

By: Senator(s) Robertson

To: Finance

## SENATE BILL NO. 3008

1 AN ACT TO CREATE THE MISSISSIPPI EXISTING INDUSTRY  
2 PRODUCTIVITY LOAN PROGRAM TO BE ADMINISTERED BY THE MISSISSIPPI  
3 DEVELOPMENT AUTHORITY FOR THE PURPOSE OF PROVIDING LOANS TO  
4 CERTAIN INDUSTRIES THAT HAVE BEEN OPERATING IN THIS STATE FOR NOT  
5 LESS THAN TWO YEARS; TO PROVIDE THAT THE LOANS SHALL BE UTILIZED  
6 BY INDUSTRIES TO DEPLOY LONG-TERM FIXED ASSETS THAT THROUGH NEW  
7 TECHNOLOGY WILL IMPROVE PRODUCTIVITY AND COMPETITIVENESS; TO  
8 CREATE THE MISSISSIPPI EXISTING INDUSTRY PRODUCTIVITY LOAN FUND TO  
9 BE ADMINISTERED BY THE MISSISSIPPI DEVELOPMENT AUTHORITY; TO  
10 AUTHORIZE THE ISSUANCE OF \$10,000,000.00 IN STATE GENERAL  
11 OBLIGATION BONDS TO PROVIDE FUNDS FOR THE MISSISSIPPI EXISTING  
12 INDUSTRY PRODUCTIVITY LOAN FUND; TO AUTHORIZE THE ISSUANCE OF  
13 \$10,000,000.00 IN STATE GENERAL OBLIGATION BONDS TO PROVIDE FUNDS  
14 FOR THE ACE FUND; TO AMEND SECTION 57-1-16, MISSISSIPPI CODE OF  
15 1972, TO AUTHORIZE THE MISSISSIPPI DEVELOPMENT AUTHORITY TO  
16 UTILIZE THE PROCEEDS OF GENERAL OBLIGATION BONDS ISSUED FOR THE  
17 ACE FUND TO REIMBURSE THE AUTHORITY FOR REASONABLE ACTUAL AND  
18 NECESSARY COSTS INCURRED IN PROVIDING ASSISTANCE FROM THE ACE  
19 FUND; TO LIMIT THE AMOUNT OF SUCH REIMBURSEMENTS TO AN AMOUNT NOT  
20 TO EXCEED 3% OF THE GENERAL OBLIGATION BONDS ISSUED FOR GRANTS; TO  
21 REQUIRE THAT BUSINESSES OR INDUSTRIES SEEKING ASSISTANCE FROM THE  
22 ACE FUND PROVIDE CERTAIN INFORMATION AND ENTER INTO CERTAIN  
23 AGREEMENTS; TO AMEND SECTION 57-1-307, MISSISSIPPI CODE OF 1972,  
24 TO INCREASE FROM \$95,000,000.00 TO \$105,000,000.00 THE AMOUNT OF  
25 STATE GENERAL OBLIGATION BONDS THAT MAY BE ISSUED FOR THE LOCAL  
26 GOVERNMENTS CAPITAL IMPROVEMENTS REVOLVING LOAN FUND; TO AMEND  
27 SECTION 57-61-25, MISSISSIPPI CODE OF 1972, TO INCREASE FROM  
28 \$292,000,000.00 TO \$312,000,000.00 THE AMOUNT OF GENERAL  
29 OBLIGATION BONDS THAT MAY BE ISSUED UNDER THE MISSISSIPPI BUSINESS  
30 INVESTMENT ACT; TO AMEND SECTION 57-61-34, MISSISSIPPI CODE OF  
31 1972, TO INCREASE FROM \$9,000,000.00 TO \$19,000,000.00 THE AMOUNT  
32 OF BOND PROCEEDS THAT THE MISSISSIPPI DEVELOPMENT AUTHORITY MAY  
33 UTILIZE UNDER THE MISSISSIPPI BUSINESS INVESTMENT ACT FOR  
34 INTEREST-BEARING LOANS TO MUNICIPALITIES OR PRIVATE COMPANIES TO  
35 AID IN THE ESTABLISHMENT OF BUSINESS INCUBATION CENTERS AND THE  
36 CREATION OF NEW AND EXPANDING RESEARCH AND DEVELOPMENT AND  
37 TECHNOLOGY-BASED BUSINESS AND INDUSTRY; TO AMEND SECTION 57-61-36,  
38 MISSISSIPPI CODE OF 1972, TO INCREASE FROM \$10,500,000.00 TO  
39 \$20,500,000.00 THE AMOUNT OF BOND PROCEEDS THAT THE MISSISSIPPI  
40 DEVELOPMENT AUTHORITY MAY UTILIZE UNDER THE MISSISSIPPI BUSINESS  
41 INVESTMENT ACT TO MAKE GRANTS OR LOANS TO COUNTIES AND  
42 MUNICIPALITIES THROUGH AN EQUIPMENT AND PUBLIC FACILITIES GRANT  
43 AND LOAN FUND TO AID IN INFRASTRUCTURE-RELATED IMPROVEMENTS, THE  
44 PURCHASE OF EQUIPMENT AND IN THE PURCHASE, CONSTRUCTION OR REPAIR  
45 AND RENOVATION OF PUBLIC FACILITIES; TO ESTABLISH AN INCOME TAX  
46 CREDIT FOR MANUFACTURING ENTERPRISES THAT HAVE OPERATED IN THIS  
47 STATE FOR NOT LESS THAN TWO YEARS IN AN AMOUNT EQUAL TO A CERTAIN  
48 PERCENTAGE OF THE ENTERPRISE'S INVESTMENT IN BUILDINGS OR  
49 EQUIPMENT; TO PROVIDE THAT ANY SUCH TAX CREDIT CLAIMED BUT NOT  
50 USED IN ANY TAXABLE YEAR MAY BE CARRIED FORWARD FOR FIVE YEARS  
51 FROM THE CLOSE OF THE TAX YEAR IN WHICH THE ELIGIBLE INVESTMENT  
52 WAS MADE; TO PROVIDE THAT THE CREDIT TAKEN IN ANY ONE TAX YEAR IS

53 LIMITED TO AN AMOUNT NOT GREATER THAN 50% OF THE TAXPAYER'S STATE  
54 INCOME TAX LIABILITY WHICH IS ATTRIBUTABLE TO INCOME DERIVED FROM  
55 OPERATIONS IN THE STATE FOR THAT YEAR; TO PROVIDE THAT THE  
56 MANUFACTURING ENTERPRISE MUST INVEST AT LEAST \$1,000,000.00 TO BE  
57 ELIGIBLE FOR THE CREDIT; TO PROVIDE THAT THE MAXIMUM CUMULATIVE  
58 CREDIT THAT MAY BE CLAIMED BY A TAXPAYER FOR ANY ONE PROJECT IS  
59 LIMITED TO \$1,000,000.00; TO PROVIDE FOR RECAPTURE OF THE CREDIT  
60 UNDER CERTAIN CIRCUMSTANCES; TO AMEND SECTION 27-31-101,  
61 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE BOARD OF SUPERVISORS OF  
62 COUNTIES AND THE GOVERNING AUTHORITIES OF MUNICIPALITIES TO GRANT  
63 CERTAIN AD VALOREM TAX EXEMPTIONS TO DATA/INFORMATION PROCESSING  
64 ENTERPRISES AND TECHNOLOGY INTENSIVE ENTERPRISES MEETING MINIMUM  
65 CRITERIA ESTABLISHED BY THE MISSISSIPPI DEVELOPMENT AUTHORITY; TO  
66 AMEND SECTION 27-65-17, MISSISSIPPI CODE OF 1972, TO IMPOSE THE  
67 SALES TAX AT A REDUCED RATE ON CERTAIN SALES OF MACHINERY AND  
68 MACHINE PARTS TO A TECHNOLOGY INTENSIVE BUSINESS FOR PLANT USE; TO  
69 AMEND SECTION 27-65-19, MISSISSIPPI CODE OF 1972, TO REDUCE THE  
70 SALES TAX ON CERTAIN FUELS SOLD TO OR USED BY TECHNOLOGY INTENSIVE  
71 ENTERPRISES; TO AMEND SECTION 27-65-101, MISSISSIPPI CODE OF 1972,  
72 TO EXEMPT FROM SALES TAXATION SALES OF COMPONENT MATERIALS USED IN  
73 THE CONSTRUCTION OF A FACILITY, OR ANY ADDITION OR IMPROVEMENT TO  
74 SUCH FACILITY, AND SALES OR LEASES OF MACHINERY AND EQUIPMENT TO  
75 BE USED IN SUCH FACILITIES, ADDITIONS OR IMPROVEMENTS, TO  
76 PERMANENT BUSINESS ENTERPRISES OPERATING A DATA/INFORMATION  
77 ENTERPRISE IN A TIER THREE AREA MEETING MINIMUM CRITERIA  
78 ESTABLISHED BY THE MISSISSIPPI DEVELOPMENT AUTHORITY; TO EXEMPT  
79 FROM SALES TAXATION SALES OF COMPONENT MATERIALS USED IN THE  
80 CONSTRUCTION OF A FACILITY, OR ANY ADDITION OR IMPROVEMENT TO SUCH  
81 FACILITY, AND SALES OF MACHINERY AND EQUIPMENT TO BE USED IN SUCH  
82 FACILITIES, ADDITIONS OR IMPROVEMENTS, TO TECHNOLOGY INTENSIVE  
83 ENTERPRISES FOR INDUSTRIAL PURPOSES IN A TIER THREE AREA; TO  
84 REDUCE THE SALES TAXATION ON SALES OF COMPONENT MATERIALS USED IN  
85 THE CONSTRUCTION OF A FACILITY, OR ANY ADDITION OR IMPROVEMENT TO  
86 SUCH BUILDING, AND SALES OR LEASES OF MACHINERY AND EQUIPMENT TO  
87 BE USED IN SUCH BUILDINGS, ADDITIONS OR IMPROVEMENTS, TO PERMANENT  
88 BUSINESS ENTERPRISES OPERATING A DATA/INFORMATION ENTERPRISE IN A  
89 TIER ONE OR TIER TWO AREA MEETING MINIMUM CRITERIA ESTABLISHED BY  
90 THE MISSISSIPPI DEVELOPMENT AUTHORITY; TO REDUCE THE SALES  
91 TAXATION ON SALES OF COMPONENT MATERIALS USED IN THE CONSTRUCTION  
92 OF A FACILITY, OR ANY ADDITION OR IMPROVEMENT TO SUCH FACILITY,  
93 AND SALES OF MACHINERY AND EQUIPMENT, TO TECHNOLOGY INTENSIVE  
94 ENTERPRISES FOR INDUSTRIAL PURPOSES IN A TIER ONE OR TIER TWO  
95 AREA; TO AMEND SECTION 57-73-21, MISSISSIPPI CODE OF 1972, TO  
96 REVISE THE AMOUNT OF THE JOB TAX CREDIT FOR CERTAIN PERMANENT  
97 BUSINESS ENTERPRISES TO PROVIDE THAT THE AMOUNT OF THE CREDIT  
98 SHALL BE A CERTAIN PERCENTAGE OF SUCH ENTERPRISE'S PAYROLL; TO  
99 REENACT SECTIONS 57-10-401 THROUGH 57-10-445, MISSISSIPPI CODE OF  
100 1972, WHICH PROVIDE FOR THE ISSUANCE OF BONDS BY THE MISSISSIPPI  
101 BUSINESS FINANCE CORPORATION TO FINANCE ECONOMIC DEVELOPMENT  
102 PROJECTS IN ORDER TO INDUCE THE LOCATION OR EXPANSION OF CERTAIN  
103 BUSINESSES WITHIN THIS STATE; TO REENACT SECTION 27-7-22.3,  
104 MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR A CREDIT AGAINST  
105 STATE INCOME TAXES FOR CERTAIN COMPANIES FOR DEBT SERVICE PAID BY  
106 SUCH COMPANIES UNDER FINANCING AGREEMENTS ENTERED INTO WITH THE  
107 MISSISSIPPI BUSINESS FINANCE CORPORATION UNDER SECTION 57-10-409,  
108 MISSISSIPPI CODE OF 1972; TO AMEND SECTION 57-10-401, MISSISSIPPI  
109 CODE OF 1972, TO INCLUDE CERTAIN INFORMATION PROCESSING  
110 BUSINESSES, NATIONAL OR REGIONAL HEADQUARTERS, RESEARCH AND  
111 DEVELOPMENT FACILITIES AND TECHNOLOGY INTENSIVE ENTERPRISES OR  
112 FACILITIES WITHIN THE DEFINITION OF THE TERM "ELIGIBLE COMPANY";  
113 TO AMEND SECTION 57-10-449, MISSISSIPPI CODE OF 1972, TO EXTEND  
114 UNTIL OCTOBER 1, 2006, THE REPEAL DATE ON SECTIONS 57-10-401  
115 THROUGH 57-10-445 AND 27-7-22.3, MISSISSIPPI CODE OF 1972; TO  
116 AMEND SECTIONS 57-62-5 AND 57-62-9, MISSISSIPPI CODE OF 1972, TO  
117 REVISE THE DEFINITION OF THE TERM "QUALIFIED BUSINESS OR INDUSTRY"  
118 UNDER THE MISSISSIPPI ADVANTAGE JOBS ACT TO ALLOW A BUSINESS TO BE

119 ELIGIBLE FOR THE INCENTIVE PAYMENT UNDER THE ACT IF IT IS A  
120 DATA/INFORMATION PROCESSING ENTERPRISE, MANUFACTURING OR  
121 DISTRIBUTION ENTERPRISE OR A RESEARCH AND DEVELOPMENT OR  
122 TECHNOLOGY INTENSIVE ENTERPRISE THAT MEETS CERTAIN CRITERIA; TO  
123 REQUIRE APPLICANTS FOR THE INCENTIVE PAYMENTS UNDER THE ACT TO  
124 EXECUTE A PERFORMANCE AGREEMENT WITH THE MISSISSIPPI DEVELOPMENT  
125 AUTHORITY THAT SPECIFIES THE MANNER IN WHICH THE APPLICANT WILL  
126 UTILIZE THE INCENTIVE PAYMENT; TO AMEND SECTION 57-62-13,  
127 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED  
128 PURPOSES.

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

130 **SECTION 1.** (1) As used in this section:

131 (a) "Existing industry" means a manufacturing  
132 enterprise that has been operating in this state for not less than  
133 two (2) consecutive years that meets minimum criteria established  
134 by the Mississippi Development Authority.

135 (b) "Long-term fixed assets" means assets that:

136 (i) Through new technology will improve an  
137 enterprise's productivity and competitiveness; and

138 (ii) Meet criteria established by the Mississippi  
139 Development Authority.

140 (c) "MDA" means the Mississippi Development Authority.

141 (2) (a) There is established the Mississippi Existing  
142 Industry Productivity Loan Program to be administered by the MDA  
143 for the purpose of providing loans to existing industries to  
144 deploy long-term fixed assets that through new technology will  
145 improve productivity and competitiveness. An existing industry  
146 that accepts a loan under this program shall not reduce employment  
147 by more than twenty percent (20%) through the use of the long-term  
148 fixed assets for which the loan is granted.

149 (b) An enterprise desiring a loan under this section  
150 must submit an application to the MDA. The application shall  
151 include:

152 (i) A description of the purpose for which the  
153 loan is requested;

154 (ii) The amount of the loan requested;

155 (iii) The estimated total cost of the project;

156 (iv) A two-year business plan for the project;

157 (v) Financial statements or tax returns for the  
158 two (2) years immediately prior to the application;

159 (vi) Credit reports on all persons with a twenty  
160 percent (20%) or greater interest in the enterprise; and

161 (vii) Any other information required by the MDA.

162 (c) The MDA shall require that binding commitments be  
163 entered into requiring that:

164 (i) The minimum requirements of this section and  
165 such other requirements as the MDA considers proper shall be met;  
166 and

167 (ii) If such requirements are not met, all or a  
168 portion of the funds provided by this section as determined by the  
169 MDA shall be repaid.

170 (d) The amount of a loan under this section shall not  
171 exceed fifty percent (50%) of the total cost of the project.

172 (e) The rate of interest on loans under this section  
173 shall be at the true interest cost on the most recent issue of  
174 twenty-year state general obligation bonds occurring prior to the  
175 date the loan is made.

176 (f) The MDA shall have all powers necessary to  
177 implement and administer the program established under this  
178 section, and the MDA shall promulgate rules and regulations, in  
179 accordance with the Mississippi Administrative Procedures Law,  
180 necessary for the implementation of this section.

181 (2) (a) There is created in the State Treasury a special  
182 fund to be designated as the "Mississippi Existing Industry  
183 Productivity Loan Fund," which shall consist of funds appropriated  
184 or otherwise made available by the Legislature in any manner and  
185 funds from any other source designated for deposit into such fund.  
186 Unexpended amounts remaining in the fund at the end of a fiscal  
187 year shall not lapse into the State General Fund, and any  
188 investment earnings or interest earned on amounts in the fund  
189 shall be deposited to the credit of the fund. Monies in the fund

190 shall be used by the MDA for the purposes described in this  
191 section.

192 (b) Monies in the fund which are derived from the  
193 proceeds of general obligation bonds may be used to reimburse  
194 reasonable actual and necessary costs incurred by the MDA in  
195 providing loans under this section through the use of general  
196 obligation bonds. An accounting of actual costs incurred for  
197 which reimbursement is sought shall be maintained for each loan by  
198 the MDA. Reimbursement of reasonable actual and necessary costs  
199 shall not exceed three percent (3%) of the proceeds of bonds  
200 issued under this act. Monies authorized for a particular loan  
201 may not be used for reimburse administrative costs for unrelated  
202 loans. Reimbursements made under this subsection shall satisfy  
203 any applicable federal tax law requirements.

204 **SECTION 2.** As used in Sections 2 through 17 of this act, the  
205 following words shall have the meanings ascribed herein unless the  
206 context clearly requires otherwise:

207 (a) "Accreted value" of any bonds means, as of any date  
208 of computation, an amount equal to the sum of (i) the stated  
209 initial value of such bond, plus (ii) the interest accrued thereon  
210 from the issue date to the date of computation at the rate,  
211 compounded semiannually, that is necessary to produce the  
212 approximate yield to maturity shown for bonds of the same  
213 maturity.

214 (b) "Act" means Sections 2 through 17 of this act.

215 (c) "State" means the State of Mississippi.

216 (d) "Commission" means the State Bond Commission.

217 **SECTION 3.** (1) The Mississippi Development Authority, at  
218 one time, or from time to time, may declare by resolution the  
219 necessity for issuance of general obligation bonds of the State of  
220 Mississippi to provide funds for the program authorized in Section  
221 1, Senate Bill No. 3008, 2005 Regular Session. Upon the adoption  
222 of a resolution by the Mississippi Development Authority,

223 declaring the necessity for the issuance of any part or all of the  
224 general obligation bonds authorized by this section, the  
225 Mississippi Development Authority shall deliver a certified copy  
226 of its resolution or resolutions to the commission. Upon receipt  
227 of such resolution, the commission, in its discretion, may act as  
228 the issuing agent, prescribe the form of the bonds, advertise for  
229 and accept bids, issue and sell the bonds so authorized to be sold  
230 and do any and all other things necessary and advisable in  
231 connection with the issuance and sale of such bonds. The total  
232 amount of bonds issued under this act shall not exceed Ten Million  
233 Dollars (\$10,000,000.00). No bonds shall be issued under Sections  
234 2 through 17 of this act after July 1, 2008.

235 (2) The proceeds of bonds issued pursuant to this act shall  
236 be deposited into the Mississippi Existing Industry Productivity  
237 Loan Fund created pursuant to Section 1, Senate Bill No. 3008,  
238 2005 Regular Session. Any investment earnings on bonds issued  
239 pursuant to this act shall be used to pay debt service on bonds  
240 issued under this act, in accordance with the proceedings  
241 authorizing issuance of such bonds.

242 **SECTION 4.** The principal of and interest on the bonds  
243 authorized under this act shall be payable in the manner provided  
244 in this section. Such bonds shall bear such date or dates, be in  
245 such denomination or denominations, bear interest at such rate or  
246 rates (not to exceed the limits set forth in Section 75-17-101,  
247 Mississippi Code of 1972), be payable at such place or places  
248 within or without the State of Mississippi, shall mature  
249 absolutely at such time or times not to exceed twenty-five (25)  
250 years from date of issue, be redeemable before maturity at such  
251 time or times and upon such terms, with or without premium, shall  
252 bear such registration privileges, and shall be substantially in  
253 such form, all as shall be determined by resolution of the  
254 commission.

255           **SECTION 5.** The bonds authorized by this act shall be signed  
256 by the chairman of the commission, or by his facsimile signature,  
257 and the official seal of the commission shall be affixed thereto,  
258 attested by the secretary of the commission. The interest  
259 coupons, if any, to be attached to such bonds may be executed by  
260 the facsimile signatures of such officers. Whenever any such  
261 bonds shall have been signed by the officials designated to sign  
262 the bonds who were in office at the time of such signing but who  
263 may have ceased to be such officers before the sale and delivery  
264 of such bonds, or who may not have been in office on the date such  
265 bonds may bear, the signatures of such officers upon such bonds  
266 and coupons shall nevertheless be valid and sufficient for all  
267 purposes and have the same effect as if the person so officially  
268 signing such bonds had remained in office until their delivery to  
269 the purchaser, or had been in office on the date such bonds may  
270 bear. However, notwithstanding anything herein to the contrary,  
271 such bonds may be issued as provided in the Registered Bond Act of  
272 the State of Mississippi.

273           **SECTION 6.** All bonds and interest coupons issued under the  
274 provisions of this act have all the qualities and incidents of  
275 negotiable instruments under the provisions of the Uniform  
276 Commercial Code, and in exercising the powers granted by this act,  
277 the commission shall not be required to and need not comply with  
278 the provisions of the Uniform Commercial Code.

