed within a
2165 building structure, not later than three (3) months after the
2166 initial start-up date, to permanent business enterprises engaging
2167 in manufacturing or processing in Tier Two areas and Tier One
2168 areas (as such areas are designated in accordance with Section
2169 57-73-21), which businesses are certified by the State Tax
2170 Commission as being eligible for the exemption granted in this
2171 paragraph, shall be exempt from one-half (1/2) of the taxes
2172 imposed on such transactions under this chapter.

2173 SECTION 15. Section 27-67-7, Mississippi Code of 1972, is
2174 amended as follows:[CR9]

2175 27-67-7. The tax levied by this article shall not be
2176 collected in the following instances:

2177 (a) On the use, storage or consumption of any tangible
2178 personal property if the sale thereof has already been included in
2179 the measure of this tax or the tax imposed by Section 27-65-24 or
2180 Section 27-65-17, 27-65-19 or 27-65-25, or has already been

2181 included in the measure of a sales tax imposed by another state in
2182 which the property was sold or use tax imposed by some other state
2183 in which the property was used. If the rate of sales or use tax
2184 paid another state by the person using the property in Mississippi
2185 is not equal to or greater than the rate imposed by this article,
2186 then the user or purchaser shall apply the difference in these
2187 rates to the purchase price or value of the property and pay to
2188 the commissioner the amount of tax thus computed. Persons using
2189 business property in this state which has been used by them in
2190 other states shall be entitled to a credit for sales and/or use
2191 tax paid to other states equal to the aggregate of all such state
2192 rates multiplied by the value of the property at the time of
2193 importation into this state. Persons using business property in
2194 this state which was acquired from another person who used it in
2195 other states shall be entitled to a credit equal to the applicable
2196 rate in the state of last prior use multiplied by the value of the
2197 property at the time of importation into this state. Provided,
2198 however, that credit for use tax paid to another state shall not
2199 apply on the purchase price of tangible personal property that has
2200 been only stored or warehoused in the other state and the first
2201 use of the property occurs in Mississippi. Provided, further,
2202 that credit for sales or use tax paid to another state shall not
2203 apply on the purchase price or value of automobiles, trucks,
2204 truck-tractors and semitrailers imported and first used in
2205 Mississippi.

2206 Credit for sales or use tax paid to another state as provided
2207 above shall be evidenced by an invoice clearly and correctly
2208 showing the amount of such tax as a separate item, and no credit

2209 shall be allowed otherwise.

2210 (b) On the use, storage or consumption of tangible
2211 personal property to the extent that sales of similar property in
2212 Mississippi are either excluded or specifically exempt from sales
2213 tax or are taxed at the wholesale rate.

2214 This exemption shall be confined to the use of property the
2215 sale of which is an itemized exemption in the Mississippi Sales
2216 Tax Law, or to use by persons who are listed in said law as being
2217 exempt from sales tax.

2218 (c) On the use, storage or consumption of tangible
2219 personal property brought into this state by a nonresident for his
2220 or her use or enjoyment while temporarily within the state, but
2221 not including tangible personal property brought in for use in
2222 connection with a business activity. This exemption shall not
2223 apply to property which remains situated in this state for the
2224 repeated use, storage or consumption by out-of-state visitors, or
2225 which is acquired by visitors and first used in this state.

2226 (d) On the use of a motor vehicle for which a
2227 registration is required by the motor vehicle law, when such motor
2228 vehicle was purchased by a natural person for his personal or
2229 family use while such person was a bona fide resident of another
2230 state and who thereafter became a resident of this state, but not
2231 to include a motor vehicle which is transferred by the owner
2232 thereof for commercial use or for use by another person within
2233 this state.

2234 (e) On the use of personal and household effects by a
2235 natural person acquired while such person was a bona fide resident
2236 of another state, and who thereafter became a resident of this

2237 state.

2238 (f) On the use or rental of motion picture film,
2239 video-audio tapes and phonograph records for exhibition either by
2240 a person paying Mississippi sales tax on gross income from
2241 admissions for such exhibitions or by a person operating a
2242 television or radio broadcasting station.

2243 (g) On any vehicle purchased in another state for use
2244 outside of this state by a Mississippi citizen serving in the
2245 Armed Forces and stationed in another state who elects to license
2246 the vehicle in Mississippi.

2247 (h) On the cost or value and on the use, storage and
2248 consumption of rail rolling stock and component parts thereof.

2249 (i) On the use, storage or consumption of literature,
2250 video tapes and photographic slides used by religious institutions
2251 for the propagation of their creeds or for carrying on their
2252 customary nonprofit religious activities, and on the use of any
2253 tangible personal property purchased and first used in another
2254 state by religious institutions for the propagation of their
2255 creeds or for carrying on their customary nonprofit religious
2256 activities. "Religious institution," for the purpose of this
2257 exemption, means any religious institution granted an exemption
2258 under 26 USCS Section 501(c)(3). Any exemption under this
2259 paragraph obtained by fraud, misstatement or misrepresentation,
2260 shall be cancelled by the State Tax Commission, and the person
2261 committing the fraud, misstatement or misrepresentation shall be
2262 liable for prosecution for fraud on the assessment, and, on
2263 conviction, shall be fined not less than One Thousand Dollars
2264 (\$1,000.00), or punished by imprisonment in the State Penitentiary

2265 for a term not to exceed five (5) years, or both, within the
2266 discretion of the court.

2267 (j) The tax on the cost or value of farm machinery used
2268 in the harvesting of agricultural products shall be limited to the
2269 ratio of use within this state to the life of the property.

2270 (k) On the use, storage or consumption, between July 1,
2271 1993, and June 30, 1994, of machinery and equipment to
2272 corporations qualified as tax-exempt organizations under Section
2273 501(c)(4) of the Internal Revenue Code and established in response
2274 to the Federal Oil Pollution Act of 1990 to provide a private
2275 capability to respond to major oil spills. For purposes of this
2276 exemption, "machinery and equipment" means property with a useful
2277 life of at least three (3) years which is used primarily in the
2278 operations of the Marine Oil Spill Response Corporation and shall
2279 include, without limitation, vessels, barges, booms and skimmers.

2280 This paragraph shall stand repealed on July 1, 1995.

2281 (l) On the use of machinery and equipment; special
2282 tooling such as dies, molds, jigs and similar items treated as
2283 special tooling for federal income tax purposes; or repair parts
2284 therefor or replacements thereof; or repair services thereon; by a
2285 taxpayer other than the manufacturer when the manufacturer still
2286 holds title to the items and the items are purchased by the
2287 manufacturer as a part of a project as defined in Section
2288 57-75-5(f)(iv)1.

2289 (m) On the use, storage or consumption of utilities
2290 purchased by a manufacturer described in Section 27-65-101(x).

2291 SECTION 16. Section 28, Chapter 1, Laws of 2000, Second
2292 Extraordinary Session, is amended as follows:

2293 Section 28. (1) Except as otherwise provided in this
2294 section, a qualified business or industry that meets the
2295 qualifications specified in the Mississippi Advantage Jobs Act may
2296 receive quarterly incentive payments for a period not to exceed
2297 ten (10) years from the State Tax Commission pursuant to the
2298 provisions of the Mississippi Advantage Jobs Act in an amount
2299 which shall be equal to the net benefit rate multiplied by the
2300 actual gross payroll of new direct jobs for a calendar quarter as
2301 verified by the Mississippi Employment Security Commission, but
2302 not to exceed the amount of money previously paid into the fund by
2303 the employer. A qualified business or industry that is a project
2304 as defined in Section 57-75-5(f)(iv)1 may elect the date upon
2305 which the ten-year period will begin. Such date may not be later
2306 than sixty (60) months after the date the business or industry
2307 applied for incentive payments.

2308 (2) (a) A qualified business or industry that is a project
2309 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to
2310 receive incentive payments for an additional period not to exceed
2311 five (5) years beyond the expiration date of the initial ten-year
2312 period if:

2313 (i) The qualified business or industry creates at
2314 least three thousand (3,000) new direct jobs within five (5) years
2315 after the date the business or industry commences commercial
2316 production;

2317 (ii) Within five (5) years after the date the
2318 business or industry commences commercial production, the average
2319 annual wage of the jobs is at least one hundred fifty percent
2320 (150%) of the most recently published state average annual wage or

2321 the most recently published average annual wage of the county in
2322 which the qualified business or industry is located as determined
2323 by the Mississippi Employment Security Commission, whichever is
2324 the lesser. The criteria for the average annual wage requirement
2325 shall be based upon the state average annual wage or the average
2326 annual wage of the county whichever is appropriate, at the time of
2327 creation of the minimum number of jobs, and the threshold
2328 established at that time will remain constant for the duration of
2329 the additional period; and

2330 (iii) The qualified business or industry meets and
2331 maintains the job and wage requirements of subparagraphs (i) and
2332 (ii) of this paragraph (a) for four (4) consecutive calendar
2333 quarters.

2334 (b) A qualified business or industry that is a project
2335 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
2336 incentive payments for the additional period provided in paragraph
2337 (a) of this subsection (2) may apply to the MDA to receive
2338 incentive payments for an additional period not to exceed ten (10)
2339 years beyond the expiration date of the additional period provided
2340 in paragraph (a) of this subsection (2) if:

2341 (i) The qualified business or industry creates at
2342 least four thousand (4,000) new direct jobs after qualifying for
2343 the additional incentive period provided in paragraph (a) of this
2344 subsection (2) but before the expiration of the additional period.