279           **SECTION 7.** The commission shall act as the issuing agent for  
280 the bonds authorized under this act, prescribe the form of the  
281 bonds, advertise for and accept bids, issue and sell the bonds so  
282 authorized to be sold, pay all fees and costs incurred in such  
283 issuance and sale, and do any and all other things necessary and  
284 advisable in connection with the issuance and sale of such bonds.  
285 The commission is authorized and empowered to pay the costs that  
286 are incident to the sale, issuance and delivery of the bonds  
287 authorized under this act from the proceeds derived from the sale

288 of such bonds. The commission shall sell such bonds on sealed  
289 bids at public sale, and for such price as it may determine to be  
290 for the best interest of the State of Mississippi, but no such  
291 sale shall be made at a price less than par plus accrued interest  
292 to the date of delivery of the bonds to the purchaser. All  
293 interest accruing on such bonds so issued shall be payable  
294 semiannually or annually; however, the first interest payment may  
295 be for any period of not more than one (1) year.

296 Notice of the sale of any such bonds shall be published at  
297 least one time, not less than ten (10) days before the date of  
298 sale, and shall be so published in one or more newspapers  
299 published or having a general circulation in the City of Jackson,  
300 Mississippi, and in one or more other newspapers or financial  
301 journals with a national circulation, to be selected by the  
302 commission.

303 The commission, when issuing any bonds under the authority of  
304 this act, may provide that bonds, at the option of the State of  
305 Mississippi, may be called in for payment and redemption at the  
306 call price named therein and accrued interest on such date or  
307 dates named therein.

308 **SECTION 8.** The bonds issued under the provisions of this act  
309 are general obligations of the State of Mississippi, and for the  
310 payment thereof the full faith and credit of the State of  
311 Mississippi is irrevocably pledged. If the funds appropriated by  
312 the Legislature are insufficient to pay the principal of and the  
313 interest on such bonds as they become due, then the deficiency  
314 shall be paid by the State Treasurer from any funds in the State  
315 Treasury not otherwise appropriated. All such bonds shall contain  
316 recitals on their faces substantially covering the provisions of  
317 this section.

318 **SECTION 9.** Upon the issuance and sale of bonds under the  
319 provisions of this act, the commission shall transfer the proceeds  
320 of any such sale or sales to the Mississippi Existing Industry



321 Productivity Loan Fund created in Section 1 of Senate Bill No.  
322 3008, 2005 Regular Session. The proceeds of such bonds shall be  
323 disbursed solely upon the order of the Mississippi Development  
324 Authority under such restrictions, if any, as may be contained in  
325 the resolution providing for the issuance of the bonds.

326 **SECTION 10.** The bonds authorized under this act may be  
327 issued without any other proceedings or the happening of any other  
328 conditions or things other than those proceedings, conditions and  
329 things which are specified or required by this act. Any  
330 resolution providing for the issuance of bonds under the  
331 provisions of this act shall become effective immediately upon its  
332 adoption by the commission, and any such resolution may be adopted  
333 at any regular or special meeting of the commission by a majority  
334 of its members.

335 **SECTION 11.** The bonds authorized under the authority of this  
336 act may be validated in the Chancery Court of the First Judicial  
337 District of Hinds County, Mississippi, in the manner and with the  
338 force and effect provided by Chapter 13, Title 31, Mississippi  
339 Code of 1972, for the validation of county, municipal, school  
340 district and other bonds. The notice to taxpayers required by  
341 such statutes shall be published in a newspaper published or  
342 having a general circulation in the City of Jackson, Mississippi.

343 **SECTION 12.** Any holder of bonds issued under the provisions  
344 of this act or of any of the interest coupons pertaining thereto  
345 may, either at law or in equity, by suit, action, mandamus or  
346 other proceeding, protect and enforce any and all rights granted  
347 under this act, or under such resolution, and may enforce and  
348 compel performance of all duties required by this act to be  
349 performed, in order to provide for the payment of bonds and  
350 interest thereon.

351 **SECTION 13.** All bonds issued under the provisions of this  
352 act shall be legal investments for trustees and other fiduciaries,  
353 and for savings banks, trust companies and insurance companies

354 organized under the laws of the State of Mississippi, and such  
355 bonds shall be legal securities which may be deposited with and  
356 shall be received by all public officers and bodies of this state  
357 and all municipalities and political subdivisions for the purpose  
358 of securing the deposit of public funds.

359       **SECTION 14.** Bonds issued under the provisions of this act  
360 and income therefrom shall be exempt from all taxation in the  
361 State of Mississippi.

362       **SECTION 15.** The proceeds of the bonds issued under this act  
363 shall be used solely for the purposes therein provided, including  
364 the costs incident to the issuance and sale of such bonds.

365       **SECTION 16.** The State Treasurer is authorized, without  
366 further process of law, to certify to the Department of Finance  
367 and Administration the necessity for warrants, and the Department  
368 of Finance and Administration is authorized and directed to issue  
369 such warrants, in such amounts as may be necessary to pay when due  
370 the principal of, premium, if any, and interest on, or the  
371 accreted value of, all bonds issued under this act; and the State  
372 Treasurer shall forward the necessary amount to the designated  
373 place or places of payment of such bonds in ample time to  
374 discharge such bonds, or the interest thereon, on the due dates  
375 thereof.

376       **SECTION 17.** This act shall be deemed to be full and complete  
377 authority for the exercise of the powers therein granted, but this  
378 act shall not be deemed to repeal or to be in derogation of any  
379 existing law of this state.

380       **SECTION 18.** As used in Sections 18 through 33 of this act,  
381 the following words shall have the meanings ascribed herein unless  
382 the context clearly requires otherwise:

383           (a) "Accreted value" of any bonds means, as of any date  
384 of computation, an amount equal to the sum of (i) the stated  
385 initial value of such bond, plus (ii) the interest accrued thereon  
386 from the issue date to the date of computation at the rate,

387 compounded semiannually, that is necessary to produce the  
388 approximate yield to maturity shown for bonds of the same  
389 maturity.

390 (b) "Act" means Sections 18 through 33 of this act.

391 (c) "State" means the State of Mississippi.

392 (d) "Commission" means the State Bond Commission.

393 **SECTION 19.** (1) The Mississippi Development Authority, at  
394 one time, or from time to time, may declare by resolution the  
395 necessity for issuance of general obligation bonds of the State of  
396 Mississippi to provide funds for the program authorized in Section  
397 57-1-16. Upon the adoption of a resolution by the Mississippi  
398 Development Authority, declaring the necessity for the issuance of  
399 any part or all of the general obligation bonds authorized by this  
400 section, the Mississippi Development Authority shall deliver a  
401 certified copy of its resolution or resolutions to the commission.  
402 Upon receipt of such resolution, the commission, in its  
403 discretion, may act as the issuing agent, prescribe the form of  
404 the bonds, advertise for and accept bids, issue and sell the bonds  
405 so authorized to be sold and do any and all other things necessary  
406 and advisable in connection with the issuance and sale of such  
407 bonds. The total amount of bonds issued under this act shall not  
408 exceed Ten Million Dollars (\$10,000,000.00). No bonds authorized  
409 under this act shall be issued after July 1, 2009.

410 (2) The proceeds of bonds issued pursuant to this act shall  
411 be deposited into the ACE Fund created pursuant to Section  
412 57-1-16. Any investment earnings on bonds issued pursuant to this  
413 act shall be used to pay debt service on bonds issued under this  
414 act, in accordance with the proceedings authorizing issuance of  
415 such bonds.

416 **SECTION 20.** The principal of and interest on the bonds  
417 authorized under this act shall be payable in the manner provided  
418 in this section. Such bonds shall bear such date or dates, be in  
419 such denomination or denominations, bear interest at such rate or

420 rates (not to exceed the limits set forth in Section 75-17-101,  
421 Mississippi Code of 1972), be payable at such place or places  
422 within or without the State of Mississippi, shall mature  
423 absolutely at such time or times not to exceed twenty-five (25)  
424 years from date of issue, be redeemable before maturity at such  
425 time or times and upon such terms, with or without premium, shall  
426 bear such registration privileges, and shall be substantially in  
427 such form, all as shall be determined by resolution of the  
428 commission.

429       **SECTION 21.** The bonds authorized by this act shall be signed  
430 by the chairman of the commission, or by his facsimile signature,  
431 and the official seal of the commission shall be affixed thereto,  
432 attested by the secretary of the commission. The interest  
433 coupons, if any, to be attached to such bonds may be executed by  
434 the facsimile signatures of such officers. Whenever any such  
435 bonds shall have been signed by the officials designated to sign  
436 the bonds who were in office at the time of such signing but who  
437 may have ceased to be such officers before the sale and delivery  
438 of such bonds, or who may not have been in office on the date such  
439 bonds may bear, the signatures of such officers upon such bonds  
440 and coupons shall nevertheless be valid and sufficient for all  
441 purposes and have the same effect as if the person so officially  
442 signing such bonds had remained in office until their delivery to  
443 the purchaser, or had been in office on the date such bonds may  
444 bear. However, notwithstanding anything herein to the contrary,  
445 such bonds may be issued as provided in the Registered Bond Act of  
446 the State of Mississippi.

447       **SECTION 22.** All bonds and interest coupons issued under the  
448 provisions of this act have all the qualities and incidents of  
449 negotiable instruments under the provisions of the Uniform  
450 Commercial Code, and in exercising the powers granted by this act,  
451 the commission shall not be required to and need not comply with  
452 the provisions of the Uniform Commercial Code.

453           **SECTION 23.** The commission shall act as the issuing agent  
454 for the bonds authorized under this act, prescribe the form of the  
455 bonds, advertise for and accept bids, issue and sell the bonds so  
456 authorized to be sold, pay all fees and costs incurred in such  
457 issuance and sale, and do any and all other things necessary and  
458 advisable in connection with the issuance and sale of such bonds.  
459 The commission is authorized and empowered to pay the costs that  
460 are incident to the sale, issuance and delivery of the bonds  
461 authorized under this act from the proceeds derived from the sale  
462 of such bonds. The commission shall sell such bonds on sealed  
463 bids at public sale, and for such price as it may determine to be  
464 for the best interest of the State of Mississippi, but no such  
465 sale shall be made at a price less than par plus accrued interest  
466 to the date of delivery of the bonds to the purchaser. All  
467 interest accruing on such bonds so issued shall be payable  
468 semiannually or annually; however, the first interest payment may  
469 be for any period of not more than one (1) year.

470           Notice of the sale of any such bonds shall be published at  
471 least one time, not less than ten (10) days before the date of  
472 sale, and shall be so published in one or more newspapers  
473 published or having a general circulation in the City of Jackson,  
474 Mississippi, and in one or more other newspapers or financial  
475 journals with a national circulation, to be selected by the  
476 commission.

477           The commission, when issuing any bonds under the authority of  
478 this act, may provide that bonds, at the option of the State of  
479 Mississippi, may be called in for payment and redemption at the  
480 call price named therein and accrued interest on such date or  
481 dates named therein.

482           **SECTION 24.** The bonds issued under the provisions of this  
483 act are general obligations of the State of Mississippi, and for  
484 the payment thereof the full faith and credit of the State of  
485 Mississippi is irrevocably pledged. If the funds appropriated by

486 the Legislature are insufficient to pay the principal of and the  
487 interest on such bonds as they become due, then the deficiency  
488 shall be paid by the State Treasurer from any funds in the State  
489 Treasury not otherwise appropriated. All such bonds shall contain  
490 recitals on their faces substantially covering the provisions of  
491 this section.

492 **SECTION 25.** Upon the issuance and sale of bonds under the  
493 provisions of this act, the commission shall transfer the proceeds  
494 of any such sale or sales to the ACE Fund created in 57-1-16. The  
495 proceeds of such bonds shall be disbursed solely upon the order of  
496 the Mississippi Development Authority under such restrictions, if  
497 any, as may be contained in the resolution providing for the  
498 issuance of the bonds.

499 **SECTION 26.** The bonds authorized under this act may be  
500 issued without any other proceedings or the happening of any other  
501 conditions or things other than those proceedings, conditions and  
502 things which are specified or required by this act. Any  
503 resolution providing for the issuance of bonds under the  
504 provisions of this act shall become effective immediately upon its  
505 adoption by the commission, and any such resolution may be adopted  
506 at any regular or special meeting of the commission by a majority  
507 of its members.

508 **SECTION 27.** The bonds authorized under the authority of this  
509 act may be validated in the Chancery Court of the First Judicial  
510 District of Hinds County, Mississippi, in the manner and with the  
511 force and effect provided by Chapter 13, Title 31, Mississippi  
512 Code of 1972, for the validation of county, municipal, school  
513 district and other bonds. The notice to taxpayers required by  
514 such statutes shall be published in a newspaper published or  
515 having a general circulation in the City of Jackson, Mississippi.

516 **SECTION 28.** Any holder of bonds issued under the provisions  
517 of this act or of any of the interest coupons pertaining thereto  
518 may, either at law or in equity, by suit, action, mandamus or

519 other proceeding, protect and enforce any and all rights granted  
520 under this act, or under such resolution, and may enforce and  
521 compel performance of all duties required by this act to be  
522 performed, in order to provide for the payment of bonds and  
523 interest thereon.

524       **SECTION 29.** All bonds issued under the provisions of this  
525 act shall be legal investments for trustees and other fiduciaries,  
526 and for savings banks, trust companies and insurance companies  
527 organized under the laws of the State of Mississippi, and such  
528 bonds shall be legal securities which may be deposited with and  
529 shall be received by all public officers and bodies of this state  
530 and all municipalities and political subdivisions for the purpose  
531 of securing the deposit of public funds.

532       **SECTION 30.** Bonds issued under the provisions of this act  
533 and income therefrom shall be exempt from all taxation in the  
534 State of Mississippi.

535       **SECTION 31.** The proceeds of the bonds issued under this act  
536 shall be used solely for the purposes therein provided, including  
537 the costs incident to the issuance and sale of such bonds.

538       **SECTION 32.** The State Treasurer is authorized, without  
539 further process of law, to certify to the Department of Finance  
540 and Administration the necessity for warrants, and the Department  
541 of Finance and Administration is authorized and directed to issue  
542 such warrants, in such amounts as may be necessary to pay when due  
543 the principal of, premium, if any, and interest on, or the  
544 accreted value of, all bonds issued under this act; and the State  
545 Treasurer shall forward the necessary amount to the designated  
546 place or places of payment of such bonds in ample time to  
547 discharge such bonds, or the interest thereon, on the due dates  
548 thereof.

549       **SECTION 33.** This act shall be deemed to be full and complete  
550 authority for the exercise of the powers therein granted, but this

551 act shall not be deemed to repeal or to be in derogation of any  
552 existing law of this state.

553 **SECTION 34.** Section 57-1-16, Mississippi Code of 1972, is  
554 amended as follows:

555 57-1-16. (1) As used in this section:

556 (a) "Extraordinary economic development opportunity"  
557 means a new or expanded business or industry which maintains a  
558 strong financial condition and minimal credit risk and creates  
559 substantial employment, particularly in areas of high  
560 unemployment.

561 (b) "Local economic development entities" means public  
562 or private nonprofit local economic development entities,  
563 including, but not limited to, chambers of commerce, local  
564 authorities, commissions or other entities created by local and  
565 private legislation or districts created pursuant to Section  
566 19-5-99.

567 (c) "MDA" means the Mississippi Development Authority.

568 (2) (a) There is hereby created in the State Treasury a  
569 special fund to be designated as the ACE Fund, which shall consist  
570 of money from any public or private source designated for deposit  
571 into such fund. Unexpended amounts remaining in the fund at the  
572 end of a fiscal year shall not lapse into the State General Fund,  
573 and any interest earned on amounts in the fund shall be deposited  
574 to the credit of the fund. The purpose of the fund shall be to  
575 assist in maximizing extraordinary economic development  
576 opportunities related to any new or expanded business or industry.  
577 Such funds may be used to make grants to local economic  
578 development entities to assist any new or expanding business or  
579 industry that meets the criteria provided in this section when  
580 such assistance aids the consummation of a project within the  
581 State of Mississippi.

582 (b) Monies in the fund which are derived from the  
583 proceeds of general obligation bonds may be used to reimburse



584 reasonable actual and necessary costs incurred by the MDA in  
585 providing assistance under this section through the use of general  
586 obligation bonds. An accounting of actual costs incurred for  
587 which reimbursement is sought shall be maintained for each grant  
588 by the MDA. Reimbursement of reasonable actual and necessary  
589 costs for a grant shall not exceed three percent (3%) of the  
590 proceeds of bonds issued for such grant. Monies authorized for a  
591 particular grant may not be used to reimburse administrative costs  
592 for unrelated grants. Reimbursements made under this subsection  
593 shall satisfy any applicable federal tax law requirements.

594 (3) The MDA shall establish a grant program to make grants  
595 from the ACE Fund created under this section. Local economic  
596 development entities may apply to the MDA for a grant under this  
597 section in the manner provided for in subsection (4) of this  
598 section.

599 (4) (a) Any business or industry desiring assistance from a  
600 local economic development entity under this section shall submit  
601 an application to the local economic development entity which  
602 shall include, at a minimum:

603 (i) Evidence that the business or industry meets  
604 the definition of an extraordinary economic development  
605 opportunity;

606 (ii) A demonstration that the business or industry  
607 is at an economic disadvantage by locating the new or expanded  
608 project in the county; \* \* \*

609 (iii) A description, including the cost, of the  
610 requested assistance;

611 (iv) A description of the purpose for which the  
612 assistance is requested;

613 (v) A two-year business plan;

614 (vi) Financial statements or tax returns for the  
615 three (3) years immediately prior to the application;

616                   (vi) Credit reports on all persons with a twenty  
617 percent (20%) or greater interest in the business or industry; and

618                   (vii) Any other information required by the MDA.

619           (b) The MDA shall require that binding commitments be  
620 entered into requiring that:

621                   (i) The minimum requirements of this section and  
622 such other requirements as the MDA considers proper shall be met;  
623 and

624                   (ii) If such requirements are not met, all or a  
625 portion of the funds provided by this section as determined by the  
626 MDA shall be repaid.

627           (c) Upon receipt of the application from a business or  
628 industry, the local economic development entity may apply to the  
629 MDA for assistance under this section. Such application must  
630 contain evidence that the business or industry meets the  
631 definition of an extraordinary economic development opportunity, a  
632 demonstration that the business or industry is at an economic  
633 disadvantage by locating the new or expanded project in the  
634 county, a description, including the cost, of the requested  
635 assistance, and a statement of what efforts have been made or are  
636 being made by the business or industry for securing or qualifying  
637 for other local, state, federal or private funds for the project.

638           (d) The MDA shall have sole discretion in the awarding  
639 of ACE funds, provided that the business or industry and the local  
640 economic development entity have met the statutory requirements of  
641 this section.

642           (5) The MDA shall promulgate rules and regulations, in  
643 accordance with the Mississippi Administrative Procedures Law, for  
644 the implementation of this section. However, before the  
645 implementation of any such rules and regulations, they shall be  
646 submitted to a committee consisting of five (5) members of the  
647 Senate Finance Committee and five (5) members of the House of

648 Representatives Ways and Means Committee, appointed by the  
649 respective committee chairmen.

650         **SECTION 35.** Section 57-1-307, Mississippi Code of 1972, is  
651 amended as follows:

652         57-1-307. (1) The State Bond Commission, at one time, or  
653 from time to time, may declare by resolution the necessity for  
654 issuance of general obligation bonds of the State of Mississippi  
655 to provide funds for all costs incurred or to be incurred for the  
656 purposes described in Section 57-1-303. Upon the adoption of a  
657 resolution by the Mississippi Development Authority, declaring the  
658 necessity for the issuance of any part or all of the general  
659 obligation bonds authorized by this section, the Mississippi  
660 Development Authority shall deliver a certified copy of its  
661 resolution or resolutions to the State Bond Commission. Upon  
662 receipt of such resolution, the State Bond Commission, in its  
663 discretion, may act as the issuing agent, prescribe the form of  
664 the bonds, advertise for and accept bids, issue and sell the bonds  
665 so authorized to be sold and do any and all other things necessary  
666 and advisable in connection with the issuance and sale of such  
667 bonds. The total amount of bonds issued under Sections 57-1-307  
668 through 57-1-335 shall not exceed One Hundred Five Million Dollars  
669 (\$105,000,000.00); provided, however, that an additional amount of  
670 bonds may be issued under Sections 57-1-307 and 57-1-335 in an  
671 amount not to exceed Thirteen Million Dollars (\$13,000,000.00),  
672 and the proceeds of any such additional amount of bonds so issued  
673 shall be utilized solely to provide loans for capital improvements  
674 that would qualify for the issuance of bonds whose interest is  
675 exempt from income taxation under the provisions of the Internal  
676 Revenue Code.

677         (2) Proceeds from the sale of bonds shall be deposited in  
678 the special fund created in Section 57-1-303. Any investment  
679 earnings on amounts deposited into the special fund created in  
680 Section 57-1-303 shall be used to pay debt service on bonds issued

681 under Sections 57-1-307 through 57-1-335, in accordance with the  
682 proceedings authorizing issuance of such bonds.

683 **SECTION 36.** Section 57-61-25, Mississippi Code of 1972, is  
684 amended as follows:

685 57-61-25. (1) The seller is authorized to borrow, on the  
686 credit of the state upon receipt of a resolution from the  
687 Mississippi Development Authority requesting the same, money not  
688 exceeding the aggregate sum of Three Hundred Twelve Million  
689 Dollars (\$312,000,000.00), not including money borrowed to refund  
690 outstanding bonds, notes or replacement notes, as may be necessary  
691 to carry out the purposes of this chapter. The rate of interest  
692 on any such bonds or notes which are not subject to taxation shall  
693 not exceed the rates set forth in Section 75-17-101, Mississippi  
694 Code of 1972, for general obligation bonds.

695 (2) As evidence of indebtedness authorized in this chapter,  
696 general or limited obligation bonds of the state shall be issued  
697 from time to time, to provide monies necessary to carry out the  
698 purposes of this chapter for such total amounts, in such form, in  
699 such denominations payable in such currencies (either domestic or  
700 foreign or both) and subject to such terms and conditions of  
701 issue, redemption and maturity, rate of interest and time of  
702 payment of interest as the seller directs, except that such bonds  
703 shall mature or otherwise be retired in annual installments  
704 beginning not more than five (5) years from date thereof and  
705 extending not more than thirty (30) years from date thereof.