2345 For purposes of determining whether the business or industry
2346 meets the minimum jobs requirement of this subparagraph (i), the
2347 number of jobs the business or industry created in order to meet
2348 the minimum jobs requirement of paragraph (a) of this subsection

2349 (2) shall be subtracted from the minimum jobs requirement of this
2350 subparagraph (i);

2351 (ii) The average annual wage of the jobs is at
2352 least one hundred fifty percent (150%) of the most recently
2353 published state average annual wage or the most recently published
2354 average annual wage of the county in which the qualified business
2355 or industry is located as determined by the Mississippi Employment
2356 Security Commission, whichever is the lesser. The criteria for
2357 the average annual wage requirement shall be based upon the state
2358 average annual wage or the average annual wage of the county
2359 whichever is appropriate, at the time of creation of the minimum
2360 number of jobs, and the threshold established at that time will
2361 remain constant for the duration of the additional period; and

2362 (iii) The qualified business or industry meets and
2363 maintains the job and wage requirements of subparagraphs (i) and
2364 (ii) of this paragraph (b) for four (4) consecutive calendar
2365 quarters.

2366 (3) In order to receive incentive payments, an establishment
2367 shall apply to the MDA. The application shall be on a form
2368 prescribed by the MDA and shall contain such information as may be
2369 required by the MDA to determine if the applicant is qualified.

2370 (4) In order to qualify to receive such payments, the
2371 establishment applying shall be required to:

2372 (a) Be engaged in a qualified business or industry;

2373 (b) Provide an average salary, excluding benefits which
2374 are not subject to Mississippi income taxes, of at least one
2375 hundred twenty-five percent (125%) of the most recently published
2376 state average annual wage or the most recently published average

2377 annual wage of the county in which the qualified business or
2378 industry is located as determined by the Mississippi Employment
2379 Security Commission, whichever is the lesser. The criteria for
2380 this requirement shall be based upon the state average annual wage
2381 or the average annual wage of the county whichever is appropriate,
2382 at the time of application, and the threshold established upon
2383 application will remain constant for the duration of the project;

2384 (c) The business or industry must create and maintain a
2385 minimum of ten (10) full-time jobs in counties that have an
2386 average unemployment rate over the previous twelve-month period
2387 which is at least one hundred fifty percent (150%) of the most
2388 recently published state unemployment rate, as determined by the
2389 Mississippi Employment Security Commission or in Tier Three
2390 counties as determined under Section 57-73-21. In all other
2391 counties, the business or industry must create and maintain a
2392 minimum of twenty-five (25) full-time jobs. The criteria for this
2393 requirement shall be based on the designation of the county at the
2394 time of the application. The threshold established upon the
2395 application will remain constant for the duration of the project.

2396 The business or industry must meet its job creation commitment
2397 within twenty-four (24) months of the application approval.

2398 However, if the qualified business or industry is applying for
2399 incentive payments for an additional period under subsection (2)
2400 of this section, the business or industry must comply with the
2401 applicable job and wage requirements of subsection (2) of this
2402 section.

2403 (5) The MDA shall determine if the applicant is qualified to
2404 receive incentive payments. If the applicant is determined to be

2405 qualified by the MDA, the MDA shall conduct a cost/benefit
2406 analysis to determine the estimated net direct state benefits and
2407 the net benefit rate applicable for a period not to exceed ten
2408 (10) years and to estimate the amount of gross payroll for the
2409 period. If the applicant is determined to be qualified to receive
2410 incentive payments for an additional period under subsection (2)
2411 of this section, the MDA shall conduct a cost/benefit analysis to
2412 determine the estimated net direct state benefits and the net
2413 benefit rate applicable for the appropriate additional period and
2414 to estimate the amount of gross payroll for the additional period.

2415 In conducting such cost/benefit analysis, the MDA shall consider
2416 quantitative factors, such as the anticipated level of new tax
2417 revenues to the state along with the cost to the state of the
2418 qualified business or industry, and such other criteria as deemed
2419 appropriate by the MDA, including the adequacy of retirement
2420 benefits that the business or industry provides to individuals it
2421 employs in new direct jobs in this state. In no event shall
2422 incentive payments, cumulatively, exceed the estimated net direct
2423 state benefits. Once the qualified business or industry is
2424 approved by the MDA, an agreement shall be deemed to exist between
2425 the qualified business or industry and the State of Mississippi,
2426 requiring the continued incentive payment to be made as long as
2427 the qualified business or industry retains its eligibility.

2428 (6) Upon approval of such an application, the MDA shall
2429 notify the State Tax Commission and shall provide it with a copy
2430 of the approved application and the estimated net direct state
2431 benefits. The State Tax Commission may require the qualified
2432 business or industry to submit such additional information as may

2433 be necessary to administer the provisions of Sections 24 through
2434 33 of this act. The qualified business or industry shall report
2435 to the State Tax Commission periodically to show its continued
2436 eligibility for incentive payments. The qualified business or
2437 industry may be audited by the State Tax Commission to verify such
2438 eligibility.

2439 SECTION 17. Section 30, Chapter 1, Laws of 2000, Second
2440 Extraordinary Session, is amended as follows:

2441 Section 30. (1) As soon as practicable after the end of a
2442 calendar quarter for which a qualified business or industry has
2443 qualified to receive an incentive payment, the qualified business
2444 or industry shall file a claim for the payment with the State Tax
2445 Commission and shall specify the actual number of full-time jobs
2446 created and maintained by the business or industry for the
2447 calendar quarter and the gross payroll thereof. The State Tax
2448 Commission shall verify the actual number of full-time jobs
2449 created and maintained by the business or industry and compliance
2450 with the average annual wage requirements for such business or
2451 industry under Section 28(4) of this act. If the qualified
2452 business or industry files a claim for an incentive payment during
2453 an additional incentive period provided under Section 28(2) of
2454 this act, the State Tax Commission shall verify the actual number
2455 of full-time jobs created and maintained by the business or
2456 industry and compliance with the average annual wage requirements
2457 for such business or industry under Section 28(2) of this act. If
2458 the State Tax Commission is not able to provide such verification
2459 utilizing all available resources, the State Tax Commission may
2460 request such additional information from the business or industry

2461 as may be necessary.

2462 (2) (a) The business or industry must meet the salary and
2463 job requirements of Section 28(4) of this act for four (4)
2464 consecutive calendar quarters prior to payment of the first
2465 incentive payment. If the business or industry does not maintain
2466 the salary or job requirements of Section 28(4) of this act at any
2467 other time during the ten-year period after the date the first
2468 payment was made, the incentive payments shall not be made and
2469 shall not be resumed until such time as the actual verified number
2470 of full-time jobs created and maintained by the business or
2471 industry equals or exceeds the amounts specified in Section 28(4)
2472 of this act for one (1) calendar quarter.

2473 (b) If the business or industry is qualified to receive
2474 incentive payments for an additional period provided under Section
2475 28(2) of this act, the business or industry must meet the wage and
2476 job requirements of Section 28(2) of this act, for four (4)
2477 consecutive calendar quarters prior to payment of the first
2478 incentive payment. If the business or industry does not maintain
2479 the wage or job requirements of Section 28(2) of this act, at any
2480 other time during the appropriate additional period after the date
2481 the first payment was made, the incentive payments shall not be
2482 made and shall not be resumed until such time as the actual
2483 verified number of full-time jobs created and maintained by the
2484 business or industry equals or exceeds the amounts specified in
2485 Section 28(2) of this act, for one (1) calendar quarter.

2486 (3) An establishment that has qualified pursuant to Sections
2487 24 through 33 of this act may receive payments only in accordance
2488 with the provision under which it initially applied and was

2489 approved. If an establishment that is receiving incentive
2490 payments expands, it may apply for additional incentive payments
2491 based on the new gross payroll for new direct jobs anticipated
2492 from the expansion only, pursuant to Sections 24 through 33 of
2493 this act.

2494 (4) As soon as practicable after verification of the
2495 qualified business or industry meeting the requirements of
2496 Sections 24 through 33 of this act and all rules and regulations,
2497 the Department of Finance and Administration, upon requisition of
2498 the State Tax Commission, shall issue a warrant drawn on the
2499 Mississippi Advantage Jobs Incentive Payment Fund to the
2500 establishment in the amount of the net benefit rate multiplied by
2501 the actual gross payroll as determined pursuant to subsection (1)
2502 of this section for the calendar quarter.

2503 SECTION 18. Section 21-1-59, Mississippi Code of 1972, is
2504 amended as follows:[CR10]

2505 21-1-59. (1) No municipality shall be created or shall
2506 change its boundaries so as to include within the limits of such
2507 municipality any of the buildings or grounds of any state
2508 institution, unless consent thereto shall be obtained in writing
2509 from the board of trustees of such institution or such other
2510 governing board or body as may be created for the control of such
2511 institution. Inclusion of the buildings or grounds of any state
2512 institution within the area of a municipal incorporation or
2513 expansion without the consent hereinabove required shall be
2514 voidable at the option of the affected institution within six (6)
2515 months after the institution becomes aware of the inclusion. Upon
2516 consent to inclusion within the area of a municipal incorporation

2517 or expansion, a state institution may require, subject to
2518 agreement of the municipality involved, conditions relating to
2519 land use development, zoning requirements, building codes and
2520 delivery of governmental services which shall be applicable to the
2521 buildings or grounds of the institution included in the
2522 municipality.

2523 Provided further, that any future changes in the boundaries
2524 of a presently existing municipality which extends into or further
2525 extends into a county other than the county in which the
2526 municipality's principal office is located shall not affect the
2527 public school district located in the annexed area, unless and
2528 until consent thereto shall have first been obtained in writing
2529 from the board of trustees of the school district proposed to be
2530 partially or wholly included in the change of municipal
2531 boundaries.