706 (3) All bonds and notes issued under authority of this  
707 chapter shall be signed by the chairman of the seller, or by his  
708 facsimile signature, and the official seal of the seller shall be  
709 affixed thereto, attested by the secretary of the seller.

710 (4) All bonds and notes issued under authority of this  
711 chapter may be general or limited obligations of the state, and  
712 the full faith and credit of the State of Mississippi as to  
713 general obligation bonds, or the revenues derived from projects

714 assisted as to limited obligation bonds, are hereby pledged for  
715 the payment of the principal of and interest on such bonds and  
716 notes.

717 (5) Such bonds and notes and the income therefrom shall be  
718 exempt from all taxation in the State of Mississippi.

719 (6) The bonds may be issued as coupon bonds or registered as  
720 to both principal and interest, as the seller may determine. If  
721 interest coupons are attached, they shall contain the facsimile  
722 signature of the chairman and secretary of the seller.

723 (7) The seller is authorized to provide, by resolution, for  
724 the issuance of refunding bonds for the purpose of refunding any  
725 debt issued under the provision of this chapter and then  
726 outstanding, either by voluntary exchange with the holders of the  
727 outstanding debt or to provide funds to redeem and the costs of  
728 issuance and retirement of the debt, at maturity or at any call  
729 date. The issuance of the refunding bonds, the maturities and  
730 other details thereof, the rights of the holders thereof and the  
731 duties of the issuing officials in respect to the same shall be  
732 governed by the provisions of this section, insofar as they may be  
733 applicable.

734 (8) As to bonds issued hereunder and designated as taxable  
735 bonds by the seller, any immunity of the state to taxation by the  
736 United States government of interest on bonds or notes issued by  
737 the state is hereby waived.

738 (9) The proceeds of bonds issued under this chapter after  
739 April 9, 2002, may be used to reimburse reasonable actual and  
740 necessary costs incurred by the Mississippi Development Authority  
741 in administering a program or providing assistance related to a  
742 project, or both, for which funding is provided from the use of  
743 proceeds of such bonds. An accounting of actual costs incurred  
744 for which reimbursement is sought shall be maintained for each  
745 project by the Mississippi Development Authority. Reimbursement  
746 of reasonable actual and necessary costs for a program or project

747 shall not exceed three percent (3%) of the proceeds of bonds  
748 issued for such program or project. Monies authorized for a  
749 particular program or project may not be used to reimburse  
750 administrative costs for unrelated programs or projects.  
751 Reimbursements under this subsection shall satisfy any applicable  
752 federal tax law requirements.

753 **SECTION 37.** Section 57-61-34, Mississippi Code of 1972, is  
754 amended as follows:

755 57-61-34. Notwithstanding any provision of this chapter to  
756 the contrary, the Mississippi Development Authority shall utilize  
757 not more than Nineteen Million Dollars (\$19,000,000.00) out of the  
758 proceeds of bonds authorized to be issued in this chapter to be  
759 made available as interest-bearing loans to municipalities or  
760 private companies to aid in the establishment of business  
761 incubation centers and the creation of new and expanding research  
762 and development and technology-based business and industry.

763 In exercising the power given it under this section, the  
764 Mississippi Development Authority shall work in conjunction with  
765 the University Research Center and may contract with the center to  
766 provide space and assistance to business incubation centers as the  
767 center is authorized to do pursuant to Section 57-13-13.

768 The requirements of Section 57-61-9 shall not apply to any  
769 loan made under this section. The Mississippi Development  
770 Authority shall establish criteria and guidelines to govern loans  
771 made pursuant to this section.

772 **SECTION 38.** Section 57-61-36, Mississippi Code of 1972, is  
773 amended as follows:

774 57-61-36. (1) Notwithstanding any provision of this chapter  
775 to the contrary, the Mississippi Development Authority shall  
776 utilize not more than Twelve Million Five Hundred Thousand Dollars  
777 (\$12,500,000.00) out of the proceeds of bonds authorized to be  
778 issued in this chapter for the purpose of making grants to

779 municipalities through a development infrastructure grant fund to  
780 complete infrastructure related to new or expanded industry.

781 (2) Notwithstanding any provision of this chapter to the  
782 contrary, the Mississippi Development Authority may utilize not  
783 more than Seven Million Dollars (\$7,000,000.00) out of the  
784 proceeds of bonds authorized to be issued in this chapter for the  
785 purpose of making interest-bearing loans to any agency,  
786 department, institution, instrumentality or political subdivision  
787 of the state; or any agency, department, institution or  
788 instrumentality of any political subdivision of the state; or any  
789 business, organization, corporation, association or other legal  
790 entity meeting criteria established by the department, through a  
791 housing development revolving loan fund, to construct or repair  
792 housing for low or moderate income earners; provided, however,  
793 that the department may not utilize any bond proceeds authorized  
794 under this chapter for the purpose of making any loans to the  
795 Mississippi Home Corporation for any purpose whatsoever. No more  
796 than forty percent (40%) of the additional bonds authorized by  
797 Chapter 559, Laws of 1998, may be used for multiple family housing  
798 activities. Funds authorized under this subsection may be  
799 deposited in the Mississippi Affordable Housing Development Fund  
800 authorized in Section 43-33-759 and used for purposes authorized  
801 by that section. This subsection (2) shall be repealed from and  
802 after July 1, 2006.

803 (3) Notwithstanding any provision of this chapter to the  
804 contrary, the Mississippi Development Authority shall utilize not  
805 more than Twenty Million Five Hundred Thousand Dollars  
806 (\$20,500,000.00) out of the proceeds of bonds authorized to be  
807 issued in this chapter for the purpose of making grants or loans  
808 to municipalities through an equipment and public facilities grant  
809 and loan fund to aid in infrastructure-related improvements as  
810 determined by the Mississippi Development Authority, the purchase  
811 of equipment and in the purchase, construction or repair and

812 renovation of public facilities. Any bonds previously issued for  
813 the Development Infrastructure Revolving Loan Program which have  
814 not been loaned or applied for are eligible to be administered as  
815 grants or loans.

816 The requirements of Section 57-61-9 shall not apply to any  
817 grant made under this subsection. The Mississippi Development  
818 Authority may establish criteria and guidelines to govern grants  
819 made pursuant to this subsection.

820 (4) Notwithstanding any provision of this chapter to the  
821 contrary, the Mississippi Development Authority may utilize not  
822 more than Seven Hundred Fifty Thousand Dollars (\$750,000.00) out  
823 of the proceeds of bonds authorized to be issued in this chapter  
824 in order to match federal funds available from the United States  
825 Department of Agriculture for the purpose of establishing an  
826 intermediary relending program to be administered by the  
827 Mississippi Development Authority. The Mississippi Development  
828 Authority may establish criteria and guidelines to govern loans  
829 made under such program. This subsection (4) shall be repealed  
830 from and after April 9, 2002.

831 (5) The Mississippi Development Authority may establish a  
832 capital access program and may contract with any financial  
833 institution to participate in the program upon such terms and  
834 conditions as the authority shall consider necessary and proper.  
835 The Mississippi Development Authority may establish loss reserve  
836 accounts at financial institutions that participate in the program  
837 and require payments by the financial institution and the borrower  
838 to such loss reserve accounts. All money in such loss reserve  
839 accounts is the property of the Mississippi Development Authority.

840 Under the capital access program a participating financial  
841 institution may make a loan to any borrower the Mississippi  
842 Development Authority determines to be qualified under rules and  
843 regulations adopted by the authority and be protected against  
844 losses from such loans as provided in the program. Under such



845 rules and regulations as may be adopted by the Mississippi  
846 Development Authority, a participating financial institution may  
847 submit claims for the reimbursement for losses incurred as a  
848 result of default on loans by qualified borrowers.

849 Notwithstanding any provision of this chapter to the  
850 contrary, the Mississippi Development Authority may utilize not  
851 more than Seven Hundred Fifty Thousand Dollars (\$750,000.00) out  
852 of the proceeds of bonds authorized to be issued in this chapter  
853 for the purpose of making payments to loan loss reserve accounts  
854 established at financial institutions that participate in the  
855 capital access program established by the Mississippi Development  
856 Authority.

857 (6) Notwithstanding any provision of this chapter to the  
858 contrary, the Mississippi Development Authority shall utilize not  
859 more than Two Hundred Thousand Dollars (\$200,000.00) out of the  
860 proceeds of bonds authorized to be issued in this chapter for the  
861 purpose of assisting Warren County, Mississippi, in the  
862 continuation and completion of the study for the proposed Kings  
863 Point levee.

864 (7) Notwithstanding any provision of this chapter to the  
865 contrary, the Mississippi Development Authority shall utilize not  
866 more than One Hundred Thousand Dollars (\$100,000.00) out of the  
867 proceeds of bonds authorized to be issued in this chapter for the  
868 purpose of developing a long-range plan for coordinating the  
869 resources of the state institutions of higher learning, the  
870 community and junior colleges, the Mississippi Development  
871 Authority and other state agencies in order to promote economic  
872 development in the state.

873 (8) Notwithstanding any other provision of this chapter to  
874 the contrary, the Mississippi Development Authority shall use not  
875 more than One Hundred Fifty Thousand Dollars (\$150,000.00) out of  
876 the proceeds of bonds authorized to be issued in this chapter for  
877 the purpose of providing assistance to municipalities that have

878 received community development block grant funds for repair,  
879 renovation and other improvements to buildings for use as  
880 community centers. Assistance provided to a municipality under  
881 this subsection shall be used by the municipality to match such  
882 community development block grant funds. The maximum amount of  
883 assistance that may be provided to a municipality under this  
884 subsection shall not exceed Seventy-five Thousand Dollars  
885 (\$75,000.00) in the aggregate.

886 **SECTION 39.** (1) As used in this section:

887 (a) "Manufacturing enterprise" means an enterprise  
888 that:

889 (i) Falls within the definition of the term  
890 "manufacturer" in Section 27-65-11; and

891 (ii) Has operated in this state for not less than  
892 two (2) years prior to application for the credit authorized by  
893 this section; and

894 (b) "Eligible investment" means an investment of at  
895 least One Million Dollars (\$1,000,000.00) in buildings or  
896 equipment for the manufacturing enterprise.

897 (2) A manufacturing enterprise is allowed a manufacturing  
898 investment tax credit for taxes imposed by Section 27-7-5 equal to  
899 five percent (5%) of the eligible investments made by the  
900 manufacturing enterprise.

901 (3) Any tax credit claimed under this section but not used  
902 in any taxable year may be carried forward for five (5) years from  
903 the close of the tax year in which the eligible investment was  
904 made, but the credit established by this section taken in any one  
905 tax year shall not exceed fifty percent (50%) of the taxpayer's  
906 state income tax liability which is attributable to income derived  
907 from operations in the state for that year reduced by the sum of  
908 all other income tax credits allowable to the taxpayer, except  
909 credit for tax payments made by or on behalf of the taxpayer.

910 (4) The maximum credit that may be claimed by a taxpayer on  
911 any project shall be limited to One Million Dollars  
912 (\$1,000,000.00).

913 (5) The credit received under this section is subject to  
914 recapture if the property for which the tax credit was received is  
915 disposed of, or convert to, other than business use. The amount  
916 of the credit subject to recapture is one hundred percent (100%)  
917 of the credit in the first year and fifty percent (50%) of the  
918 credit in the second year. This subsection shall not apply in  
919 cases in which an entire facility is sold.

920 (6) The sale, merger, acquisition, reorganization,  
921 bankruptcy or relocation from one county to another county within  
922 the state of any manufacturing enterprise may not create new  
923 eligibility in any succeeding business entity, but any unused  
924 manufacturing investment tax credit may be transferred and  
925 continued by any transferee of the enterprise. The State Tax  
926 Commission shall determine whether or not qualifying net increases  
927 or decreases have occurred or proper transfers of credit have been  
928 made and may require reports, promulgate regulations, and hold  
929 hearings as needed for substantiation and qualification.

930 (7) No manufacturing enterprise for the transportation,  
931 handling, storage, processing or disposal of hazardous waste is  
932 eligible to receive the tax credits provided in this section.

933 (8) The credits allowed under this section shall not be used  
934 by any business enterprise or corporation other than the  
935 manufacturing enterprise actually qualifying for the credits.

936 **SECTION 40.** Section 27-31-101, Mississippi Code of 1972, is  
937 amended as follows:

938 27-31-101. (1) County boards of supervisors and municipal  
939 authorities are hereby authorized and empowered, in their  
940 discretion, to grant exemptions from ad valorem taxation, except  
941 state ad valorem taxation. \* \* \* However, the governing  
942 authorities shall not exempt ad valorem taxes for school district

943 purposes on tangible property used in, or necessary to, the  
944 operation of the manufacturers and other new enterprises \* \* \*  
945 enumerated by classes in this section, except to the extent  
946 authorized in Sections 27-31-104 and 27-31-105(2), nor shall they  
947 exempt from ad valorem taxes the products of the manufacturers or  
948 other new enterprises or automobiles and trucks belonging to  
949 the \* \* \* manufacturers or other new enterprises operating on and  
950 over the highways of the State of Mississippi. The time of such  
951 exemption shall be for a period not to exceed a total of ten (10)  
952 years which shall begin on the date of completion of the new  
953 enterprise for which the exemption is granted; however, boards of  
954 supervisors and municipal authorities, in lieu of granting the  
955 exemption for one (1) period of ten (10) years, may grant the  
956 exemption in a period of less than ten (10) years. When the  
957 initial exemption period granted is less than ten (10) years, the  
958 boards of supervisors and municipal authorities may grant a  
959 subsequent consecutive period or periods to follow the initial  
960 period of exemption, provided that the total of all periods of  
961 exemption shall not exceed ten (10) years. The date of completion  
962 of the new enterprise, from which the initial period of exemption  
963 shall begin, shall be the date on which operations of the new  
964 enterprise begin. Any request for an exemption must be made in  
965 writing by June 1 of the year immediately following the year in  
966 which the date of completion of a new enterprise occurs.

967 \* \* \*

968 (2) Any board of supervisors or municipal authority which  
969 has granted an exemption for a period of less than ten (10) years  
970 may grant subsequent periods of exemption to run consecutively  
971 with the initial exemption period, or a subsequently granted  
972 exemption period, but in no case shall the total of the exemption  
973 periods granted for a new enterprise exceed ten (10) years. Any  
974 consecutive period of exemption shall be granted by entry of an  
975 order by the board or the authority granting the consecutive

976 exemption on its minutes, reflecting the granting of the  
977 consecutive exemption period and the dates upon which such  
978 consecutive exemption period begins and expires. The entry of  
979 this order granting the consecutive period of exemption shall be  
980 made before the expiration of the exemption period immediately  
981 preceding the consecutive exemption period being granted.

982       (3) The new enterprises which may be exempt are enumerated  
983 as and limited to the following, as determined by the State Tax  
984 Commission:

985           (a) Warehouse and/or distribution centers;

986           (b) Manufacturing, processors and refineries;

987           (c) Research facilities;

988           (d) Corporate regional and national headquarters  
989 meeting minimum criteria established by the Mississippi  
990 Development Authority;

991           (e) Movie industry studios meeting minimum criteria  
992 established by the Mississippi Development Authority;

993           (f) Air transportation and maintenance facilities  
994 meeting minimum criteria established by the Mississippi  
995 Development Authority;

996           (g) Recreational facilities that impact tourism meeting  
997 minimum criteria established by the Mississippi Development  
998 Authority; \* \* \*

999           (h) Data/information processing enterprises or  
1000 facilities meeting minimum criteria established by the Mississippi  
1001 Development Authority;

1002           (i) Technology intensive enterprises or facilities  
1003 meeting criteria established by the Mississippi Development  
1004 Authority; and

1005           (j) Telecommunications enterprises meeting minimum  
1006 criteria established by the Mississippi Development Authority.

1007 The term "telecommunications enterprises" means entities engaged  
1008 in the creation, display, management, storage, processing,

1009 transmission or distribution for compensation of images, text,  
1010 voice, video or data by wire or by wireless means, or entities  
1011 engaged in the construction, design, development, manufacture,  
1012 maintenance or distribution for compensation of devices, products,  
1013 software or structures used in the above activities. Companies  
1014 organized to do business as commercial broadcast radio stations,  
1015 television stations or news organizations primarily serving  
1016 in-state markets shall not be included within the definition of  
1017 the term "telecommunications enterprises."

1018       **SECTION 41.** Section 27-65-17, Mississippi Code of 1972, is  
1019 amended as follows:

1020       27-65-17. (1) (a) Except as otherwise provided in this  
1021 section, upon every person engaging or continuing within this  
1022 state in the business of selling any tangible personal property  
1023 whatsoever there is hereby levied, assessed and shall be collected  
1024 a tax equal to seven percent (7%) of the gross proceeds of the  
1025 retail sales of the business \* \* \*.

1026       (b) Retail sales of farm tractors shall be taxed at the  
1027 rate of one percent (1%) when made to farmers for agricultural  
1028 purposes.

1029       (c) Retail sales of farm implements sold to farmers and  
1030 used directly in the production of poultry, ratite, domesticated  
1031 fish as defined in Section 69-7-501, livestock, livestock  
1032 products, agricultural crops or ornamental plant crops or used for  
1033 other agricultural purposes shall be taxed at the rate of three  
1034 percent (3%) when used on the farm. The three percent (3%) rate  
1035 shall also apply to all equipment used in logging, pulpwood  
1036 operations or tree farming which is either:

1037               (i) Self-propelled, or \* \* \*

1038               (ii) Mounted so that it is \* \* \* permanently  
1039 attached to other equipment which is self-propelled or \* \* \*  
1040 permanently attached to other equipment drawn by a vehicle which  
1041 is self-propelled.

1042           (d) Except as otherwise provided in subsection (3) of  
1043 this section, retail sales of aircraft, automobiles, trucks,  
1044 truck-tractors, semitrailers and mobile homes shall be taxed at  
1045 the rate of three percent (3%).

1046           (e) Sales of manufacturing machinery or manufacturing  
1047 machine parts when made to a manufacturer or custom processor for  
1048 plant use only when the machinery and machine parts will be used  
1049 exclusively and directly within this state in manufacturing a  
1050 commodity for sale, rental or in processing for a fee shall be  
1051 taxed at the rate of one and one-half percent (1-1/2%).

1052           (f) Sales of machinery and machine parts when made to a  
1053 technology intensive enterprise for plant use only when the  
1054 machinery and machine parts will be used exclusively and directly  
1055 within this state for industrial purposes, including, but not  
1056 limited to, manufacturing or research and development activities,  
1057 shall be taxed at the rate of one and one-half percent (1-1/2%).  
1058 In order to be considered a technology intensive enterprise for  
1059 purposes of this paragraph:

1060                   (i) The enterprise shall meet minimum criteria  
1061 established by the Mississippi Development Authority;

1062                   (ii) The enterprise shall employ at least ten (10)  
1063 persons in full-time jobs;

1064                   (iii) At least ten percent (10%) of the workforce  
1065 in the facility operated by the enterprise shall be scientists,  
1066 engineers or computer specialists;

1067                   (iv) The enterprise shall manufacture plastics,  
1068 chemicals, automobiles, aircraft, computers or electronics; or  
1069 shall be a research and development facility, a computer design or  
1070 related facility, or a software publishing facility or other  
1071 technology intensive facility or enterprise as determined by the  
1072 Mississippi Development Authority;

1073                   (v) The average wage of all workers employed by  
1074 the enterprise at the facility shall be at least one hundred fifty  
1075 percent (150%) of the state average annual wage; and

1076                   (vi) The enterprise must provide a basic health  
1077 care plan to all employees at the facility.

1078           (g) Sales of materials for use in track and track  
1079 structures to a railroad whose rates are fixed by the Interstate  
1080 Commerce Commission or the Mississippi Public Service Commission  
1081 shall be taxed at the rate of three percent (3%).

1082           (h) Sales of tangible personal property to electric  
1083 power associations for use in the ordinary and necessary operation  
1084 of their generating or distribution systems shall be taxed at the  
1085 rate of one percent (1%).

1086           (i) Wholesale sales of beer shall be taxed at the rate  
1087 of seven percent (7%), and the retailer shall file a return and  
1088 compute the retail tax on retail sales but may take credit for the  
1089 amount of the tax paid to the wholesaler on the return covering  
1090 the subsequent sales of same property, provided adequate invoices  
1091 and records are maintained to substantiate the credit.

1092           (j) Wholesale sales of food and drink for human  
1093 consumption to full service vending machine operators to be sold  
1094 through vending machines located apart from and not connected with  
1095 other taxable businesses shall be taxed at the rate of eight  
1096 percent (8%).

1097           (2) From and after January 1, 1995, retail sales of private  
1098 carriers of passengers and light carriers of property, as defined  
1099 in Section 27-51-101, shall be taxed an additional two percent  
1100 (2%).

1101           (3) In lieu of the tax levied in subsection (1) of this  
1102 section, there is levied on retail sales of truck-tractors and  
1103 semitrailers used in interstate commerce and registered under the  
1104 International Registration Plan (IRP) or any similar reciprocity  
1105 agreement or compact relating to the proportional registration of



1106 commercial vehicles entered into as provided for in Section  
1107 27-19-143, a tax at the rate of three percent (3%) of the portion  
1108 of the sale that is attributable to the usage of such  
1109 truck-tractor or semitrailer in Mississippi. The portion of the  
1110 retail sale that is attributable to the usage of such  
1111 truck-tractor or semitrailer in Mississippi is the retail sales  
1112 price of the truck-tractor or semitrailer multiplied by the  
1113 percentage of the total miles traveled by the vehicle that are  
1114 traveled in Mississippi. The tax levied pursuant to this  
1115 subsection (3) shall be collected by the State Tax Commission from  
1116 the purchaser of such truck-tractor or semitrailer at the time of  
1117 registration of such truck-tractor or semitrailer.

1118 (4) A manufacturer selling at retail in this state shall be  
1119 required to make returns of the gross proceeds of such sales and  
1120 pay the tax imposed in this section.

1121 (5) Any person exercising any privilege taxable under  
1122 Section 27-65-15 and selling his natural resource products at  
1123 wholesale or to exempt persons shall pay the tax levied by such  
1124 section in lieu of the tax levied by this section.

1125 **SECTION 42.** Section 27-65-19, Mississippi Code of 1972, is  
1126 amended as follows:

1127 27-65-19. (1) (a) Except as otherwise provided in this  
1128 subsection, upon every person selling to consumers, electricity,  
1129 current, power, potable water, steam, coal, natural gas, liquefied  
1130 petroleum gas or other fuel, there is hereby levied, assessed and  
1131 shall be collected a tax equal to seven percent (7%) of the gross  
1132 income of the business. Provided, gross income from sales to  
1133 consumers of electricity, current, power, natural gas, liquefied  
1134 petroleum gas or other fuel for residential heating, lighting or  
1135 other residential noncommercial or nonagricultural use, and sales  
1136 of potable water for residential, noncommercial or nonagricultural  
1137 use shall be excluded from taxable gross income of the business.  
1138 Provided further, upon every such seller using electricity,

1139 current, power, potable water, steam, coal, natural gas, liquefied  
1140 petroleum gas or other fuel for nonindustrial purposes, there is  
1141 hereby levied, assessed and shall be collected a tax equal to  
1142 seven percent (7%) of the cost or value of the product or service  
1143 used.

1144 (b) There is hereby levied, assessed and shall be  
1145 collected a tax equal to one and one-half percent (1-1/2%) of the  
1146 gross income of the business when the electricity, current, power,  
1147 steam, coal, natural gas, liquefied petroleum gas or other fuel is  
1148 sold to or used by a manufacturer, custom processor, technology  
1149 intensive enterprise meeting the criteria provided for in Section  
1150 27-65-17(1)(f), or public service company for industrial purposes,  
1151 which shall include that used to generate electricity, to operate  
1152 an electrical distribution or transmission system, to operate  
1153 pipeline compressor or pumping stations or to operate railroad  
1154 locomotives; however, sales of fuel used to produce electric power  
1155 by a company primarily engaged in the business of producing,  
1156 generating or distributing electric power for sale shall be exempt  
1157 from sales tax as provided in Section 27-65-107.

1158 (c) The one and one-half percent (1-1/2%) industrial  
1159 rate provided for in this subsection shall also apply when the  
1160 electricity, current, power, steam, coal, natural gas, liquefied  
1161 petroleum gas or other fuel is sold to a producer or processor for  
1162 use directly in the production of poultry or poultry products, the  
1163 production of livestock and livestock products, the production of  
1164 domesticated fish and domesticated fish products, the production  
1165 of marine aquaculture products, the production of plants or food  
1166 by commercial horticulturists, the processing of milk and milk  
1167 products, the processing of poultry and livestock feed, and the  
1168 irrigation of farm crops.

1169 (d) The one and one-half percent (1-1/2%) rate provided  
1170 for in this subsection shall not apply to sales of fuel for

1171 automobiles, trucks, truck-tractors, buses, farm tractors or  
1172 airplanes.

1173           (e) Upon every person operating a telegraph or  
1174 telephone business for the transmission of messages or  
1175 conversations between points within this state, there is hereby  
1176 levied, assessed and shall be collected a tax equal to seven  
1177 percent (7%) of the gross income of such business, with no  
1178 deduction or allowance for any part of an intrastate rate charge  
1179 because of routing across a state line. Charges by one  
1180 telecommunications provider to another telecommunications provider  
1181 holding a permit issued under Section 27-65-27 for services that  
1182 are resold by such other telecommunications provider, including,  
1183 but not limited to, access charges, shall not be subject to the  
1184 tax levied pursuant to this paragraph (e). However, any sale of a  
1185 prepaid telephone calling card or prepaid authorization number, or  
1186 both, shall be deemed to be the sale of tangible personal property  
1187 subject only to such taxes imposed by law on the sale of tangible  
1188 personal property. If the sale of a prepaid telephone calling  
1189 card or prepaid authorization number does not take place at the  
1190 vendor's place of business, it shall be conclusively determined to  
1191 take place at the customer's shipping address. The  
1192 reauthorization of a prepaid telephone calling card or a prepaid  
1193 authorization number shall be conclusively determined to take  
1194 place at the customer's billing address. Except for the  
1195 provisions governing the sale of a prepaid telephone calling card  
1196 or prepaid authorization number, this paragraph (e) shall not  
1197 apply to persons providing mobile telecommunications services that  
1198 are taxed pursuant to paragraph (g) of this section.

1199           (f) Upon every person operating a telegraph or  
1200 telecommunications business for the transmission of messages or  
1201 conversations originating in this state or terminating in this  
1202 state via interstate telecommunications, which are charged to the  
1203 customer's service address in this state, regardless of where such

1204 amount is billed or paid, there is hereby levied, assessed and  
1205 shall be collected a tax equal to seven percent (7%) of the gross  
1206 income received by such business from such interstate  
1207 telecommunications. However, a person, upon proof that he has  
1208 paid a tax in another state on such event, shall be allowed a  
1209 credit against the tax imposed in this paragraph (f) on interstate  
1210 telecommunications charges to the extent that the amount of such  
1211 tax is properly due and actually paid in such other state and to  
1212 the extent that the rate of sales tax imposed by and paid to such  
1213 other state does not exceed the rate of sales tax imposed by this  
1214 paragraph (f). Charges by one telecommunications provider to  
1215 another telecommunications provider holding a permit issued under  
1216 Section 27-65-27 for services that are resold by such other  
1217 telecommunications provider, including, but not limited to, access  
1218 charges, shall not be subject to the tax levied pursuant to this  
1219 paragraph (f). This paragraph (f) shall not apply to persons  
1220 providing mobile telecommunications services that are taxed  
1221 pursuant to paragraph (g) of this subsection.

1222 (g) (i) Upon every person providing mobile  
1223 telecommunications services in this state there is hereby levied,  
1224 assessed and shall be collected:

1225 1. A tax equal to seven percent (7%) of the  
1226 gross income received on such services from all charges for  
1227 transmission of messages or conversations between points within  
1228 any single state as they shall be construed to be within this  
1229 state; and

1230 2. A tax equal to seven percent (7%) on the  
1231 gross income received from all charges for services that originate  
1232 in one state and terminate in any other state.

1233 Charges by one telecommunications provider to another  
1234 telecommunications provider holding a permit issued under Section  
1235 27-65-27 for services that are resold by such other  
1236 telecommunications provider, including, but not limited to, access

1237 charges, shall not be subject to the tax levied pursuant to this  
1238 paragraph (g).

1239           (ii) Subject to the provisions of 4 USCS 116(c),  
1240 the tax levied by this paragraph (g) shall apply only to those  
1241 charges for mobile telecommunications services subject to tax  
1242 which are deemed to be provided to a customer by a home service  
1243 provider pursuant to 4 USCS 117(a), if the customer's place of  
1244 primary use is located within this state.

1245           (iii) A home service provider shall be responsible  
1246 for obtaining and maintaining the customer's place of primary use.  
1247 The home service provider shall be entitled to rely on the  
1248 applicable residential or business street address supplied by such  
1249 customer, if the home service provider's reliance is in good  
1250 faith; and the home service provider shall be held harmless from  
1251 liability for any additional taxes based on a different  
1252 determination of the place of primary use for taxes that are  
1253 customarily passed on to the customer as a separate itemized  
1254 charge. A home service provider shall be allowed to treat the  
1255 address used for purposes of the tax levied by this chapter for  
1256 any customer under a service contract in effect on August 1, 2002,  
1257 as that customer's place of primary use for the remaining term of  
1258 such service contract or agreement, excluding any extension or  
1259 renewal of such service contract or agreement. Month-to-month  
1260 services provided after the expiration of a contract shall be  
1261 treated as an extension or renewal of such contract or agreement.

1262           If the commissioner determines that the address used by a  
1263 home service provider as a customer's place of primary use does  
1264 not meet the definition of the term "place of primary use" as  
1265 defined in this paragraph, the commissioner shall give binding  
1266 notice to the home service provider to change the place of primary  
1267 use on a prospective basis from the date of notice of  
1268 determination; however, the customer shall have the opportunity,

1269 prior to such notice of determination, to demonstrate that such  
1270 address satisfies such definition.

1271 The commission has the right to collect any taxes due  
1272 directly from the home service provider's customer that has failed  
1273 to provide an address that meets the definition of the term "place  
1274 of primary use" which resulted in a failure of tax otherwise due  
1275 being remitted.

1276 (iv) For purposes of this paragraph (g):

1277 1. "Place of primary use" means the street  
1278 address representative of where the customer's use of mobile  
1279 telecommunications services primarily occurs, which shall be  
1280 either the residential street address of the customer or the  
1281 primary business street address of the customer.

1282 2. "Customer" means the person or entity that  
1283 contracts with the home service provider for mobile  
1284 telecommunications services. For determining the place of primary  
1285 use, in those instances in which the end user of mobile  
1286 telecommunications services is not the contracting party, the end  
1287 user of the mobile telecommunications services shall be deemed the  
1288 customer. The term "customer" shall not include a reseller of  
1289 mobile telecommunications service, or a serving carrier under an  
1290 arrangement to serve the customer outside the home service  
1291 provider's licensed service area.

1292 3. "Home service provider" means the  
1293 facilities-based carrier or reseller with which the customer  
1294 contracts for the provision of mobile telecommunications services.

1295 (h) (i) For purposes of this paragraph (h), "bundled  
1296 transaction" means a transaction that consists of distinct and  
1297 identifiable properties or services which are sold for a single  
1298 nonitemized price but which are treated differently for tax  
1299 purposes.

1300 (ii) In the case of a bundled transaction that  
1301 includes telecommunications services taxed under this section in

1302 which the price of the bundled transaction is attributable to  
1303 properties or services that are taxable and nontaxable, the  
1304 portion of the price that is attributable to any nontaxable  
1305 property or service shall be subject to the tax unless the  
1306 provider can reasonably identify that portion from its books and  
1307 records kept in the regular course of business.

1308 (iii) In the case of a bundled transaction that  
1309 includes telecommunications services subject to tax under this  
1310 section in which the price is attributable to properties or  
1311 services that are subject to the tax but the tax revenue from the  
1312 different properties or services are dedicated to different funds  
1313 or purposes, the provider shall allocate the price among the  
1314 properties or services:

1315 1. By reasonably identifying the portion of  
1316 the price attributable to each of the properties and services from  
1317 its books and records kept in the regular course of business; or

1318 2. Based on a reasonable allocation  
1319 methodology approved by the commission.

1320 (iv) This paragraph (h) shall not create a right  
1321 of action for a customer to require that the provider or the  
1322 commission, for purposes of determining the amount of tax  
1323 applicable to a bundled transaction, allocate the price to the  
1324 different portions of the transaction in order to minimize the  
1325 amount of tax charged to the customer. A customer shall not be  
1326 entitled to rely on the fact that a portion of the price is  
1327 attributable to properties or services not subject to tax unless  
1328 the provider elects, after receiving a written request from the  
1329 customer in the form required by the provider, to provide  
1330 verifiable data based upon the provider's books and records that  
1331 are kept in the regular course of business that reasonably  
1332 identifies the portion of the price attributable to the properties  
1333 or services not subject to the tax.

1334           (2) Persons making sales to consumers of electricity,  
1335 current, power, natural gas, liquefied petroleum gas or other fuel  
1336 for residential heating, lighting or other residential  
1337 noncommercial or nonagricultural use or sales of potable water for  
1338 residential, noncommercial or nonagricultural use shall indicate  
1339 on each statement rendered to customers that such charges are  
1340 exempt from sales taxes.

1341           (3) There is hereby levied, assessed and shall be paid on  
1342 transportation charges on shipments moving between points within  
1343 this state when paid directly by the consumer, a tax equal to the  
1344 rate applicable to the sale of the property being transported.  
1345 Such tax shall be reported and paid directly to the State Tax  
1346 Commission by the consumer.

1347           **SECTION 43.** Section 27-65-101, Mississippi Code of 1972, is  
1348 amended as follows:

1349           27-65-101. (1) The exemptions from the provisions of this  
1350 chapter which are of an industrial nature or which are more  
1351 properly classified as industrial exemptions than any other  
1352 exemption classification of this chapter shall be confined to  
1353 those persons or property exempted by this section or by the  
1354 provisions of the Constitution of the United States or the State  
1355 of Mississippi. No industrial exemption as now provided by any  
1356 other section except Section 57-3-33 shall be valid as against the  
1357 tax herein levied. Any subsequent industrial exemption from the  
1358 tax levied hereunder shall be provided by amendment to this  
1359 section. No exemption provided in this section shall apply to  
1360 taxes levied by Section 27-65-15 or 27-65-21.

1361           The tax levied by this chapter shall not apply to the  
1362 following:

1363           (a) Sales of boxes, crates, cartons, cans, bottles and  
1364 other packaging materials to manufacturers and wholesalers for use  
1365 as containers or shipping materials to accompany goods sold by  
1366 said manufacturers or wholesalers where possession thereof will



1367 pass to the customer at the time of sale of the goods contained  
1368 therein and sales to anyone of containers or shipping materials  
1369 for use in ships engaged in international commerce.

1370 (b) Sales of raw materials, catalysts, processing  
1371 chemicals, welding gases or other industrial processing gases  
1372 (except natural gas) to a manufacturer for use directly in  
1373 manufacturing or processing a product for sale or rental or  
1374 repairing or reconditioning vessels or barges of fifty (50) tons  
1375 load displacement and over. For the purposes of this exemption,  
1376 electricity used directly in the electrolysis process in the  
1377 production of sodium chlorate shall be considered a raw material.  
1378 This exemption shall not apply to any property used as fuel except  
1379 to the extent that such fuel comprises by-products which have no  
1380 market value.

1381 (c) The gross proceeds of sales of dry docks, offshore  
1382 drilling equipment for use in oil exploitation or production,  
1383 vessels or barges of fifty (50) tons load displacement and over,  
1384 when sold by the manufacturer or builder thereof.

1385 (d) Sales to commercial fishermen of commercial fishing  
1386 boats of over five (5) tons load displacement and not more than  
1387 fifty (50) tons load displacement as registered with the United  
1388 States Coast Guard and licensed by the Mississippi Commission on  
1389 Marine Resources.

1390 (e) The gross income from repairs to vessels and barges  
1391 engaged in foreign trade or interstate transportation.

1392 (f) Sales of petroleum products to vessels or barges  
1393 for consumption in marine international commerce or interstate  
1394 transportation businesses.

1395 (g) Sales and rentals of rail rolling stock (and  
1396 component parts thereof) for ultimate use in interstate commerce  
1397 and gross income from services with respect to manufacturing,  
1398 repairing, cleaning, altering, reconditioning or improving such  
1399 rail rolling stock (and component parts thereof).

1400           (h) Sales of raw materials, catalysts, processing  
1401 chemicals, welding gases or other industrial processing gases  
1402 (except natural gas) used or consumed directly in manufacturing,  
1403 repairing, cleaning, altering, reconditioning or improving such  
1404 rail rolling stock (and component parts thereof). This exemption  
1405 shall not apply to any property used as fuel.

1406           (i) Sales of machinery or tools or repair parts  
1407 therefor or replacements thereof, fuel or supplies used directly  
1408 in manufacturing, converting or repairing ships of three thousand  
1409 (3,000) tons load displacement and over, but not to include office  
1410 and plant supplies or other equipment not directly used on the  
1411 ship being built, converted or repaired.

1412           (j) Sales of tangible personal property to persons  
1413 operating ships in international commerce for use or consumption  
1414 on board such ships. This exemption shall be limited to cases in  
1415 which procedures satisfactory to the commissioner, ensuring  
1416 against use in this state other than on such ships, are  
1417 established.

1418           (k) Sales of materials used in the construction of a  
1419 building, or any addition or improvement thereon, and sales of any  
1420 machinery and equipment not later than three (3) months after the  
1421 completion of construction of the building, or any addition  
1422 thereon, to be used therein, to qualified businesses, as defined  
1423 in Section 57-51-5, which are located in a county or portion  
1424 thereof designated as an enterprise zone pursuant to Sections  
1425 57-51-1 through 57-51-15.

1426           (l) Sales of materials used in the construction of a  
1427 building, or any addition or improvement thereon, and sales of any  
1428 machinery and equipment not later than three (3) months after the  
1429 completion of construction of the building, or any addition  
1430 thereon, to be used therein, to qualified businesses, as defined  
1431 in Section 57-54-5.

1432                   (m) Income from storage and handling of perishable  
1433 goods by a public storage warehouse.

1434                   (n) The value of natural gas lawfully injected into the  
1435 earth for cycling, repressuring or lifting of oil, or lawfully  
1436 vented or flared in connection with the production of oil;  
1437 however, if any gas so injected into the earth is sold for such  
1438 purposes, then the gas so sold shall not be exempt.

1439                   (o) The gross collections from self-service commercial  
1440 laundering, drying, cleaning and pressing equipment.

1441                   (p) Sales of materials used in the construction of a  
1442 building, or any addition or improvement thereon, and sales of any  
1443 machinery and equipment not later than three (3) months after the  
1444 completion of construction of the building, or any addition  
1445 thereon, to be used therein, to qualified companies, certified as  
1446 such by the Mississippi Development Authority under Section  
1447 57-53-1.

1448                   (q) Sales of component materials used in the  
1449 construction of a building, or any addition or improvement  
1450 thereon, sales of machinery and equipment to be used therein, and  
1451 sales of manufacturing or processing machinery and equipment which  
1452 is permanently attached to the ground or to a permanent foundation  
1453 and which is not by its nature intended to be housed within a  
1454 building structure, not later than three (3) months after the  
1455 initial start-up date, to permanent business enterprises engaging  
1456 in manufacturing or processing in Tier Three areas (as such term  
1457 is defined in Section 57-73-21), which businesses are certified by  
1458 the State Tax Commission as being eligible for the exemption  
1459 granted in this paragraph (q).

1460                   (r) Sales of component materials used in the  
1461 construction of a building, or any addition or improvement  
1462 thereon, and sales of any machinery and equipment not later than  
1463 three (3) months after the completion of the building, addition or  
1464 improvement thereon, to be used therein, for any company

1465 establishing or transferring its national or regional headquarters  
1466 from within or outside the State of Mississippi and creating a  
1467 minimum of thirty-five (35) jobs at the new headquarters in this  
1468 state. The Tax Commission shall establish criteria and prescribe  
1469 procedures to determine if a company qualifies as a national or  
1470 regional headquarters for the purpose of receiving the exemption  
1471 provided in this paragraph.

1472 (s) The gross proceeds from the sale of semitrailers,  
1473 trailers, boats, travel trailers, motorcycles and all-terrain  
1474 cycles if exported from this state within forty-eight (48) hours  
1475 and registered and first used in another state.

1476 (t) Gross income from the storage and handling of  
1477 natural gas in underground salt domes and in other underground  
1478 reservoirs, caverns, structures and formations suitable for such  
1479 storage.

1480 (u) Sales of machinery and equipment to nonprofit  
1481 organizations if the organization: (i) is tax-exempt pursuant to  
1482 Section 501(c)(4) of the Internal Revenue Code of 1986, as  
1483 amended; (ii) assists in the implementation of the national  
1484 contingency plan or area contingency plan, and which is created in  
1485 response to the requirements of Title IV, Subtitle B of the Oil  
1486 Pollution Act of 1990, Public Law 101-380; and (iii) engages  
1487 primarily in programs to contain, clean up and otherwise mitigate  
1488 spills of oil or other substances occurring in the United States  
1489 coastal and tidal waters. For purposes of this exemption,  
1490 "machinery and equipment" means any ocean-going vessels, barges,  
1491 booms, skimmers and other capital equipment used primarily in the  
1492 operations of nonprofit organizations referred to herein.

1493 (v) Sales or leases of materials and equipment to  
1494 approved business enterprises as provided under the Growth and  
1495 Prosperity Act.

1496 (w) From and after July 1, 2001, sales of pollution  
1497 control equipment to manufacturers or custom processors for

1498 industrial use. For the purposes of this exemption, "pollution  
1499 control equipment" means equipment, devices, machinery or systems  
1500 used or acquired to prevent, control, monitor or reduce air, water  
1501 or groundwater pollution, or solid or hazardous waste as required  
1502 by federal or state law or regulation.

1503 (x) Sales or leases to a manufacturer of motor vehicles  
1504 operating a project that has been certified by the Mississippi  
1505 Major Economic Impact Authority as a project as defined in Section  
1506 57-75-5(f)(iv)1 of machinery and equipment; special tooling such  
1507 as dies, molds, jigs and similar items treated as special tooling  
1508 for federal income tax purposes; or repair parts therefor or  
1509 replacements thereof; repair services thereon; fuel, supplies,  
1510 electricity, coal and natural gas used directly in the manufacture  
1511 of motor vehicles or motor vehicle parts or used to provide  
1512 climate control for manufacturing areas.

1513 (y) Sales or leases of component materials, machinery  
1514 and equipment used in the construction of a building, or any  
1515 addition or improvement thereon to an enterprise operating a  
1516 project that has been certified by the Mississippi Major Economic  
1517 Impact Authority as a project as defined in Section  
1518 57-75-5(f)(iv)1 and any other sales or leases required to  
1519 establish or operate such project.

1520 (z) Sales of component materials and equipment to a  
1521 business enterprise as provided under Section 57-64-33.

1522 (aa) The gross income from the stripping and painting  
1523 of commercial aircraft engaged in foreign or interstate  
1524 transportation business.

1525 (bb) Sales of production items used in the production  
1526 of motion pictures such as film; videotape; component building  
1527 materials used in the construction of a set; makeup; fabric used  
1528 as or in the making of costumes; clothing, including, shoes,  
1529 accessories and jewelry used as wardrobes; materials used as set  
1530 dressing; materials used as props on a set or by an actor;

1531 materials used in the creation of special effects; and expendable  
1532 items purchased for limited use by grip, electric and camera  
1533 departments such as tape, fasteners and compressed air. For the  
1534 purposes of this paragraph \* \* \* the term "motion picture" means a  
1535 nationally distributed feature-length film, video, television  
1536 series or commercial made in Mississippi, in whole or in part, for  
1537 theatrical or television viewing or as a television pilot. The  
1538 term "motion picture" shall not include the production of  
1539 television coverage of news and athletic events, or a film, video,  
1540 television series or commercial that contains any material or  
1541 performance defined in Section 97-29-103.