2532 Provided further, that any change in the boundaries of a
2533 presently existing municipality of any Class 1 county having two
2534 (2) judicial districts, being traversed by U.S. Highway 11 which
2535 intersects U.S. Highway 84, shall not affect the public school
2536 district located in the annexed area and shall not change the
2537 governmental unit to which the school taxes are paid, unless
2538 approved by referendum as hereinafter provided.

2539 In the event that twenty percent (20%) of the registered
2540 voters residing within the area to be annexed by a municipality
2541 petition the governing body of such municipality for a referendum
2542 on the question of inclusion in the municipal school district
2543 within sixty (60) days of public notice of the adoption of such
2544 ordinance, such notice given in the same manner and for the same

2545 length of time as is provided in Section 21-1-15 with regard to
2546 the creation of municipal corporations, the governing body of the
2547 county in which the area to be annexed is located shall hold a
2548 referendum of all registered voters residing within the area to be
2549 annexed on the question of inclusion in the municipal school
2550 district. Approval of the ordinance shall be made by a majority
2551 vote of the qualified electors voting in said referendum to be
2552 held within ninety (90) days from the date of filing and
2553 certification of the petition provided for herein on the question
2554 of such extension or contraction. The referendum shall be held in
2555 the same manner as are other county elections.

2556 The inclusion of buildings or grounds of any state
2557 institution within the area of a municipal incorporation or
2558 expansion in any proceedings creating a municipality or enlarging
2559 the boundaries of a municipality prior to the effective date of
2560 Senate Bill 2307, 1987 Regular Session (Chapter 359, eff March 18,
2561 1987), is hereby ratified, confirmed and validated, regardless of
2562 whether such inclusion was in conformity with the requirements of
2563 this section at the time of such proceedings, and such inclusion
2564 shall not be void or voidable by any affected state institution on
2565 or after the effective date of Senate Bill 2307, 1987 Regular
2566 Session (Chapter 359, eff March 18, 1987). This paragraph shall
2567 not be applicable to and shall not be construed to validate the
2568 inclusion of buildings or grounds of any state institution within
2569 the area of a municipal incorporation or expansion where such
2570 inclusion or the proceedings involving such inclusion were
2571 declared invalid or void in a final adjudication of a court of
2572 competent jurisdiction prior to the effective date of Senate Bill

2573 2307, 1987 Regular Session (Chapter 359, eff March 18, 1987), and
2574 the decision of such court was not appealed within the applicable
2575 time period for appeals from such court or was not overturned by
2576 any court to which an appeal may have been made.

2577 (2) No municipality shall be created or shall change its
2578 boundaries so as to include within the limits of such municipality
2579 the project site of a project as defined in Section
2580 57-75-5(f)(iv)1 unless consent thereto shall be obtained in
2581 writing from the enterprise operating the project.

2582 SECTION 19. Section 27-19-309, Mississippi Code of 1972, is
2583 amended as follows:[CR11]

2584 27-19-309. (1) An application for a motor vehicle dealer
2585 tag permit, new or used, must be accompanied by a fee of One
2586 Hundred Dollars (\$100.00). The State Tax Commission shall furnish
2587 distinguishing number tags at a fee of Thirty-five Dollars
2588 (\$35.00) each and a tag fee of Three Dollars and Seventy-five
2589 Cents (\$3.75). A dealer shall be limited to twelve (12) tags at
2590 Thirty-five Dollars (\$35.00) each and any additional tags shall be
2591 Seventy-five Dollars (\$75.00) each, plus a tag fee of Three
2592 Dollars and Seventy-five Cents (\$3.75) for each tag. Provided,
2593 that the application required herein shall have a space on same
2594 for the inclusion of the sales tax number of the applicant.

2595 (2) If a motor vehicle dealer is engaged only in buying,
2596 selling or exchanging motorcycles, the application for a motor
2597 vehicle dealer tag permit must be accompanied by a fee of Fifty
2598 Dollars (\$50.00). The State Tax Commission shall furnish
2599 motorcycle dealer tags at a fee of Six Dollars (\$6.00) each, and
2600 Three Dollars and Seventy-five Cents (\$3.75) for each tag fee.

2601 Such dealer shall be issued only motorcycle dealer distinguishing
2602 number tags, and the tags shall be displayed only upon a
2603 motorcycle.

2604 (3) A motor vehicle dealer engaged only in buying, selling,
2605 or exchanging of trailers, semitrailers or house trailers shall
2606 pay a fee of Seventy-five Dollars (\$75.00) for his permit. The
2607 State Tax Commission shall furnish distinguishing number tags for
2608 such at a fee of Ten Dollars (\$10.00) each, plus Three Dollars and
2609 Seventy-five Cents (\$3.75) for each tag fee. Such dealer shall be
2610 issued only trailer dealer distinguishing number tags, and the
2611 tags shall be displayed only upon a trailer, semitrailer or house
2612 trailer.