1542 (cc) Sales of component materials used in the  
1543 construction of a facility, or any addition or improvement  
1544 thereon, and sales or leases of machinery and equipment not later  
1545 than three (3) months after the completion of construction of the  
1546 facility, or any addition or improvement thereto, to be used in  
1547 the building or any addition or improvement thereto, to a  
1548 permanent business enterprise operating a data/information  
1549 enterprise in Tier Three areas (as such areas are designated in  
1550 accordance with Section 57-73-21), meeting minimum criteria  
1551 established by the Mississippi Development Authority.

1552 (dd) Sales of component materials used in the  
1553 construction of a facility, or any addition or improvement  
1554 thereto, and sales of machinery and equipment not later than three  
1555 (3) months after the completion of construction of the facility,  
1556 or any addition or improvement thereto, to be used in the facility  
1557 or any addition or improvement thereto, to technology intensive  
1558 enterprises for industrial purposes in Tier Three areas (as such  
1559 areas are designated in accordance with Section 57-73-21), as  
1560 certified by the State Tax Commission. For purposes of this  
1561 paragraph, an enterprise must meet the criteria provided for in  
1562 Section 27-65-17(1)(f) in order to be considered a technology  
1563 intensive enterprise.

1564           (2) Sales of component materials used in the construction of  
1565 a building, or any addition or improvement thereon, sales of  
1566 machinery and equipment to be used therein, and sales of  
1567 manufacturing or processing machinery and equipment which is  
1568 permanently attached to the ground or to a permanent foundation  
1569 and which is not by its nature intended to be housed within a  
1570 building structure, not later than three (3) months after the  
1571 initial start-up date, to permanent business enterprises engaging  
1572 in manufacturing or processing in Tier Two areas and Tier One  
1573 areas (as such areas are designated in accordance with Section  
1574 57-73-21), which businesses are certified by the State Tax  
1575 Commission as being eligible for the exemption granted in this  
1576 paragraph, shall be exempt from one-half (1/2) of the taxes  
1577 imposed on such transactions under this chapter.

1578           (3) Sales of component materials used in the construction of  
1579 a facility, or any addition or improvement thereon, and sales or  
1580 leases of machinery and equipment not later than three (3) months  
1581 after the completion of construction of the facility, or any  
1582 addition or improvement thereto, to be used in the building or any  
1583 addition or improvement thereto, to a permanent business  
1584 enterprise operating a data/information enterprise in Tier Two  
1585 areas and Tier One areas (as such areas are designated in  
1586 accordance with Section 57-73-21), which businesses meet minimum  
1587 criteria established by the Mississippi Development Authority,  
1588 shall be exempt from one-half (1/2) of the taxes imposed on such  
1589 transaction under this chapter.

1590           (4) Sales of component materials used in the construction of  
1591 a facility, or any addition or improvement thereto, and sales of  
1592 machinery and equipment not later than three (3) months after the  
1593 completion of construction of the facility, or any addition or  
1594 improvement thereto, to be used in the building or any addition or  
1595 improvement thereto, to technology intensive enterprises for  
1596 industrial purposes in Tier Two areas and Tier One areas (as such

1597 areas are designated in accordance with Section 57-73-21), which  
1598 businesses are certified by the State Tax Commission as being  
1599 eligible for the exemption granted in this paragraph, shall be  
1600 exempt from one-half (1/2) of the taxes imposed on such  
1601 transactions under this chapter. For purposes of this subsection,  
1602 an enterprise must meet the criteria provided for in Section  
1603 27-65-17(1)(f) in order to be considered a technology intensive  
1604 enterprise.

1605       (5) (a) For purposes of this subsection:

1606                   (i) "Telecommunications enterprises" shall have  
1607 the meaning ascribed to such term in Section 57-73-21(13);

1608                   (ii) "Tier One areas" mean counties designated as  
1609 Tier One areas pursuant to Section 57-73-21(1);

1610                   (iii) "Tier Two areas" mean counties designated as  
1611 Tier Two areas pursuant to Section 57-73-21(1);

1612                   (iv) "Tier Three areas" mean counties designated  
1613 as Tier Three areas pursuant to Section 57-73-21(1); and

1614                   (v) "Equipment used in the deployment of broadband  
1615 technologies" means any equipment capable of being used for or in  
1616 connection with the transmission of information at a rate, prior  
1617 to taking into account the effects of any signal degradation, that  
1618 is not less than three hundred eighty-four (384) kilobits per  
1619 second in at least one direction, including, but not limited to,  
1620 asynchronous transfer mode switches, digital subscriber line  
1621 access multiplexers, routers, servers, multiplexers, fiber optics  
1622 and related equipment.

1623                   (b) Sales of equipment to telecommunications  
1624 enterprises after June 30, 2003, and before July 1, 2013, that is  
1625 installed in Tier One areas and used in the deployment of  
1626 broadband technologies shall be exempt from one-half (1/2) of the  
1627 taxes imposed on such transactions under this chapter.

1628                   (c) Sales of equipment to telecommunications  
1629 enterprises after June 30, 2003, and before July 1, 2013, that is



1630 installed in Tier Two and Tier Three areas and used in the  
1631 deployment of broadband technologies shall be exempt from the  
1632 taxes imposed on such transactions under this chapter.

1633         **SECTION 44.** Section 57-73-21, Mississippi Code of 1972, is  
1634 amended as follows:

1635         [In cases involving business enterprises that received or  
1636 applied for the job tax credit authorized by this section prior to  
1637 January 1, 2005, this section shall read as follows:]

1638         57-73-21. (1) Annually by December 31, using the most  
1639 current data available from the University Research Center,  
1640 Mississippi State Employment Security Commission and the United  
1641 States Department of Commerce, the State Tax Commission shall rank  
1642 and designate the state's counties as provided in this section.  
1643 The twenty-eight (28) counties in this state having a combination  
1644 of the highest unemployment rate and lowest per capita income for  
1645 the most recent thirty-six-month period, with equal weight being  
1646 given to each category, are designated Tier Three areas. The  
1647 twenty-seven (27) counties in the state with a combination of the  
1648 next highest unemployment rate and next lowest per capita income  
1649 for the most recent thirty-six-month period, with equal weight  
1650 being given to each category, are designated Tier Two areas. The  
1651 twenty-seven (27) counties in the state with a combination of the  
1652 lowest unemployment rate and the highest per capita income for the  
1653 most recent thirty-six-month period, with equal weight being given  
1654 to each category, are designated Tier One areas. Counties  
1655 designated by the Tax Commission qualify for the appropriate tax  
1656 credit for jobs as provided in subsections (2), (3) and (4) of  
1657 this section. The designation by the Tax Commission is effective  
1658 for the tax years of permanent business enterprises which begin  
1659 after the date of designation. For companies which plan an  
1660 expansion in their labor forces, the Tax Commission shall  
1661 prescribe certification procedures to ensure that the companies  
1662 can claim credits in future years without regard to whether or not

1663 a particular county is removed from the list of Tier Three or Tier  
1664 Two areas.

1665 (2) Permanent business enterprises primarily engaged in  
1666 manufacturing, processing, warehousing, distribution, wholesaling  
1667 and research and development, or permanent business enterprises  
1668 designated by rule and regulation of the Mississippi Development  
1669 Authority as air transportation and maintenance facilities, final  
1670 destination or resort hotels having a minimum of one hundred fifty  
1671 (150) guest rooms, recreational facilities that impact tourism,  
1672 movie industry studios, telecommunications enterprises, data or  
1673 information processing enterprises or computer software  
1674 development enterprises or any technology intensive facility or  
1675 enterprise, in counties designated by the Tax Commission as Tier  
1676 Three areas are allowed a job tax credit for taxes imposed by  
1677 Section 27-7-5 equal to Two Thousand Dollars (\$2,000.00) annually  
1678 for each net new full-time employee job for five (5) years  
1679 beginning with years two (2) through six (6) after the creation of  
1680 the job. The number of new full-time jobs must be determined by  
1681 comparing the monthly average number of full-time employees  
1682 subject to the Mississippi income tax withholding for the taxable  
1683 year with the corresponding period of the prior taxable year.  
1684 Only those permanent businesses that increase employment by ten  
1685 (10) or more in a Tier Three area are eligible for the credit.  
1686 Credit is not allowed during any of the five (5) years if the net  
1687 employment increase falls below ten (10). The Tax Commission  
1688 shall adjust the credit allowed each year for the net new  
1689 employment fluctuations above the minimum level of ten (10).

1690 (3) Permanent business enterprises primarily engaged in  
1691 manufacturing, processing, warehousing, distribution, wholesaling  
1692 and research and development, or permanent business enterprises  
1693 designated by rule and regulation of the Mississippi Development  
1694 Authority as air transportation and maintenance facilities, final  
1695 destination or resort hotels having a minimum of one hundred fifty

1696 (150) guest rooms, recreational facilities that impact tourism,  
1697 movie industry studios, telecommunications enterprises, data or  
1698 information processing enterprises or computer software  
1699 development enterprises or any technology intensive facility or  
1700 enterprise, in counties that have been designated by the Tax  
1701 Commission as Tier Two areas are allowed a job tax credit for  
1702 taxes imposed by Section 27-7-5 equal to One Thousand Dollars  
1703 (\$1,000.00) annually for each net new full-time employee job for  
1704 five (5) years beginning with years two (2) through six (6) after  
1705 the creation of the job. The number of new full-time jobs must be  
1706 determined by comparing the monthly average number of full-time  
1707 employees subject to Mississippi income tax withholding for the  
1708 taxable year with the corresponding period of the prior taxable  
1709 year. Only those permanent businesses that increase employment by  
1710 fifteen (15) or more in Tier Two areas are eligible for the  
1711 credit. The credit is not allowed during any of the five (5)  
1712 years if the net employment increase falls below fifteen (15).  
1713 The Tax Commission shall adjust the credit allowed each year for  
1714 the net new employment fluctuations above the minimum level of  
1715 fifteen (15).

1716 (4) Permanent business enterprises primarily engaged in  
1717 manufacturing, processing, warehousing, distribution, wholesaling  
1718 and research and development, or permanent business enterprises  
1719 designated by rule and regulation of the Mississippi Development  
1720 Authority as air transportation and maintenance facilities, final  
1721 destination or resort hotels having a minimum of one hundred fifty  
1722 (150) guest rooms, recreational facilities that impact tourism,  
1723 movie industry studios, telecommunications enterprises, data or  
1724 information processing enterprises or computer software  
1725 development enterprises or any technology intensive facility or  
1726 enterprise, in counties designated by the Tax Commission as Tier  
1727 One areas are allowed a job tax credit for taxes imposed by  
1728 Section 27-7-5 equal to Five Hundred Dollars (\$500.00) annually

1729 for each net new full-time employee job for five (5) years  
1730 beginning with years two (2) through six (6) after the creation of  
1731 the job. The number of new full-time jobs must be determined by  
1732 comparing the monthly average number of full-time employees  
1733 subject to Mississippi income tax withholding for the taxable year  
1734 with the corresponding period of the prior taxable year. Only  
1735 those permanent businesses that increase employment by twenty (20)  
1736 or more in Tier One areas are eligible for the credit. The credit  
1737 is not allowed during any of the five (5) years if the net  
1738 employment increase falls below twenty (20). The Tax Commission  
1739 shall adjust the credit allowed each year for the net new  
1740 employment fluctuations above the minimum level of twenty (20).

1741 (5) In addition to the credits authorized in subsections  
1742 (2), (3) and (4), an additional Five Hundred Dollars (\$500.00)  
1743 credit for each net new full-time employee or an additional One  
1744 Thousand Dollars (\$1,000.00) credit for each net new full-time  
1745 employee who is paid a salary, excluding benefits which are not  
1746 subject to Mississippi income taxation, of at least one hundred  
1747 twenty-five percent (125%) of the average annual wage of the state  
1748 or an additional Two Thousand Dollars (\$2,000.00) credit for each  
1749 net new full-time employee who is paid a salary, excluding  
1750 benefits which are not subject to Mississippi income taxation, of  
1751 at least two hundred percent (200%) of the average annual wage of  
1752 the state, shall be allowed for any company establishing or  
1753 transferring its national or regional headquarters from within or  
1754 outside the State of Mississippi. A minimum of thirty-five (35)  
1755 jobs must be created to qualify for the additional credit. The  
1756 State Tax Commission shall establish criteria and prescribe  
1757 procedures to determine if a company qualifies as a national or  
1758 regional headquarters for purposes of receiving the credit awarded  
1759 in this subsection. As used in this subsection, the average  
1760 annual wage of the state is the most recently published average

1761 annual wage as determined by the Mississippi Employment Security  
1762 Commission.

1763 (6) In addition to the credits authorized in subsections  
1764 (2), (3), (4) and (5), any job requiring research and development  
1765 skills (chemist, engineer, etc.) shall qualify for an additional  
1766 One Thousand Dollars (\$1,000.00) credit for each net new full-time  
1767 employee.

1768 (7) Tax credits for five (5) years for the taxes imposed by  
1769 Section 27-7-5 shall be awarded for additional net new full-time  
1770 jobs created by business enterprises qualified under subsections  
1771 (2), (3), (4), (5) and (6) of this section. The Tax Commission  
1772 shall adjust the credit allowed in the event of employment  
1773 fluctuations during the additional five (5) years of credit.

1774 (8) The sale, merger, acquisition, reorganization,  
1775 bankruptcy or relocation from one county to another county within  
1776 the state of any business enterprise may not create new  
1777 eligibility in any succeeding business entity, but any unused job  
1778 tax credit may be transferred and continued by any transferee of  
1779 the business enterprise. The Tax Commission shall determine  
1780 whether or not qualifying net increases or decreases have occurred  
1781 or proper transfers of credit have been made and may require  
1782 reports, promulgate regulations, and hold hearings as needed for  
1783 substantiation and qualification.

1784 (9) Any tax credit claimed under this section but not used  
1785 in any taxable year may be carried forward for five (5) years from  
1786 the close of the tax year in which the qualified jobs were  
1787 established but the credit established by this section taken in  
1788 any one tax year must be limited to an amount not greater than  
1789 fifty percent (50%) of the taxpayer's state income tax liability  
1790 which is attributable to income derived from operations in the  
1791 state for that year.

1792           (10) No business enterprise for the transportation,  
1793 handling, storage, processing or disposal of hazardous waste is  
1794 eligible to receive the tax credits provided in this section.

1795           (11) The credits allowed under this section shall not be  
1796 used by any business enterprise or corporation other than the  
1797 business enterprise actually qualifying for the credits.

1798           (12) The tax credits provided for in this section shall be  
1799 in addition to any tax credits described in Sections 57-51-13(b),  
1800 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official  
1801 action by the Department of Economic Development prior to July 1,  
1802 1989, to any business enterprise determined prior to July 1, 1989,  
1803 by the Department of Economic Development to be a qualified  
1804 business as defined in Section 57-51-5(f) or Section 57-54-5(d) or  
1805 a qualified company as described in Section 57-53-1, as the case  
1806 may be; however, from and after July 1, 1989, tax credits shall be  
1807 allowed only under either this section or Sections 57-51-13(b),  
1808 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time  
1809 employee.

1810           (13) As used in this section, the term "telecommunications  
1811 enterprises" means entities engaged in the creation, display,  
1812 management, storage, processing, transmission or distribution for  
1813 compensation of images, text, voice, video or data by wire or by  
1814 wireless means, or entities engaged in the construction, design,  
1815 development, manufacture, maintenance or distribution for  
1816 compensation of devices, products, software or structures used in  
1817 the above activities. Companies organized to do business as  
1818 commercial broadcast radio stations, television stations or news  
1819 organizations primarily serving in-state markets shall not be  
1820 included within the definition of the term "telecommunications  
1821 enterprises."

1822           [In cases involving business enterprises that apply for the  
1823 job tax credit authorized by this section from and after January  
1824 1, 2005, this section shall read as follows:]

1825           57-73-21. (1) Annually by December 31, using the most  
1826 current data available from the University Research Center,  
1827 Mississippi State Employment Security Commission and the United  
1828 States Department of Commerce, the State Tax Commission shall rank  
1829 and designate the state's counties as provided in this section.  
1830 The twenty-eight (28) counties in this state having a combination  
1831 of the highest unemployment rate and lowest per capita income for  
1832 the most recent thirty-six-month period, with equal weight being  
1833 given to each category, are designated Tier Three areas. The  
1834 twenty-seven (27) counties in the state with a combination of the  
1835 next highest unemployment rate and next lowest per capita income  
1836 for the most recent thirty-six-month period, with equal weight  
1837 being given to each category, are designated Tier Two areas. The  
1838 twenty-seven (27) counties in the state with a combination of the  
1839 lowest unemployment rate and the highest per capita income for the  
1840 most recent thirty-six-month period, with equal weight being given  
1841 to each category, are designated Tier One areas. Counties  
1842 designated by the Tax Commission qualify for the appropriate tax  
1843 credit for jobs as provided in \* \* \* this section. The  
1844 designation by the Tax Commission is effective for the tax years  
1845 of permanent business enterprises which begin after the date of  
1846 designation. For companies which plan an expansion in their labor  
1847 forces, the Tax Commission shall prescribe certification  
1848 procedures to ensure that the companies can claim credits in  
1849 future years without regard to whether or not a particular county  
1850 is removed from the list of Tier Three or Tier Two areas.

1851           (2) As used in this section:

1852                   (a) "Business enterprises" means entities primarily  
1853 engaged in:

1854                           (i) Manufacturing, processing, warehousing,  
1855 distribution, wholesaling and research and development, or

1856                           (ii) Permanent business enterprises designated by  
1857 rule and regulation of the Mississippi Development Authority as

1858 air transportation and maintenance facilities, final destination  
1859 or resort hotels having a minimum of one hundred fifty (150) guest  
1860 rooms, recreational facilities that impact tourism, movie industry  
1861 studios, telecommunications enterprises, data or information  
1862 processing enterprises or computer software development  
1863 enterprises or any technology intensive facility or enterprise.

1864 (b) "Telecommunications enterprises" means entities  
1865 engaged in the creation, display, management, storage, processing,  
1866 transmission or distribution for compensation of images, text,  
1867 voice, video or data by wire or by wireless means, or entities  
1868 engaged in the construction, design, development, manufacture,  
1869 maintenance or distribution for compensation of devices, products,  
1870 software or structures used in the above activities. Companies  
1871 organized to do business as commercial broadcast radio stations,  
1872 television stations or news organizations primarily serving  
1873 in-state markets shall not be included within the definition of  
1874 the term "telecommunications enterprises."

1875 (3) Permanent business enterprises \* \* \* in counties  
1876 designated by the Tax Commission as Tier Three areas are allowed a  
1877 job tax credit for taxes imposed by Section 27-7-5 equal to ten  
1878 percent (10%) of the payroll of the enterprise for net new  
1879 full-time employee jobs for five (5) years beginning with years  
1880 two (2) through six (6) after the creation of the minimum number  
1881 of jobs required by this subsection. The number of new full-time  
1882 jobs must be determined by comparing the monthly average number of  
1883 full-time employees subject to the Mississippi income tax  
1884 withholding for the taxable year with the corresponding period of  
1885 the prior taxable year. Only those permanent business enterprises  
1886 that increase employment by ten (10) or more in a Tier Three area  
1887 are eligible for the credit. Credit is not allowed during any of  
1888 the five (5) years if the net employment increase falls below ten  
1889 (10). The Tax Commission shall adjust the credit allowed each



1890 year for the net new employment fluctuations above the minimum  
1891 level of ten (10).

1892       (4) Permanent business enterprises \* \* \* in counties that  
1893 have been designated by the Tax Commission as Tier Two areas are  
1894 allowed a job tax credit for taxes imposed by Section 27-7-5 equal  
1895 to five percent (5%) of the payroll of the enterprise for net new  
1896 full-time employee jobs for five (5) years beginning with years  
1897 two (2) through six (6) after the creation of the minimum number  
1898 of jobs required by this subsection. The number of new full-time  
1899 jobs must be determined by comparing the monthly average number of  
1900 full-time employees subject to Mississippi income tax withholding  
1901 for the taxable year with the corresponding period of the prior  
1902 taxable year. Only those permanent business enterprises that  
1903 increase employment by fifteen (15) or more in Tier Two areas are  
1904 eligible for the credit. The credit is not allowed during any of  
1905 the five (5) years if the net employment increase falls below  
1906 fifteen (15). The Tax Commission shall adjust the credit allowed  
1907 each year for the net new employment fluctuations above the  
1908 minimum level of fifteen (15).

1909       (5) Permanent business enterprises \* \* \* in counties  
1910 designated by the Tax Commission as Tier One areas are allowed a  
1911 job tax credit for taxes imposed by Section 27-7-5 equal to two  
1912 and one-half percent (2.5%) of the payroll of the enterprise for  
1913 net new full-time employee jobs for five (5) years beginning with  
1914 years two (2) through six (6) after the creation of the minimum  
1915 number of jobs required by this subsection. The number of new  
1916 full-time jobs must be determined by comparing the monthly average  
1917 number of full-time employees subject to Mississippi income tax  
1918 withholding for the taxable year with the corresponding period of  
1919 the prior taxable year. Only those permanent business enterprises  
1920 that increase employment by twenty (20) or more in Tier One areas  
1921 are eligible for the credit. The credit is not allowed during any  
1922 of the five (5) years if the net employment increase falls below

1923 twenty (20). The Tax Commission shall adjust the credit allowed  
1924 each year for the net new employment fluctuations above the  
1925 minimum level of twenty (20).

1926       (6) In addition to the other credits authorized in this  
1927 section, an additional Five Hundred Dollars (\$500.00) credit for  
1928 each net new full-time employee or an additional One Thousand  
1929 Dollars (\$1,000.00) credit for each net new full-time employee who  
1930 is paid a salary, excluding benefits which are not subject to  
1931 Mississippi income taxation, of at least one hundred twenty-five  
1932 percent (125%) of the average annual wage of the state or an  
1933 additional Two Thousand Dollars (\$2,000.00) credit for each net  
1934 new full-time employee who is paid a salary, excluding benefits  
1935 which are not subject to Mississippi income taxation, of at least  
1936 two hundred percent (200%) of the average annual wage of the  
1937 state, shall be allowed for any company establishing or  
1938 transferring its national or regional headquarters from within or  
1939 outside the State of Mississippi. A minimum of thirty-five (35)  
1940 jobs must be created to qualify for the additional credit. The  
1941 State Tax Commission shall establish criteria and prescribe  
1942 procedures to determine if a company qualifies as a national or  
1943 regional headquarters for purposes of receiving the credit awarded  
1944 in this subsection. As used in this subsection, the average  
1945 annual wage of the state is the most recently published average  
1946 annual wage as determined by the Mississippi Employment Security  
1947 Commission.