2613 (4) A manufacturer or manufacturer's branch, who is engaged
2614 only in delivering to and from the factory and located within the
2615 State of Mississippi, shall pay a fee of Fifty Dollars (\$50.00)
2616 for his permit and may purchase a distinguishing number tag upon
2617 making application to the State Tax Commission for a fee of Ten
2618 Dollars (\$10.00), plus Three Dollars and Seventy-five Cents
2619 (\$3.75) for a tag fee. Such manufacturer shall be issued only
2620 manufacturer tags, and the tags shall be displayed only upon those
2621 manufactured vehicles.

2622 (5) A heavy truck dealer shall pay a fee of One Hundred
2623 Dollars (\$100.00) for his permit and may purchase, for use in
2624 accordance with Section 27-19-319, distinguishing number tags for
2625 a fee of One Hundred Twenty-five Dollars (\$125.00) each, plus a
2626 tag fee of Three Dollars and Seventy-five Cents (\$3.75) each.
2627 Such dealer shall be issued only heavy truck tags and the tags
2628 shall be displayed only upon a heavy truck.

2629 (6) A manufacturer whose distribution or import companies
2630 operate a regional vehicle parts warehouse, distribution or
2631 preparation facilities located in a county wherein U.S. Highway 51
2632 and State Highway 4 intersect within the State of Mississippi,
2633 shall pay an annual fee of One Hundred Dollars (\$100.00) for a
2634 permit and may purchase a distinguishing number tag upon making
2635 application to the State Tax Commission for a fee of Fifty Dollars
2636 (\$50.00), plus Three Dollars and Seventy-five Cents (\$3.75) for a
2637 tag fee. Such manufacturer shall be issued tags to be utilized by
2638 vehicles owned by the manufacturer and which are used by the
2639 manufacturer for testing, distribution, evaluation, incentives and
2640 promotion. The number of tags issued to a manufacturer by the
2641 State Tax Commission shall not exceed fifty (50).

2642 (7) Beginning July 1, 1987, and until the date specified in
2643 Section 65-39-35, there shall be levied a tag fee of Five Dollars
2644 (\$5.00) in addition to the tag fee of Three Dollars and
2645 Seventy-five Cents (\$3.75) levied in this section. Such
2646 additional fee shall be levied in the same manner as the tag fee
2647 of Three Dollars and Seventy-five Cents (\$3.75).

2648 (8) A motor vehicle manufacturer operating a project as
2649 defined in Section 57-75-5(f)(iv)1 shall pay an annual fee of One
2650 Hundred Dollars (\$100.00) for a permit and may purchase a
2651 distinguishing number tag upon making application to the State Tax
2652 Commission for a fee of Fifty Dollars (\$50.00), plus Three Dollars
2653 and Seventy-five Cents (\$3.75) for a tag fee. Such manufacturer
2654 shall be issued tags to be utilized by vehicles owned by the
2655 manufacturer and which are used by the manufacturer primarily for
2656 maintenance at the project site and for testing, demonstration,

2657 evaluation, incentives and promotion. The number of tags issued
2658 to such manufacturer by the State Tax Commission shall not exceed
2659 three hundred (300).

2660 (9) The number of distinguishing number tags issued to each
2661 dealer shall be determined by the State Tax Commission. In
2662 addition, only those dealer distinguishing number tags authorized
2663 and purchased by the State Tax Commission will be considered as a
2664 valid dealer distinguishing number tag and any tag manufactured by
2665 any other means and held out to the public as being a dealer
2666 distinguishing number tag shall be a violation of this section and
2667 a penalty of Five Hundred Dollars (\$500.00) shall be assessed by
2668 the State Tax Commission, which shall be in addition to any
2669 penalty authorized by law. Display of the tag in question on a
2670 vehicle shall be considered prima facia evidence of the violation.

2671 SECTION 20. Section 63-17-55, Mississippi Code of 1972, is
2672 amended as follows:[CR12]

2673 63-17-55. The following words, terms and phrases, when used
2674 in the Mississippi Motor Vehicle Commission Law, shall have the
2675 meanings respectively ascribed to them in this section, except
2676 where the context clearly indicates a different meaning:

2677 (a) "Motor vehicle" means any motor-driven vehicle of
2678 the sort and kind required to have a Mississippi road or bridge
2679 privilege license, and shall include, but not be limited to,
2680 motorcycles.