1948       (7) In addition to the other credits authorized in this  
1949 section, any job requiring research and development skills  
1950 (chemist, engineer, etc.) shall qualify for an additional One  
1951 Thousand Dollars (\$1,000.00) credit for each net new full-time  
1952 employee.

1953       (8) (a) Tax credits for five (5) years for the taxes  
1954 imposed by Section 27-7-5 shall be awarded for increases in the  
1955 annual payroll for net new full-time jobs created by business

1956 enterprises qualified under this section. The Tax Commission  
1957 shall adjust the credit allowed in the event of payroll  
1958 fluctuations during the additional five (5) years of credit.

1959 (b) Tax credits for five (5) years for the taxes  
1960 imposed by Section 27-7-5 shall be awarded for additional net new  
1961 full-time jobs created by business enterprises qualified under  
1962 subsections \* \* \* (6) and (7) of this section. The Tax Commission  
1963 shall adjust the credit allowed in the event of employment  
1964 fluctuations during the additional five (5) years of credit.

1965 (9) The sale, merger, acquisition, reorganization,  
1966 bankruptcy or relocation from one county to another county within  
1967 the state of any business enterprise may not create new  
1968 eligibility in any succeeding business entity, but any unused job  
1969 tax credit may be transferred and continued by any transferee of  
1970 the business enterprise. The Tax Commission shall determine  
1971 whether or not qualifying net increases or decreases have occurred  
1972 or proper transfers of credit have been made and may require  
1973 reports, promulgate regulations, and hold hearings as needed for  
1974 substantiation and qualification.

1975 (10) Any tax credit claimed under this section but not used  
1976 in any taxable year may be carried forward for five (5) years from  
1977 the close of the tax year in which the qualified jobs were  
1978 established but the credit established by this section taken in  
1979 any one tax year must be limited to an amount not greater than  
1980 fifty percent (50%) of the taxpayer's state income tax liability  
1981 which is attributable to income derived from operations in the  
1982 state for that year.

1983 (11) No business enterprise for the transportation,  
1984 handling, storage, processing or disposal of hazardous waste is  
1985 eligible to receive the tax credits provided in this section.

1986 (12) The credits allowed under this section shall not be  
1987 used by any business enterprise or corporation other than the  
1988 business enterprise actually qualifying for the credits.

1989           (13) The tax credits provided for in this section shall be  
1990 in addition to any tax credits described in Sections 57-51-13(b),  
1991 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official  
1992 action by the Department of Economic Development prior to July 1,  
1993 1989, to any business enterprise determined prior to July 1, 1989,  
1994 by the Department of Economic Development to be a qualified  
1995 business as defined in Section 57-51-5(f) or Section 57-54-5(d) or  
1996 a qualified company as described in Section 57-53-1, as the case  
1997 may be; however, from and after July 1, 1989, tax credits shall be  
1998 allowed only under either this section or Sections 57-51-13(b),  
1999 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time  
2000 employee.

2001           \* \* \*

2002           **SECTION 45.** Section 57-10-401, Mississippi Code of 1972, is  
2003 reenacted and amended as follows:

2004           **[In cases involving an economic development project for which**  
2005 **the Mississippi Business Finance Corporation has issued bonds for**  
2006 **the purpose of financing the approved costs of such project prior**  
2007 **to July 1, 1994, this section shall read as follows:]**

2008           57-10-401. As used in Sections 57-10-401 through 57-10-445  
2009 the following terms shall have the meanings ascribed to them  
2010 herein unless the context clearly indicates otherwise:

2011           (a) "Approved company" means any eligible company  
2012 seeking to locate an economic development project in a county,  
2013 which eligible company is approved by the corporation.

2014           (b) "Approved costs" means:

2015           (i) Obligations incurred for equipment and labor  
2016 and to contractors, subcontractors, builders and materialmen in  
2017 connection with the acquisition, construction and installation of  
2018 an economic development project;

2019           (ii) The cost of acquiring land or rights in land  
2020 and any cost incidental thereto, including recording fees;

2021 (iii) The cost of contract bonds and of insurance  
2022 of all kinds that may be required or necessary during the course  
2023 of acquisition, construction and installation of an economic  
2024 development project which is not paid by the contractor or  
2025 contractors or otherwise provided for;

2026 (iv) All costs of architectural and engineering  
2027 services, including test borings, surveys, estimates, plans and  
2028 specifications, preliminary investigations, and supervision of  
2029 construction, as well as for the performance of all the duties  
2030 required by or consequent upon the acquisition, construction and  
2031 installation of an economic development project;

2032 (v) All costs which shall be required to be paid  
2033 under the terms of any contract or contracts for the acquisition,  
2034 construction and installation of an economic development project;

2035 (vi) All costs, expenses and fees incurred in  
2036 connection with the issuance of bonds pursuant to Sections  
2037 57-10-401 through 57-10-445;

2038 (vii) All costs funded by a loan made under the  
2039 Mississippi Small Enterprise Development Finance Act; and

2040 (viii) All costs of professionals permitted to be  
2041 engaged under the Mississippi Small Enterprise Development Finance  
2042 Act for a loan made under such act.

2043 (c) "Assessment" means the job development assessment  
2044 fee authorized in Section 57-10-413.

2045 (d) "Bonds" means the revenue bonds, notes or other  
2046 debt obligations of the corporation authorized to be issued by the  
2047 corporation on behalf of an eligible company or other state  
2048 agency.

2049 (e) "Corporation" means the Mississippi Business  
2050 Finance Corporation created under Section 57-10-167, Mississippi  
2051 Code of 1972.

2052 (f) "Economic development project" means and includes  
2053 the acquisition of any equipment or real estate in a county and

2054 the construction and installation thereon, and with respect  
2055 thereto, of improvements and facilities necessary or desirable for  
2056 improvement of the real estate, including surveys, site tests and  
2057 inspections, subsurface site work, excavation, removal of  
2058 structures, roadways, cemeteries and other surface obstructions,  
2059 filling, grading and provision of drainage, storm water detention,  
2060 installation of utilities such as water, sewer, sewage treatment,  
2061 gas, electricity, communications and similar facilities, off-site  
2062 construction of utility extensions to the boundaries of the real  
2063 estate, and the acquisition, construction and installation of  
2064 manufacturing, telecommunications, data processing, distribution  
2065 or warehouse facilities on the real estate, for lease or financial  
2066 arrangement by the corporation to an approved company for use and  
2067 occupancy by the approved company or its affiliates for  
2068 manufacturing, telecommunications, data processing, distribution  
2069 or warehouse purposes. Such term also includes, without  
2070 limitation, any project the financing of which has been approved  
2071 under the Mississippi Small Enterprise Development Finance Act.

2072 (g) "Eligible company" means any corporation,  
2073 partnership, sole proprietorship, business trust, or other entity  
2074 which is:

2075 (i) Engaged in manufacturing which meets the  
2076 standards promulgated by the corporation under Sections 57-10-401  
2077 through 57-10-445;

2078 (ii) A private company approved by the corporation  
2079 for a loan under the Mississippi Small Enterprise Development  
2080 Finance Act;

2081 (iii) A distribution or warehouse facility  
2082 employing a minimum of fifty (50) people or employing a minimum of  
2083 twenty (20) people and having a capital investment in such  
2084 facility of at least Five Million Dollars (\$5,000,000.00); or

2085 (iv) A telecommunications or data processing  
2086 business.

2087           (h) "Executive director" means the Executive Director  
2088 of the Mississippi Business Finance Corporation.

2089           (i) "Financing agreement" means any financing documents  
2090 and agreements, indentures, loan agreements, lease agreements,  
2091 security agreements and the like, entered into by and among the  
2092 corporation, private lenders and an approved company with respect  
2093 to an economic development project.

2094           (j) "Manufacturing" means any activity involving the  
2095 manufacturing, processing, assembling or production of any  
2096 property, including the processing resulting in a change in the  
2097 conditions of the property and any activity functionally related  
2098 thereto, together with the storage, warehousing, distribution and  
2099 related office facilities in respect thereof as determined by the  
2100 Mississippi Business Finance Corporation; however, in no event  
2101 shall "manufacturing" include mining, coal or mineral processing,  
2102 or extraction of Mississippi minerals.

2103           (k) "State agency" means any state board, commission,  
2104 committee, council, university, department or unit thereof created  
2105 by the Constitution or laws of this state.

2106           (l) "Revenues" shall not be considered state funds.

2107           (m) "State" means the State of Mississippi.

2108           (n) "Mississippi Small Enterprise Development Finance  
2109 Act" means the provisions of law contained in Section 57-71-1 et  
2110 seq.

2111           **[In cases involving an economic development project for which**  
2112 **the Mississippi Business Finance Corporation has not issued bonds**  
2113 **for the purpose of financing the approved costs of such project**  
2114 **prior to July 1, 1994, this section shall read as follows:]**

2115           57-10-401. As used in Sections 57-10-401 through 57-10-445  
2116 the following terms shall have the meanings ascribed to them  
2117 herein unless the context clearly indicates otherwise:

2118           (a) "Approved company" means any eligible company  
2119 seeking to locate an economic development project in a county,  
2120 which eligible company is approved by the corporation.

2121           (b) "Approved costs" means:

2122               (i) Obligations incurred for equipment and labor  
2123 and to contractors, subcontractors, builders and materialmen in  
2124 connection with the acquisition, construction and installation of  
2125 an economic development project;

2126               (ii) The cost of acquiring land or rights in land  
2127 and any cost incidental thereto, including recording fees;

2128               (iii) The cost of contract bonds and of insurance  
2129 of all kinds that may be required or necessary during the course  
2130 of acquisition, construction and installation of an economic  
2131 development project which is not paid by the contractor or  
2132 contractors or otherwise provided for;

2133               (iv) All costs of architectural and engineering  
2134 services, including test borings, surveys, estimates, plans and  
2135 specifications, preliminary investigations, and supervision of  
2136 construction, as well as for the performance of all the duties  
2137 required by or consequent upon the acquisition, construction and  
2138 installation of an economic development project;

2139               (v) All costs which shall be required to be paid  
2140 under the terms of any contract or contracts for the acquisition,  
2141 construction and installation of an economic development project;

2142               (vi) All costs, expenses and fees incurred in  
2143 connection with the issuance of bonds pursuant to Sections  
2144 57-10-401 through 57-10-445;

2145               (vii) All costs funded by a loan made under the  
2146 Mississippi Small Enterprise Development Finance Act; and

2147               (viii) All costs of professionals permitted to be  
2148 engaged under the Mississippi Small Enterprise Development Finance  
2149 Act for a loan made under such act.



2150 (c) "Assessment" means the job development assessment  
2151 fee authorized in Section 57-10-413.

2152 (d) "Bonds" means the revenue bonds, notes or other  
2153 debt obligations of the corporation authorized to be issued by the  
2154 corporation on behalf of an eligible company or other state  
2155 agency.

2156 (e) "Corporation" means the Mississippi Business  
2157 Finance Corporation created under Section 57-10-167, Mississippi  
2158 Code of 1972.

2159 (f) "Economic development project" means and includes  
2160 the acquisition of any equipment or real estate in a county and  
2161 the construction and installation thereon, and with respect  
2162 thereto, of improvements and facilities necessary or desirable for  
2163 improvement of the real estate, including surveys, site tests and  
2164 inspections, subsurface site work, excavation, removal of  
2165 structures, roadways, cemeteries and other surface obstructions,  
2166 filling, grading and provision of drainage, storm water detention,  
2167 installation of utilities such as water, sewer, sewage treatment,  
2168 gas, electricity, communications and similar facilities, off-site  
2169 construction of utility extensions to the boundaries of the real  
2170 estate, and the acquisition, construction and installation of  
2171 manufacturing, telecommunications, data processing, distribution  
2172 or warehouse facilities on the real estate, for lease or financial  
2173 arrangement by the corporation to an approved company for use and  
2174 occupancy by the approved company or its affiliates for  
2175 manufacturing, telecommunications, data processing, distribution  
2176 or warehouse purposes. Such term also includes, without  
2177 limitation, any project the financing of which has been approved  
2178 under the Mississippi Small Enterprise Development Finance Act.

2179 If an eligible company closes a facility in this state and  
2180 becomes an approved company under the provisions of Sections  
2181 57-10-401 through 57-10-449, only that portion of the project for  
2182 which such company is attempting to obtain financing that is in

2183 excess of the value of the closed facility shall be included  
2184 within the definition of the term "economic development project."  
2185 The Mississippi Business Finance Corporation shall promulgate  
2186 rules and regulations to govern the determination of the  
2187 difference between the value of the closed facility and the new  
2188 facility.

2189 (g) "Eligible company" means any corporation,  
2190 partnership, sole proprietorship, business trust, or other entity  
2191 which:

2192 (i) Engaged in manufacturing which meets the  
2193 standards promulgated by the corporation under Sections 57-10-401  
2194 through 57-10-445;

2195 (ii) A private company approved by the corporation  
2196 for a loan under the Mississippi Small Enterprise Development  
2197 Finance Act;

2198 (iii) A distribution or warehouse facility  
2199 employing a minimum of fifty (50) people or employing a minimum of  
2200 twenty (20) people and having a capital investment in such  
2201 facility of at least Five Million Dollars (\$5,000,000.00); \* \* \*

2202 (iv) A telecommunications or data/information  
2203 processing business meeting criteria established by the  
2204 Mississippi Business Finance Corporation;

2205 (v) National or regional headquarters meeting  
2206 criteria established by the Mississippi Business Finance  
2207 Corporation;

2208 (vi) Research and development facilities meeting  
2209 criteria established by the Mississippi Business Finance  
2210 Corporation; or

2211 (vii) Technology intensive enterprises or  
2212 facilities meeting criteria established by the Mississippi  
2213 Business Finance Corporation.

2214 (h) "Executive director" means the Executive Director  
2215 of the Mississippi Business Finance Corporation.

2216 (i) "Financing agreement" means any financing documents  
2217 and agreements, indentures, loan agreements, lease agreements,  
2218 security agreements and the like, entered into by and among the  
2219 corporation, private lenders and an approved company with respect  
2220 to an economic development project.

2221 (j) "Manufacturing" means any activity involving the  
2222 manufacturing, processing, assembling or production of any  
2223 property, including the processing resulting in a change in the  
2224 conditions of the property and any activity functionally related  
2225 thereto, together with the storage, warehousing, distribution and  
2226 related office facilities in respect thereof as determined by the  
2227 Mississippi Business Finance Corporation; however, in no event  
2228 shall "manufacturing" include mining, coal or mineral processing,  
2229 or extraction of Mississippi minerals.

2230 (k) "State agency" means any state board, commission,  
2231 committee, council, university, department or unit thereof created  
2232 by the Constitution or laws of this state.

2233 (l) "Revenues" shall not be considered state funds.

2234 (m) "State" means the State of Mississippi.

2235 (n) "Mississippi Small Enterprise Development Finance  
2236 Act" means the provisions of law contained in Section 57-71-1 et  
2237 seq.

2238 **SECTION 46.** Section 57-10-403, Mississippi Code of 1972, is  
2239 reenacted as follows:

2240 57-10-403. (1) The Legislature finds and declares that the  
2241 general welfare and material well-being of citizens of the state  
2242 depend in large measure upon the development and growth of  
2243 industry in the state.

2244 (2) The Legislature finds and declares further that it is in  
2245 the best interest of the state to induce the location or expansion  
2246 of manufacturing facilities within this state in order to advance  
2247 the public purposes of relieving unemployment by creating new jobs  
2248 within this state that, but for the inducements to be offered by

2249 the corporation to approved companies as herein provided, would  
2250 not exist, and of creating new sources of tax revenues for the  
2251 support of the public services provided by this state and country.

2252 (3) The Legislature finds and declares further that the  
2253 authority granted by this article and the purposes to be  
2254 accomplished hereby are proper governmental and public purposes  
2255 for which public monies may be expended, and that the inducement  
2256 of the location or expansion of manufacturing facilities within  
2257 the state is of paramount importance, mandating that the  
2258 provisions of this article be liberally construed and applied in  
2259 order to advance the public purposes.

2260 **SECTION 47.** Section 57-10-405, Mississippi Code of 1972, is  
2261 reenacted as follows:

2262 57-10-405. In addition to its other powers and duties, the  
2263 corporation shall have all the powers necessary or convenient to  
2264 carry out and effectuate the purposes and provisions of Sections  
2265 57-10-401 through 57-10-445, including, but without limiting the  
2266 generality of the foregoing, the power:

2267 (a) To provide and finance economic development  
2268 projects under the provisions of Sections 57-10-401 through  
2269 57-10-445, and cooperate with counties, municipalities and  
2270 eligible companies in order to promote, foster and support  
2271 economic development within the counties and municipalities;

2272 (b) To conduct hearings and inquiries, in the manner  
2273 and by the methods as it deems desirable, including, without  
2274 limitation, appointment of special committees, for the purpose of  
2275 gathering information with respect to counties, municipalities,  
2276 eligible companies and economic development projects, for the  
2277 purpose of making any determinations necessary or desirable in the  
2278 furtherance of Sections 57-10-401 through 57-10-445;

2279 (c) To negotiate the terms of, and enter into financing  
2280 agreements with, approved companies, and in connection therewith  
2281 to acquire, convey, sell, own, lease, mortgage, finance, foreclose

2282 or otherwise dispose of any property, real or personal, in  
2283 connection with an economic development project, and to pay, or  
2284 cause to be paid, in accordance with the provisions of a financing  
2285 agreement, the approved costs of an economic development project  
2286 from any funds available therefor, including, without limitation,  
2287 funds available as the result of the issuance of bonds under the  
2288 Mississippi Small Enterprise Development Finance Act;

2289 (d) To delegate to the executive director the rights  
2290 and powers of the corporation required for the proper and  
2291 desirable execution of the purposes of this article;

2292 (e) To consent, if it deems it necessary or desirable  
2293 in the fulfillment of its purposes, to the modification of the  
2294 terms of any financing agreements of any kind to which the  
2295 corporation is a party;

2296 (f) To include in any borrowing the amounts deemed  
2297 necessary by the corporation to pay financing charges, consultant,  
2298 advisory and legal fees, fees for bond insurance, letters of  
2299 credit or other forms of credit enhancement, investment advisory  
2300 fees, trustees' fees and other expenses necessary or incident to  
2301 the borrowing;

2302 (g) To make and publish administrative regulations  
2303 respecting its programs and other administrative regulations  
2304 necessary or appropriate to effectuate the purposes of Sections  
2305 57-10-401 through 57-10-445, and necessary to administer the  
2306 procedures and program as provided for in Sections 57-10-401  
2307 through 57-10-445;

2308 (h) To make, execute and effectuate any and all  
2309 agreements or other documents with any governmental agency or any  
2310 person, corporation, association, partnership, or other  
2311 organization or entity, necessary or appropriate to accomplish the  
2312 purposes of Sections 57-10-401 through 57-10-445, including any  
2313 financing agreements with state agencies or any political

2314 subdivisions of the state under which funds may be pledged by or  
2315 to the corporation for the payment of its bonds;

2316 (i) To accept gifts, devises, bequests, grants, loans,  
2317 appropriations, revenue sharing, other financing and assistance  
2318 and any other aid from any source and to agree to, and to comply  
2319 with, conditions attached thereto;

2320 (j) To sue and be sued in its own name, plead and be  
2321 impleaded; and

2322 (k) To invest any funds held by the corporation or its  
2323 agents or trustees, under Sections 57-10-401 through 57-10-445,  
2324 including, but not limited to, the proceeds of bonds issued under  
2325 Sections 57-10-401 through 57-10-445, reserve or other funds, or  
2326 any monies not required for immediate disbursement, and the  
2327 investment income on any of the foregoing, in obligations  
2328 authorized by Sections 57-10-401 through 57-10-445.

2329 **SECTION 48.** Section 57-10-407, Mississippi Code of 1972, is  
2330 reenacted as follows:

2331 57-10-407. The corporation may accept and expend: (a)  
2332 monies which may be appropriated from time to time by the  
2333 Legislature; (b) monies which may be available under the  
2334 Mississippi Small Enterprise Development Finance Act; or (c)  
2335 monies which may be received from any source, including income  
2336 from the corporation's operations, under Sections 57-10-401  
2337 through 57-10-445, for effectuating the purposes of Sections  
2338 57-10-401 through 57-10-445, including, without limitation, the  
2339 payment of the expenses of administration and operation incurred  
2340 pursuant to Sections 57-10-401 through 57-10-445 and the  
2341 establishment and, if deemed desirable, maintenance of a reserve  
2342 or contingency fund for the administration of Sections 57-10-401  
2343 through 57-10-445.

2344 **SECTION 49.** Section 57-10-409, Mississippi Code of 1972, is  
2345 reenacted as follows:

2346           **[In cases involving an economic development project for which**  
2347 **the Mississippi Business Finance Corporation has issued bonds for**  
2348 **the purpose of financing the approved costs of such project prior**  
2349 **to July 1, 1994, this section shall read as follows:]**

2350           57-10-409. The corporation may enter into, with any approved  
2351 company, a financing agreement with respect to its economic  
2352 development project. The terms and provisions of each financing  
2353 agreement shall be determined by negotiations between the  
2354 corporation and the approved company, except that each financing  
2355 agreement shall include the following provisions:

2356           (a) If the corporation issues any bonds in connection  
2357 with an economic development project, the term of the financing  
2358 agreement shall not be less than the last maturity of the bonds  
2359 issued with respect to the economic development project, except  
2360 that the financing agreement may terminate upon the earlier  
2361 redemption of all of the bonds issued with respect to the economic  
2362 development project and may grant to the approved company an  
2363 option to purchase the economic development project from the  
2364 corporation upon the termination of the financing agreement for  
2365 such consideration and under such terms and conditions the  
2366 corporation may approve. Nothing in this paragraph shall limit  
2367 the extension of the term of a financing agreement if there is a  
2368 refunding of the correlative bonds or otherwise.

2369           (b) If the corporation issues any bonds in connection  
2370 with an economic development project, the financing agreement  
2371 shall specify that the annual obligations of the approved company  
2372 under Sections 57-10-401 through 57-10-445 shall equal in each  
2373 year at least the annual debt service for that year on the bonds  
2374 issued with respect to the economic development project; and the  
2375 approved company shall pay such obligation of the financing  
2376 agreement to the trustee for bonds issued for the benefit of the  
2377 approved company, at such time and in such amounts sufficient to  
2378 amortize such bonds.

2379           (c) If the corporation loans funds to an approved  
2380 company that is a private company under the Mississippi Small  
2381 Enterprise Development Finance Act, the financing agreement shall  
2382 include the terms and conditions of the loan required by Section  
2383 57-71-1 et seq.

2384           (d) (i) In consideration for financing agreement  
2385 payment, the approved company may be permitted the following  
2386 during the period of time in which the financing agreement is in  
2387 effect, not to exceed twenty-five (25) years:

2388                       1. A tax credit on the amount provided for in  
2389 Section 27-7-22.3(2), Mississippi Code of 1972; plus

2390                       2. The aggregate assessment withheld by the  
2391 approved company in each year.

2392           (ii) The income tax credited to the approved  
2393 company referred to herein shall be credited in the fiscal year of  
2394 the financing agreement in which the tax return of the approved  
2395 company is filed. The approved company shall not be required to  
2396 pay estimated tax payments under Section 27-7-319, Mississippi  
2397 Code of 1972.

2398           (e) (i) The financing agreement shall provide that the  
2399 assessments, when added to the credit for the state corporate  
2400 income tax herein granted, shall not exceed the total financing  
2401 agreement annual payment by the approved company in any year;  
2402 however, to the extent that financing agreement annual payments  
2403 exceed credits received and assessments collected in any year, the  
2404 excess payment may be recouped from excess credits or assessment  
2405 collections in succeeding years.

2406           (ii) If during any fiscal year of the financing  
2407 agreement the total of the income tax credit granted to the  
2408 approved company plus the assessment collected from the wages of  
2409 the employees equals the annual payment pursuant to the financing  
2410 agreement, and if all excess payments pursuant to the financing  
2411 agreement accumulated in prior years have been recouped, the



2412 assessment collected from the wages of the employees shall cease  
2413 for the remainder of the fiscal year of the financing agreement.

2414 (f) The financing agreement shall provide that:

2415 (i) It may be assigned by the approved company  
2416 only upon the prior written consent of the corporation following  
2417 the adoption of a resolution by the corporation to such effect;  
2418 and

2419 (ii) Upon the default by the approved company in  
2420 the obligation to render its annual payment, the corporation shall  
2421 have the right, at its option, to declare the financing agreement  
2422 in default and to accelerate the total of all annual payments that  
2423 are to be made or to terminate the financing agreement and cause  
2424 to be sold the economic development project at public or private  
2425 sale, or to pursue any other remedies available under the Uniform  
2426 Commercial Code, as from time to time amended, or otherwise  
2427 available in law or equity.

2428 **[In cases involving an economic development project for which**  
2429 **the Mississippi Business Finance Corporation has not issued bonds**  
2430 **for the purpose of financing the approved costs of such project**  
2431 **prior to July 1, 1994, but has issued bonds for such project prior**  
2432 **to July 1, 1997, or in cases involving an economic development**  
2433 **project which has been induced by a resolution of the Board of**  
2434 **Directors of the Mississippi Business Finance Corporation that has**  
2435 **been filed with the State Tax Commission prior to July 1, 1997,**  
2436 **this section shall read as follows:]**

2437 57-10-409. The corporation may enter into, with any approved  
2438 company, a financing agreement with respect to its economic  
2439 development project. The terms and provisions of each financing  
2440 agreement shall be determined by negotiations between the  
2441 corporation and the approved company, except that each financing  
2442 agreement shall include the following provisions:

2443 (a) If the corporation issues any bonds in connection  
2444 with an economic development project, the term of the financing

2445 agreement shall not be less than the last maturity of the bonds  
2446 issued with respect to the economic development project, except  
2447 that the financing agreement may terminate upon the earlier  
2448 redemption of all of the bonds issued with respect to the economic  
2449 development project and may grant to the approved company an  
2450 option to purchase the economic development project from the  
2451 corporation upon the termination of the financing agreement for  
2452 such consideration and under such terms and conditions the  
2453 corporation may approve. Nothing in this paragraph shall limit  
2454 the extension of the term of a financing agreement if there is a  
2455 refunding of the correlative bonds or otherwise.

2456           (b) If the corporation issues any bonds in connection  
2457 with an economic development project, the financing agreement  
2458 shall specify that the annual obligations of the approved company  
2459 under Sections 57-10-401 through 57-10-445 shall equal in each  
2460 year at least the annual debt service for that year on the bonds  
2461 issued with respect to the economic development project; and the  
2462 approved company shall pay such obligation of the financing  
2463 agreement to the trustee for bonds issued for the benefit of the  
2464 approved company, at such time and in such amounts sufficient to  
2465 amortize such bonds.

2466           (c) If the corporation loans funds to an approved  
2467 company that is a private company under the Mississippi Small  
2468 Enterprise Development Finance Act, the financing agreement shall  
2469 include the terms and conditions of the loan required by Section  
2470 57-71-1 et seq.

2471           (d) (i) In consideration for financing agreement  
2472 payment, the approved company may be permitted the following  
2473 during the period of time in which the financing agreement is in  
2474 effect, not to exceed twenty-five (25) years:

2475                       1. A tax credit on the amount provided for in  
2476 Section 27-7-22.3(2), Mississippi Code of 1972; plus

2477                           2. The aggregate assessment withheld by the  
2478 approved company in each year.

2479                           (ii) The income tax credited to the approved  
2480 company referred to herein shall be credited in the fiscal year of  
2481 the financing agreement in which the tax return of the approved  
2482 company is filed. The approved company shall not be required to  
2483 pay estimated tax payments under Section 27-7-319, Mississippi  
2484 Code of 1972.

2485                           (e) (i) The financing agreement shall provide that the  
2486 assessments, when added to the credit for the state corporate  
2487 income tax herein granted, shall not exceed the total financing  
2488 agreement annual payment by the approved company in any year;  
2489 however, to the extent that financing agreement annual payments  
2490 exceed credits received and assessments collected in any year, the  
2491 excess payment may be recouped from excess credits or assessment  
2492 collections in succeeding years not to exceed three (3) years  
2493 following the termination of the period of time during which the  
2494 financing agreement is in effect.

2495                           (ii) If during any fiscal year of the financing  
2496 agreement the total of the income tax credit granted to the  
2497 approved company plus the assessment collected from the wages of  
2498 the employees equals the annual payment pursuant to the financing  
2499 agreement, and if all excess payments pursuant to the financing  
2500 agreement accumulated in prior years have been recouped, the  
2501 assessment collected from the wages of the employees shall cease  
2502 for the remainder of the fiscal year of the financing agreement.

2503                           (f) The financing agreement shall provide that:

2504                           (i) It may be assigned by the approved company  
2505 only upon the prior written consent of the corporation following  
2506 the adoption of a resolution by the corporation to such effect;  
2507 and

2508                           (ii) Upon the default by the approved company in  
2509 the obligation to render its annual payment, the corporation shall

2510 have the right, at its option, to declare the financing agreement  
2511 in default and to accelerate the total of all annual payments that  
2512 are to be made or to terminate the financing agreement and cause  
2513 to be sold the economic development project at public or private  
2514 sale, or to pursue any other remedies available under the Uniform  
2515 Commercial Code, as from time to time amended, or otherwise  
2516 available in law or equity.

2517 **[In cases involving an economic development project for which**  
2518 **the Mississippi Business Finance Corporation has not issued bonds**  
2519 **for the purpose of financing the approved costs of such project**  
2520 **prior to July 1, 1997, or in cases involving an economic**  
2521 **development project which has not been induced by a resolution of**  
2522 **the Board of Directors of the Mississippi Business Finance**  
2523 **Corporation that has been filed with the State Tax Commission**  
2524 **prior to July 1, 1997, this section shall read as follows:]**

2525 57-10-409. The corporation may enter into, with any approved  
2526 company, a financing agreement with respect to its economic  
2527 development project. The terms and provisions of each financing  
2528 agreement shall be determined by negotiations between the  
2529 corporation and the approved company, except that each financing  
2530 agreement shall include the following provisions:

2531 (a) If the corporation issues any bonds in connection  
2532 with an economic development project, the term of the financing  
2533 agreement shall not be less than the last maturity of the bonds  
2534 issued with respect to the economic development project, except  
2535 that the financing agreement may terminate upon the earlier  
2536 redemption of all of the bonds issued with respect to the economic  
2537 development project and may grant to the approved company an  
2538 option to purchase the economic development project from the  
2539 corporation upon the termination of the financing agreement for  
2540 such consideration and under such terms and conditions the  
2541 corporation may approve. Nothing in this paragraph shall limit

2542 the extension of the term of a financing agreement if there is a  
2543 refunding of the correlative bonds or otherwise.

2544 (b) If the corporation issues any bonds in connection  
2545 with an economic development project, the financing agreement  
2546 shall specify that the annual obligations of the approved company  
2547 under Sections 57-10-401 through 57-10-445 shall equal in each  
2548 year at least the annual debt service for that year on the bonds  
2549 issued with respect to the economic development project; and the  
2550 approved company shall pay such obligation of the financing  
2551 agreement to the trustee for bonds issued for the benefit of the  
2552 approved company, at such time and in such amounts sufficient to  
2553 amortize such bonds.

2554 (c) If the corporation loans funds to an approved  
2555 company that is a private company under the Mississippi Small  
2556 Enterprise Development Finance Act, the financing agreement shall  
2557 include the terms and conditions of the loan required by Section  
2558 57-71-1 et seq.

2559 (d) (i) In consideration for financing agreement  
2560 payment, the approved company may be permitted a tax credit on the  
2561 amount provided for in Section 27-7-22.3(2), Mississippi Code of  
2562 1972, during the period of time in which the financing agreement  
2563 is in effect, not to exceed twenty-five (25) years.

2564 (ii) The income tax credited to the approved  
2565 company referred to herein shall be credited in the fiscal year of  
2566 the financing agreement in which the tax return of the approved  
2567 company is filed. The approved company shall not be required to  
2568 pay estimated tax payments under Section 27-7-319, Mississippi  
2569 Code of 1972.

2570 (e) The financing agreement shall provide that:

2571 (i) It may be assigned by the approved company  
2572 only upon the prior written consent of the corporation following  
2573 the adoption of a resolution by the corporation to such effect;  
2574 and

2575                   (ii) Upon the default by the approved company in  
2576 the obligation to render its annual payment, the corporation shall  
2577 have the right, at its option, to declare the financing agreement  
2578 in default and to accelerate the total of all annual payments that  
2579 are to be made or to terminate the financing agreement and cause  
2580 to be sold the economic development project at public or private  
2581 sale, or to pursue any other remedies available under the Uniform  
2582 Commercial Code, as from time to time amended, or otherwise  
2583 available in law or equity.

2584           **SECTION 50.** Section 57-10-411, Mississippi Code of 1972, is  
2585 reenacted as follows:

2586           57-10-411. Ninety (90) days after the filing of the tax  
2587 return of the approved company, the State Tax Commission shall  
2588 certify to the corporation the state income tax liability for the  
2589 preceding year of each approved company with respect to an  
2590 economic development project financed under Sections 57-10-401  
2591 through 57-10-445, and the amounts of any tax credits taken under  
2592 Sections 57-10-401 through 57-10-445.

2593           **SECTION 51.** Section 57-10-413, Mississippi Code of 1972, is  
2594 reenacted as follows:

2595           **[In cases involving an economic development project for which**  
2596 **the Mississippi Business Finance Corporation has issued bonds for**  
2597 **the purpose of financing the approved costs of such project prior**  
2598 **to July 1, 1994, this section shall read as follows:]**

2599           57-10-413. (1) The approved company may require that each  
2600 employee whose gross wages are equivalent to Five Dollars (\$5.00)  
2601 or more per hour, as a condition of employment, agrees to pay a  
2602 job development assessment fee not to exceed a certain percentage  
2603 of the gross wages of each such employee whose job was created as  
2604 a result of the economic development project, for the purpose of  
2605 retiring the bonds which fund the economic development project or  
2606 other indebtedness. The job development assessment fee shall not

2607 exceed the following percentages of the gross wages of the  
2608 employee:

2609           (a) Two percent (2%), if the gross wages of the  
2610 employee are equivalent to Five Dollars (\$5.00) or more per hour  
2611 but less than Seven Dollars (\$7.00) per hour;

2612           (b) Four percent (4%), if the gross wages of the  
2613 employee are equivalent to Seven Dollars (\$7.00) or more per hour  
2614 but less than Nine Dollars (\$9.00) per hour; and

2615           (c) Six percent (6%), if the gross wages of the  
2616 employee are equivalent to Nine Dollars (\$9.00) or more per hour.

2617           (2) Each employee so assessed shall be entitled to credits  
2618 against Mississippi income taxes as provided in Section 27-7-22.3.

2619           (3) If an approved company shall elect to impose the  
2620 assessment as a condition of employment, it shall deduct the  
2621 assessment from each paycheck of each employee.

2622           (4) Any approved company collecting an assessment as  
2623 provided in subsection (1) of this section shall make its payroll  
2624 books and records available to the corporation at such reasonable  
2625 times as the corporation shall request and shall file with the  
2626 corporation documentation respecting the assessment as the  
2627 corporation may require.

2628           (5) Any assessment of the wages of employees of an approved  
2629 company in connection with their employment at an economic  
2630 development project under subsection (1) of this section shall  
2631 lapse on the date the bonds are retired.

2632           **[In cases involving an economic development project for which**  
2633 **the Mississippi Business Finance Corporation has not issued bonds**  
2634 **for the purpose of financing the approved costs of such project**  
2635 **prior to July 1, 1994, but has issued bonds for such project prior**  
2636 **to July 1, 1997, or in cases involving an economic development**  
2637 **project which has been induced by a resolution of the Board of**  
2638 **Directors of the Mississippi Business Finance Corporation that has**

2639 **been filed with the State Tax Commission prior to July 1, 1997,**  
2640 **this section shall read as follows:]**

2641           57-10-413. (1) Except as otherwise provided for in  
2642 subsection (6) of this section, the approved company may require  
2643 that each employee whose gross wages are equivalent to Five  
2644 Dollars (\$5.00) or more per hour, as a condition of employment,  
2645 agrees to pay a job development assessment fee not to exceed a  
2646 certain percentage of the gross wages of each such employee whose  
2647 job was created as a result of the economic development project,  
2648 for the purpose of retiring the bonds which fund the economic  
2649 development project or other indebtedness. The job development  
2650 assessment fee shall not exceed the following percentages of the  
2651 gross wages of the employee:

2652           (a) Two percent (2%), if the gross wages of the  
2653 employee are equivalent to Five Dollars (\$5.00) or more per hour  
2654 but less than Seven Dollars (\$7.00) per hour;

2655           (b) Four percent (4%), if the gross wages of the  
2656 employee are equivalent to Seven Dollars (\$7.00) or more per hour  
2657 but less than Nine Dollars (\$9.00) per hour; and

2658           (c) Six percent (6%), if the gross wages of the  
2659 employee are equivalent to Nine Dollars (\$9.00) or more per hour.

2660           (2) Each employee so assessed shall be entitled to credits  
2661 against Mississippi income taxes as provided in Section 27-7-22.3.

2662           (3) If an approved company shall elect to impose the  
2663 assessment as a condition of employment, it shall deduct the  
2664 assessment from each paycheck of each employee.

2665           (4) Any approved company collecting an assessment as  
2666 provided in subsection (1) of this section shall make its payroll  
2667 books and records available to the corporation at such reasonable  
2668 times as the corporation shall request and shall file with the  
2669 corporation documentation respecting the assessment as the  
2670 corporation may require.



2671 (5) Any assessment of the wages of employees of an approved  
2672 company in connection with their employment at an economic  
2673 development project under subsection (1) of this section shall  
2674 lapse on the date the bonds are retired.

2675 (6) If an eligible company closes a facility in this state  
2676 and becomes an approved company under the provisions of Sections  
2677 57-10-401 through 57-10-449, only those jobs created in excess of  
2678 those that existed at the closed facility at the time of the  
2679 closure shall be eligible for the imposition of the job  
2680 development assessment fee. The Mississippi Business Finance  
2681 Corporation shall promulgate rules and regulations to govern the  
2682 determination of the number of jobs upon which the job development  
2683 assessment fee may be imposed.

2684 **SECTION 52.** Section 57-10-415, Mississippi Code of 1972, is  
2685 reenacted as follows:

2686 57-10-415. Every issue of bonds under Sections 57-10-401  
2687 through 57-10-445 shall be payable solely out of any revenues of  
2688 the corporation as provided in Sections 57-10-401 through  
2689 57-10-445. The bonds additionally may be secured by a pledge of  
2690 any grant, contribution or guarantee from the federal government  
2691 or any person or a pledge by the corporation of any revenues from  
2692 any source.

2693 **SECTION 53.** Section 57-10-417, Mississippi Code of 1972, is  
2694 reenacted as follows:

2695 57-10-417. The bonds issued by the corporation under  
2696 Sections 57-10-401 through 57-10-445 shall be limited obligations  
2697 of the corporation and shall not constitute a debt, liability or  
2698 general obligation of the state or any political subdivision  
2699 thereof (other than the corporation), or a pledge of the faith and  
2700 credit of the state or any political subdivision thereof (other  
2701 than the corporation), but shall be payable solely as provided by  
2702 the corporation under Sections 57-10-401 through 57-10-445. No  
2703 member or officer of the board of directors of the corporation nor

2704 any person executing the bonds shall be liable personally on the  
2705 bonds by reason of the issuance thereof. Each bond issued under  
2706 Sections 57-10-401 through 57-10-445 shall contain on the face  
2707 thereof a statement that neither the state, nor any other  
2708 political subdivision thereof, shall be obligated to pay the same  
2709 or the interest thereon or other costs incident thereto except  
2710 from the revenue or money pledged by the corporation and that  
2711 neither the faith and credit nor the taxing power of the state or  
2712 any political subdivision thereof is pledged to the payment of the  
2713 principal of, or the interest on, such bond.

2714 **SECTION 54.** Section 57-10-419, Mississippi Code of 1972, is  
2715 reenacted as follows:

2716 57-10-419. (1) The corporation may issue in its own name,  
2717 from time to time, for the purpose of financing the approved costs  
2718 of an economic development project, its bonds and may pledge for  
2719 the payment thereof funds derived in respect of any financing  
2720 agreement or other arrangement entered into by the corporation and  
2721 an approved company under Sections 57-10-401 through 57-10-445.

2722 (2) In anticipation of the issuance of bonds, the  
2723 corporation may provide for the issuance, at one time or from time  
2724 to time, of bond anticipation notes. The principal of and the  
2725 interest on the notes shall be payable solely from the funds  
2726 herein provided for the payment. Any notes may be made payable  
2727 from the proceeds of bonds or renewal notes; or, if bond or  
2728 renewal note proceeds are not available, the notes may be paid  
2729 from any available revenues or assets of the corporation.

2730 (3) The bonds issued under Sections 57-10-401 through  
2731 57-10-445 shall be authorized by a resolution of the corporation,  
2732 shall bear such date or dates, and shall mature at such time or  
2733 times as such resolution may provide, except that no bond shall  
2734 mature more than twenty-five (25) years from the date of issue.  
2735 Bonds which are not subject to taxation shall bear interest at  
2736 such rate or rates, be in such denominations, be in such form,

2737 carry such registration privileges, be executed in such manner, be  
2738 payable in such medium of payment, at such place or places, and be  
2739 subject to such terms of redemption, including redemption before  
2740 maturity, as such resolution may provide. Except as expressly  
2741 provided otherwise in Sections 57-10-401 through 57-10-445, the  
2742 provisions of other laws of the state relating to the issuance of  
2743 revenue bonds shall not apply to bonds issued by the corporation.  
2744 As to bonds issued hereunder and designated as taxable bonds by  
2745 the corporation, any immunity to taxation by the United States  
2746 government of interest on such bonds or notes is hereby waived.  
2747 Bonds of the corporation may be sold by the corporation at public  
2748 or private sale, from time to time, and at such price or prices as  
2749 the corporation shall determine.

2750 (4) The proceeds of any bonds shall be used solely for the  
2751 purposes for which issued and shall be disbursed in the manner and  
2752 under the restrictions, if any, that the corporation may provide  
2753 in the resolution authorizing the issuance of the bonds or in a  
2754 trust indenture securing the same.

2755 (5) The principal and interest on the bonds issued by the  
2756 corporation shall be payable solely and only from proceeds derived  
2757 under a financing agreement and shall be secured solely by the  
2758 economic development project, the proceeds of the financing  
2759 agreement, and such other assets as may be available, but not  
2760 including revenues of the state.

2761 (6) Before the preparation of definitive certificates  
2762 evidencing the bonds, the corporation may issue, under like  
2763 restrictions, interim receipts or temporary certificates, with or  
2764 without coupons, exchangeable for definitive certificates when the  
2765 certificates have been executed and are available for delivery.  
2766 The corporation may also provide for the replacement of any  
2767 certificates which become mutilated or are destroyed or lost.