2681 (b) "Motor vehicle dealer" means any person, firm,
2682 partnership, copartnership, association, corporation, trust or
2683 legal entity, not excluded by subsection (c) of this section, who
2684 holds a bona fide contract or franchise in effect with a

2685 manufacturer, distributor or wholesaler of new motor vehicles, and
2686 a license under the provisions of the Mississippi Motor Vehicle
2687 Commission Law, and such duly franchised and licensed motor
2688 vehicle dealers shall be the sole and only persons, firms,
2689 partnerships, copartnerships, associations, corporations, trusts
2690 or legal entities entitled to sell and publicly or otherwise
2691 solicit and advertise for sale new motor vehicles as such.

2692 (c) The term "motor vehicle dealer" does not include:

2693 (i) Receivers, trustees, administrators,
2694 executors, guardians or other persons appointed by or acting under
2695 judgment, decree or order of any court; * * *

2696 (ii) Public officers while performing their duties
2697 as such officers; * * *

2698 (iii) Employees of persons, corporations or
2699 associations enumerated in subsection (c)(i) of this section when
2700 engaged in the specific performance of their duties as such
2701 employees; or

2702 (iv) A motor vehicle manufacturer operating a
2703 project as defined in Section 57-75-5(f)(iv)1; and the provisions
2704 of the Mississippi Motor Vehicle Commission Law shall not apply
2705 to:

2706 1. a. Any lease by such a motor vehicle
2707 manufacturer of three (3) or fewer motor vehicles at any one time
2708 and related vehicle maintenance, of any line of vehicle produced
2709 by the manufacturer or its subsidiaries, to any one (1) employee
2710 of the motor vehicle manufacturer on a direct basis; or

2711 b. Any sale or other disposition of such
2712 motor vehicles by the motor vehicle manufacturer at the end of a

2713 lease through direct sales to employees of the manufacturer or
2714 through an open auction or auction limited to dealers of the
2715 manufacturer's vehicle line or its subsidiaries' vehicle lines; or
2716 2. Any sale or other disposition by such a
2717 motor vehicle manufacturer of motor vehicles for which the
2718 manufacturer obtained distinguishing number tags under Section
2719 27-19-309(8).

2720 (d) "New motor vehicle" means a motor vehicle which has
2721 not been previously sold to any person except a distributor or
2722 wholesaler or motor vehicle dealer for resale.

2723 (e) "Ultimate purchaser" means, with respect to any new
2724 motor vehicle, the first person, other than a motor vehicle dealer
2725 purchasing in his capacity as such dealer, who in good faith
2726 purchases such new motor vehicle for purposes other than for
2727 resale.

2728 (f) "Retail sale" or "sale at retail" means the act or
2729 attempted act of selling, bartering, exchanging or otherwise
2730 disposing of a new motor vehicle to an ultimate purchaser for use
2731 as a consumer.

2732 (g) "Motor vehicle salesman" means any person who is
2733 employed as a salesman by a motor vehicle dealer whose duties
2734 include the selling or offering for sale of new motor vehicles.

2735 (h) "Commission" means the Mississippi Motor Vehicle
2736 Commission.

2737 (i) "Manufacturer" means any person, firm, association,
2738 corporation or trust, resident or nonresident, who manufactures or
2739 assembles new motor vehicles.

2740 (j) "Distributor" or "wholesaler" means any person,

2741 firm, association, corporation or trust, resident or nonresident,
2742 who in whole or in part sells or distributes new motor vehicles to
2743 motor vehicle dealers, or who maintains distributor
2744 representatives.

2745 (k) "Factory branch" means a branch or division office
2746 maintained by a person, firm, association, corporation or trust
2747 who manufactures or assembles new motor vehicles for sale to
2748 distributors or wholesalers, to motor vehicle dealers, or for
2749 directing or supervising, in whole or in part, its
2750 representatives.

2751 (l) "Distributor branch" means a branch or division
2752 office similarly maintained by a distributor or wholesaler for the
2753 same purposes a factory branch or division is maintained.

2754 (m) "Factory representative" means a representative
2755 employed by a person, firm, association, corporation or trust who
2756 manufactures or assembles new motor vehicles, or by a factory
2757 branch, for the purpose of making or promoting the sale of his,
2758 its or their new motor vehicles, or for supervising or contacting
2759 his, its or their dealers or prospective dealers.

2760 (n) "Distributor representative" means a representative
2761 similarly employed by a distributor, distributor branch or
2762 wholesaler.

2763 (o) "Person" means and includes, individually and
2764 collectively, individuals, firms, partnerships, copartnerships,
2765 associations, corporations and trusts, or any other forms of
2766 business enterprise, or any legal entity.

2767 (p) "Good faith" means the duty of each party to any
2768 franchise, and all officers, employees or agents thereof, to act

2769 in a fair and equitable manner toward each other so as to
2770 guarantee the one party freedom from coercion, intimidation or
2771 threats of coercion or intimidation from the other party.
2772 However, recommendation, endorsement, exposition, persuasion,
2773 urging or argument shall not be deemed to constitute a lack of
2774 good faith.

2775 (q) "Coerce" means the failure to act in good faith in
2776 performing or complying with any terms or provisions of the
2777 franchise or agreement. However, recommendation, exposition,
2778 persuasion, urging or argument shall not be deemed to constitute a
2779 lack of good faith.

2780 (r) "Special tools" are those which a dealer was
2781 required to purchase by the manufacturer or distributor for
2782 service on that manufacturer's product.

2783 (s) "Motor vehicle lessor" means any person, not
2784 excluded by subsection (c) of this section, engaged in the motor
2785 vehicle leasing or rental business.

2786 (t) "Specialty vehicle" means a motor vehicle
2787 manufactured by a second stage manufacturer by purchasing motor
2788 vehicle components, e.g. frame and drive train, and completing the
2789 manufacturer of finished motor vehicles for the purpose of resale
2790 with the primary manufacturer warranty unimpaired, to a limited
2791 commercial market rather than the consuming public. Specialty
2792 vehicles include garbage trucks, ambulances, fire trucks, buses,
2793 limousines, hearses and other similar limited purpose vehicles as
2794 the commission may by regulation provide.

2795 (u) "Auto auction" means (i) any person who provides a
2796 place of business or facilities for the wholesale exchange of

2797 motor vehicles by and between duly licensed motor vehicle dealers,
2798 (ii) any motor vehicle dealer licensed to sell used motor vehicles
2799 selling motor vehicles using an auction format but not on
2800 consignment, or (iii) any person who provides the facilities for
2801 or is in the business of selling in an auction format motor
2802 vehicles.

2803 (v) "Motor home" means a motor vehicle that is designed
2804 and constructed primarily to provide temporary living quarters for
2805 recreational, camping or travel use.

2806 (w) "Dealer-operator" means the individual designated
2807 in the franchise agreement as the operator of the motor vehicle
2808 dealership.

2809 (x) "Franchise" or "franchise agreement" means a
2810 written contract or agreement between a motor vehicle dealer and a
2811 manufacturer or its distributor or factory branch by which the
2812 motor vehicle dealer is authorized to engage in the business of
2813 selling or leasing the specific makes, models or classifications
2814 of new motor vehicles marketed or leased by the manufacturer and
2815 designated in the agreement or any addendum to such agreement.

2816 SECTION 21. Section 63-17-103, Mississippi Code of 1972, is
2817 amended as follows:[CR13]

2818 63-17-103. (1) Nothing in the Mississippi Motor Vehicle
2819 Commission Law shall be construed to prohibit the sale of a new
2820 motor vehicle by any person who is not required to be licensed
2821 under said law. However, only a motor vehicle dealer as defined
2822 in Section 63-17-55 shall have the right to advertise or
2823 represent, publicly or otherwise, that a motor vehicle is new in
2824 connection with its sale, exchange or other disposition. Any

2825 person who is not such a motor vehicle dealer and who advertises
2826 or represents that a motor vehicle is new in connection with its
2827 sale, exchange or other disposition shall be guilty of a
2828 misdemeanor and upon conviction shall be punished in the manner
2829 provided for by Section 63-17-105. However, nothing in this
2830 section shall apply to (a) any lease by a motor vehicle
2831 manufacturer operating a project as defined in Section
2832 57-75-5(f)(iv)1 of three (3) or fewer motor vehicles at any one
2833 time and related vehicle maintenance, of any line of vehicle
2834 produced by the manufacturer or its subsidiaries, to any one (1)
2835 employee of the motor vehicle manufacturer on a direct basis, or
2836 any sale or other disposition of such motor vehicles by the motor
2837 vehicle manufacturer at the end of a lease through direct sales to
2838 employees of the manufacturer or through an open auction or
2839 auction limited to dealers of the manufacturer's vehicle line or
2840 its subsidiaries' vehicle lines; or (b) any sale or other
2841 disposition by such a motor vehicle manufacturer of motor vehicles
2842 for which the manufacturer obtained distinguishing number tags
2843 under Section 27-19-309(8).

2844 (2) Any person who violates the provisions of subsection (1)
2845 of this section may be enjoined from further violations of such
2846 provisions by writ of injunction issued out of a court of equity
2847 upon a bill filed in the name of the state by the Attorney
2848 General, or any district or county attorney whose duty requires
2849 him to prosecute criminal cases on behalf of the state, in the
2850 county where such violation occurred.

2851 SECTION 22. The following shall be codified as Section
2852 57-75-22, Mississippi Code of 1972:

2853 57-75-22. Any highways or highway segments constructed or
2854 improved by the Mississippi Department of Transportation under the
2855 provisions of this chapter for a project as defined in Section
2856 57-75-5(f)(iv) shall become a state highway and shall be placed
2857 under the jurisdiction of the Mississippi Transportation
2858 Commission for construction and maintenance.

2859 SECTION 23. This act shall take effect and be in force from
2860 and after its passage.