2768 **SECTION 55.** Section 57-10-421, Mississippi Code of 1972, is  
2769 reenacted as follows:

2770           57-10-421. In addition to the requirements provided for in  
2771 Section 57-10-419, any resolution authorizing the issuance of  
2772 bonds under Sections 57-10-401 through 57-10-445 may contain  
2773 provisions as to:

2774           (a) The setting aside of reserves or sinking funds and  
2775 the regulations and disposition thereof;

2776           (b) Limitations on the issuance of additional bonds,  
2777 the terms upon which additional bonds may be issued and secured,  
2778 and the refunding of outstanding or other bonds;

2779           (c) The procedure, if any, by which the terms of any of  
2780 the proceedings under which the bonds are being issued may be  
2781 amended or abrogated, the number or percentage of bondholders who  
2782 or which must consent thereto, and the manner in which the consent  
2783 may be given;

2784           (d) The vesting in a trustee or trustees of such  
2785 property, rights, powers and duties in trust as the company may  
2786 determine, and limiting or abrogating the right of bondholders to  
2787 appoint a trustee or limiting the rights, powers and duties of the  
2788 trustee;

2789           (e) Defining the act or omissions to act which shall  
2790 constitute a default and the obligations or duties of the  
2791 corporation to the holders of the bonds, and providing for the  
2792 rights and remedies of the holders of the bonds in the event of  
2793 default, which rights and remedies may include the general laws of  
2794 the state and other provisions of Sections 57-10-401 through  
2795 57-10-445; or

2796           (f) Any other matter, of like or different character,  
2797 which in any way affects the security or protection of the holders  
2798 of the bonds.

2799           **SECTION 56.** Section 57-10-423, Mississippi Code of 1972, is  
2800 reenacted as follows:

2801           57-10-423. Any pledge made by the corporation shall be valid  
2802 and binding from the time when the pledge was made. The revenues

2803 or properties so pledged and thereafter received by the  
2804 corporation shall immediately be subject to the lien of such  
2805 pledge without any physical delivery thereof or further act, and  
2806 the lien of any such pledge shall be valid and binding as against  
2807 all parties having claims of any kind in tort, contract or  
2808 otherwise against the corporation, irrespective of whether the  
2809 parties have notice thereof. Neither the resolution nor any other  
2810 instrument by which a pledge is created need be recorded.

2811 **SECTION 57.** Section 57-10-425, Mississippi Code of 1972, is  
2812 reenacted as follows:

2813 57-10-425. The corporation, subject to the provisions in  
2814 proceedings relating to outstanding bonds as may then exist, may  
2815 purchase bonds out of any funds available therefor, which shall  
2816 thereupon be canceled, at any reasonable price which, if the bonds  
2817 are then redeemable, shall not exceed the redemption price (and  
2818 premium, if any) then applicable plus accrued interest to the  
2819 redemption date thereof.

2820 **SECTION 58.** Section 57-10-427, Mississippi Code of 1972, is  
2821 reenacted as follows:

2822 57-10-427. The bonds may be secured by an indenture by and  
2823 between the corporation and a corporate trustee which may be any  
2824 bank or other corporation having the power of a trust company or  
2825 any trust company within or without this state. Such indenture  
2826 may contain such provisions for protecting and enforcing the  
2827 rights and remedies of the bondholders as may be reasonable and  
2828 proper and not in violation of law, including covenants setting  
2829 forth the duties of the corporation in relation to the exercise of  
2830 its powers and the custody, safekeeping and application of all  
2831 money. The corporation may provide by the indenture for the  
2832 payment of the proceeds of the bonds and revenues to the trustee  
2833 under the indenture or other depository, and for the method of  
2834 disbursement thereof, with such safeguards and restrictions as the  
2835 corporation may determine. If the bonds shall be secured by an

2836 indenture, the bondholders shall have no authority to appoint a  
2837 separate trustee to represent them.

2838         **SECTION 59.** Section 57-10-429, Mississippi Code of 1972, is  
2839 reenacted as follows:

2840         57-10-429. In the event that any of the members or officers  
2841 of the board of directors of the corporation shall cease to be  
2842 members or officers of the board prior to the delivery of any  
2843 bonds signed by them, their signatures or facsimiles thereof shall  
2844 nevertheless be valid and sufficient for all purposes, the same as  
2845 if such members or officers had remained in office until such  
2846 delivery.

2847         **SECTION 60.** Section 57-10-431, Mississippi Code of 1972, is  
2848 reenacted as follows:

2849         57-10-431. The corporation may create and establish such  
2850 funds and accounts as may be necessary or desirable for its  
2851 purposes under Sections 57-10-401 through 57-10-445.

2852         **SECTION 61.** Section 57-10-433, Mississippi Code of 1972, is  
2853 reenacted as follows:

2854         57-10-433. The corporation shall have the power to contract  
2855 with the holders of any of its bonds issued under Sections  
2856 57-10-401 through 57-10-445 as to the custody, collection,  
2857 securing, investment and payment of any money of the corporation,  
2858 and of any money held in trust or otherwise for the payment of  
2859 bonds, and to carry out such contract. Money held in trust or  
2860 otherwise for the payment of bonds or in any way to secure bonds  
2861 and deposits of money may be secured in the same manner as money  
2862 of the corporation, and all banks and trust companies are  
2863 authorized to give security for the deposits.

2864         **SECTION 62.** Section 57-10-435, Mississippi Code of 1972, is  
2865 reenacted as follows:

2866         57-10-435. Amendments to Sections 57-10-401 through  
2867 57-10-445, enacted after July 1, 1993, shall not limit the rights  
2868 vested in the corporation with respect to any agreements made

2869 with, or remedies available to, the holders of bonds issued under  
2870 this article or Section 27-7-22.3 prior to the enactment of the  
2871 amendments until the bonds, together with all interest thereon,  
2872 and all costs and expenses in connection with any proceeding by or  
2873 on behalf of the holders, are fully met and discharged.

2874         **SECTION 63.** Section 57-10-437, Mississippi Code of 1972, is  
2875 reenacted as follows:

2876         57-10-437. All expenses incurred by the corporation in  
2877 carrying out the provisions of Sections 57-10-401 through  
2878 57-10-445 shall be payable solely from funds provided under  
2879 Sections 57-10-401 through 57-10-445, or other funds of the  
2880 corporation. Nothing in Sections 57-10-401 through 57-10-445  
2881 shall be construed to authorize the corporation to incur  
2882 indebtedness or liability on behalf of or payable by the state or  
2883 any other political subdivision thereof.

2884         **SECTION 64.** Section 57-10-439, Mississippi Code of 1972, is  
2885 reenacted as follows:

2886         57-10-439. (1) The corporation is hereby declared to be  
2887 performing a public function and to be a public body corporate and  
2888 a political subdivision of the state. Accordingly, the income,  
2889 including any profit made on the sale thereof from all bonds  
2890 issued by the corporation, shall at all times be exempt from all  
2891 taxation by the state or any political subdivision thereof. If,  
2892 after all indebtedness and other obligations of the corporation  
2893 are discharged, the corporation is dissolved, its remaining assets  
2894 shall inure to the benefit of the state.

2895         (2) With the approval of the appropriate local taxing  
2896 authority, all mortgages or deeds of trust executed as security  
2897 therefor, all lease or purchase agreements made pursuant to the  
2898 provisions hereof, and all purchases required to establish the  
2899 industrial enterprise and financed by proceeds from bonds issued  
2900 under Sections 57-10-401 through 57-10-445, shall likewise be  
2901 exempt from all taxation in the State of Mississippi except the

2902 contractors' tax imposed by Section 27-65-21, and except ad  
2903 valorem taxes levied for school district purposes. All projects  
2904 and the revenue derived therefrom from any lease thereof shall be  
2905 exempt from all taxation in the State of Mississippi, except the  
2906 tax levied by Section 27-65-21, except the tax levied under  
2907 Chapter 7, Title 27, Mississippi Code of 1972, and except ad  
2908 valorem taxes levied for school district purposes.

2909 **SECTION 65.** Section 57-10-441, Mississippi Code of 1972, is  
2910 reenacted as follows:

2911 57-10-441. The bonds issued by and under the authority of  
2912 Sections 57-10-401 through 57-10-445 by the corporation are  
2913 declared to be legal investments in which all public officers or  
2914 public bodies of the state, its political subdivisions, all  
2915 municipalities and municipal subdivisions, all insurance companies  
2916 and associations, and other persons carrying on insurance  
2917 business, all banks, bankers, banking associations, trust  
2918 companies, savings associations, including savings and loan  
2919 associations, building and loan associations, investment  
2920 companies, and other persons carrying on a banking business, all  
2921 administrators, guardians, executors, trustees and other  
2922 fiduciaries, and all other persons who are now or may later be  
2923 authorized to invest in bonds or in other obligations of the  
2924 state, may invest funds, including capital, in their control or  
2925 belonging to them. Such bonds are also hereby made securities  
2926 which may be deposited with and received by all public officers  
2927 and bodies of the state or any agency or political subdivision of  
2928 the state and all municipalities and public corporations for any  
2929 purpose for which the deposit of bonds or other obligations of the  
2930 state is now or may be later authorized by law.

2931 **SECTION 66.** Section 57-10-443, Mississippi Code of 1972, is  
2932 reenacted as follows:

2933 57-10-443. The corporation, within one hundred twenty (120)  
2934 days of the close of each fiscal year, shall submit an annual



2935 report of its activities in regard to Sections 57-10-401 through  
2936 57-10-445 for the preceding year to the Governor. The Clerk of  
2937 the House of Representatives and the Secretary of the Senate each  
2938 shall receive a copy of the report by making a request for it to  
2939 the corporation. Each report shall set forth a complete operating  
2940 and financial statement in regard to Sections 57-10-401 through  
2941 57-10-445 for the corporation during the fiscal year it covers.

2942         **SECTION 67.** Section 57-10-445, Mississippi Code of 1972, is  
2943 reenacted as follows:

2944         57-10-445. Nothing contained in Sections 57-10-401 through  
2945 57-10-445 is to be construed as a restriction or limitation upon  
2946 any powers which the corporation might otherwise have under any  
2947 other law of the state. Insofar as the provisions of Sections  
2948 57-10-401 through 57-10-445 are inconsistent with the provisions  
2949 of any other law, the provisions of Sections 57-10-401 through  
2950 57-10-445 shall be controlling, and the powers conferred by  
2951 Sections 57-10-401 through 57-10-445 shall be regarded as  
2952 supplemental and additional to powers conferred by any other laws.  
2953 No proceedings, notice or approval shall be required for the  
2954 issuance of any bonds or any instrument or the security therefor,  
2955 except as provided in Sections 57-10-401 through 57-10-445.

2956         The provisions of Sections 57-10-401 through 57-10-445 shall  
2957 be liberally construed to accomplish the purposes of Sections  
2958 57-10-401 through 57-10-445.

2959         The powers granted and the duties imposed in Sections  
2960 57-10-401 through 57-10-445 shall be construed to be independent  
2961 and severable. If any one or more sections, subsections,  
2962 sentences or parts of any of Sections 57-10-401 through 57-10-445  
2963 shall be adjudged unconstitutional or invalid, such adjudication  
2964 shall not affect, impair or invalidate the remaining provisions  
2965 thereof, but shall be confined in its operation to the specific  
2966 provisions so held unconstitutional or invalid.

2967           **SECTION 68.** Section 27-7-22.3, Mississippi Code of 1972, is  
2968 reenacted as follows:

2969           **[In cases involving an economic development project for which**  
2970 **the Mississippi Business Finance Corporation has issued bonds for**  
2971 **the purpose of financing the approved costs of such project prior**  
2972 **to July 1, 1994, this section shall read as follows:]**

2973           27-7-22.3. (1) For taxpayers who are required to pay a job  
2974 assessment fee as provided in Section 57-10-413, there shall be  
2975 allowed as a credit against the taxes imposed by this chapter, an  
2976 amount equal to the amount of the job assessment fee imposed upon  
2977 such taxpayer pursuant to Section 57-10-413. If the amount  
2978 allowable as a credit exceeds the tax imposed by this article and  
2979 Section 27-7-22.3, the amount of such excess shall not be  
2980 refundable or carried forward to any other taxable year.

2981           (2) For any approved company as defined in Section  
2982 57-10-401, there shall be allowed against the taxes imposed by  
2983 this chapter on the income of the approved company generated by or  
2984 arising out of the economic development project (as defined in  
2985 Section 57-10-401), a credit in an amount not to exceed the total  
2986 debt service paid under a financing agreement entered into under  
2987 Section 57-10-409. The tax credit allowed in this subsection  
2988 shall not exceed the amount of taxes due the State of Mississippi.

2989           **[In cases involving an economic development project for which**  
2990 **the Mississippi Business Finance Corporation has not issued bonds**  
2991 **for the purpose of financing the approved costs of such project**  
2992 **prior to July 1, 1994, but has issued bonds for such project prior**  
2993 **to July 1, 1997, or in cases involving an economic development**  
2994 **project which has been induced by a resolution of the Board of**  
2995 **Directors of the Mississippi Business Finance Corporation that has**  
2996 **been filed with the State Tax Commission prior to July 1, 1997,**  
2997 **this section shall read as follows:]**

2998           27-7-22.3. (1) For taxpayers who are required to pay a job  
2999 assessment fee as provided in Section 57-10-413, there shall be

3000 allowed as a credit against the taxes imposed by this chapter, an  
3001 amount equal to the amount of the job assessment fee imposed upon  
3002 such taxpayer pursuant to Section 57-10-413. If the amount  
3003 allowable as a credit exceeds the tax imposed by this article and  
3004 Section 27-7-22.3, the amount of such excess shall not be  
3005 refundable or carried forward to any other taxable year.

3006 (2) For any approved company as defined in Section  
3007 57-10-401, there shall be allowed against the taxes imposed by  
3008 this chapter on the income of the approved company generated by or  
3009 arising out of the economic development project (as defined in  
3010 Section 57-10-401), a credit in an amount not to exceed the total  
3011 debt service paid under a financing agreement entered into under  
3012 Section 57-10-409. The tax credit allowed in this subsection  
3013 shall not exceed the amount of taxes due the State of Mississippi.  
3014 The amount of income of the approved company generated by or  
3015 arising out of the economic development project shall be  
3016 determined by a formula adopted by the Mississippi Business  
3017 Finance Corporation.

3018 **[In cases involving an economic development project for which**  
3019 **the Mississippi Business Finance Corporation has not issued bonds**  
3020 **for the purpose of financing the approved costs of such project**  
3021 **prior to July 1, 1997, or in cases involving an economic**  
3022 **development project which has not been induced by a resolution of**  
3023 **the Board of Directors of the Mississippi Business Finance**  
3024 **Corporation that has been filed with the State Tax Commission**  
3025 **prior to July 1, 1997, this section shall read as follows:]**

3026 27-7-22.3. For any approved company as defined in Section  
3027 57-10-401, there shall be allowed against the taxes imposed by  
3028 this chapter on the income of the approved company generated by or  
3029 arising out of the economic development project (as defined in  
3030 Section 57-10-401), a credit in an amount not to exceed the total  
3031 debt service paid under a financing agreement entered into under  
3032 Section 57-10-409; provided, however, that the tax credit allowed

3033 in this subsection shall not exceed eighty percent (80%) of the  
3034 amount of taxes due the State of Mississippi prior to the  
3035 application of the credit. To the extent that financing agreement  
3036 annual payments exceed the amount of the credit authorized  
3037 pursuant to this section in any taxable year, such excess payment  
3038 may be recouped from excess credits in succeeding years not to  
3039 exceed three (3) years following the date upon which the credit  
3040 was earned. The amount of income of the approved company  
3041 generated by or arising out of the economic development project  
3042 shall be determined by a formula adopted by the Mississippi  
3043 Business Finance Corporation.

3044 **SECTION 69.** Section 57-10-449, Mississippi Code of 1972, is  
3045 amended as follows:

3046 57-10-449. Sections 57-10-401 through 57-10-445 and  
3047 27-7-22.3 shall be repealed from and after October 1, 2006.

3048 **SECTION 70.** Section 57-62-5, Mississippi Code of 1972, is  
3049 amended as follows:

3050 **[For businesses or industries that received or applied for**  
3051 **incentive payments prior to July 1, 2005, this section shall read**  
3052 **as follows:]**

3053 57-62-5. As used in this chapter, the following words and  
3054 phrases shall have the meanings ascribed in this section unless  
3055 the context clearly indicates otherwise:

3056 (a) "Qualified business or industry" means any  
3057 corporation, limited liability company, partnership, sole  
3058 proprietorship, business trust or other legal entity and subunits  
3059 or affiliates thereof, pursuant to rules and regulations of the  
3060 MDA, which provides an average annual salary, excluding benefits  
3061 which are not subject to Mississippi income taxes, of at least one  
3062 hundred twenty-five percent (125%) of the most recently published  
3063 state average annual wage or the most recently published average  
3064 annual wage of the county in which the qualified business or  
3065 industry is located as determined by the Mississippi Department of

3066 Employment Security, whichever is the lesser. An establishment  
3067 shall not be considered to be a qualified business or industry  
3068 unless it offers, or will offer within one hundred eighty (180)  
3069 days of the date it receives the first incentive payment pursuant  
3070 to the provisions of this chapter, a basic health benefits plan to  
3071 the individuals it employs in new direct jobs in this state which  
3072 is approved by the MDA. Qualified business or industry does not  
3073 include retail business or gaming business;

3074 (b) "New direct job" means full-time employment in this  
3075 state in a qualified business or industry that has qualified to  
3076 receive an incentive payment pursuant to this chapter, which  
3077 employment did not exist in this state before the date of approval  
3078 by the MDA of the application of the qualified business or  
3079 industry pursuant to the provisions of this chapter. "New direct  
3080 job" shall include full-time employment in this state of employees  
3081 who are employed by an entity other than the establishment that  
3082 has qualified to receive an incentive payment and who are leased  
3083 to the qualified business or industry, if such employment did not  
3084 exist in this state before the date of approval by the MDA of the  
3085 application of the establishment;

3086 (c) "Full-time job" means a job of at least thirty-five  
3087 (35) hours per week;

3088 (d) "Estimated direct state benefits" means the tax  
3089 revenues projected by the MDA to accrue to the state as a result  
3090 of the qualified business or industry;

3091 (e) "Estimated direct state costs" means the costs  
3092 projected by the MDA to accrue to the state as a result of the  
3093 qualified business or industry;

3094 (f) "Estimated net direct state benefits" means the  
3095 estimated direct state benefits less the estimated direct state  
3096 costs;

3097 (g) "Net benefit rate" means the estimated net direct  
3098 state benefits computed as a percentage of gross payroll, provided  
3099 that:

3100 (i) Except as otherwise provided in this paragraph  
3101 (g), the net benefit rate may be variable and shall not exceed  
3102 four percent (4%) of the gross payroll; and shall be set in the  
3103 sole discretion of the MDA;

3104 (ii) In no event shall incentive payments,  
3105 cumulatively, exceed the estimated net direct state benefits;

3106 (h) "Gross payroll" means wages for new direct jobs of  
3107 the qualified business or industry; and

3108 (i) "MDA" means the Mississippi Development Authority.

3109 **[For businesses or industries that apply for incentive**  
3110 **payments from and after July 1, 2005, this section shall read as**  
3111 **follows:]**

3112 57-62-5. As used in this chapter, the following words and  
3113 phrases shall have the meanings ascribed in this section unless  
3114 the context clearly indicates otherwise:

3115 (a) "Qualified business or industry" means any  
3116 corporation, limited liability company, partnership, sole  
3117 proprietorship, business trust or other legal entity and subunits  
3118 or affiliates thereof, pursuant to rules and regulations of the  
3119 MDA, which:

3120 (i) Is a data/information processing enterprise  
3121 meeting minimum criteria established by MDA that provides an  
3122 average annual salary, excluding benefits which are not subject to  
3123 Mississippi income taxes, of at least one hundred percent (100%)  
3124 of the most recently published state average annual wage or the  
3125 most recently published average annual wage of the county in which  
3126 the qualified business or industry is located as determined by the  
3127 Mississippi Department of Employment Security, whichever is the  
3128 lesser, and creates not less than two hundred (200) new direct  
3129 jobs if the enterprise is located in a Tier One or Tier Two area

3130 (as such areas are designated in accordance with Section  
3131 57-73-21), or which creates not less than one hundred (100) new  
3132 jobs if the enterprise is located in a Tier Three area (as such  
3133 areas are designated in accordance with Section 57-73-21);

3134 (ii)\_ Is a manufacturing or distribution enterprise  
3135 meeting minimum criteria established by MDA that provides an  
3136 average annual salary, excluding benefits which are not subject to  
3137 Mississippi income taxes, of at least one hundred ten percent  
3138 (110%) of the most recently published state average annual wage or  
3139 the most recently published average annual wage of the county in  
3140 which the qualified business or industry is located as determined  
3141 by the Mississippi Department of Employment Security, whichever is  
3142 the lesser, invests not less than Twenty Million Dollars  
3143 (\$20,000,000.00) in land, buildings and equipment, and creates not  
3144 less than fifty (50) new direct jobs if the enterprise is located  
3145 in a Tier One or Tier Two area (as such areas are designated in  
3146 accordance with Section 57-73-21), or which creates not less than  
3147 twenty (20) new jobs if the enterprise is located in a Tier Three  
3148 area (as such areas are designated in accordance with Section  
3149 57-73-21);

3150 (iii)\_ Is a corporation, limited liability company,  
3151 partnership, sole proprietorship, business trust or other legal  
3152 entity and subunits or affiliates thereof, pursuant to rules and  
3153 regulations of the MDA, which provides an average annual salary,  
3154 excluding benefits which are not subject to Mississippi income  
3155 taxes, of at least one hundred twenty-five percent (125%) of the  
3156 most recently published state average annual wage or the most  
3157 recently published average annual wage of the county in which the  
3158 qualified business or industry is located as determined by the  
3159 Mississippi Department of Employment Security, whichever is the  
3160 lesser. An establishment shall not be considered to be a  
3161 qualified business or industry unless it offers, or will offer  
3162 within one hundred eighty (180) days of the date it receives the

3163 first incentive payment pursuant to the provisions of this  
3164 chapter, a basic health benefits plan to the individuals it  
3165 employs in new direct jobs in this state which is approved by the  
3166 MDA. Qualified business or industry does not include retail  
3167 business or gaming business; or

3168 (iv) Is a research and development or a technology  
3169 intensive enterprise meeting minimum criteria established by MDA  
3170 that provides an average annual salary, excluding benefits which  
3171 are not subject to Mississippi income taxes, of at least one  
3172 hundred and fifty percent (150%) of the most recently published  
3173 state average annual wage or the most recently published average  
3174 annual wage of the county in which the qualified business or  
3175 industry is located as determined by the Mississippi Department of  
3176 Employment Security, whichever is the lesser, and creates not less  
3177 than ten (10) new direct jobs.

3178 An establishment shall not be considered to be a qualified  
3179 business or industry unless it offers, or will offer within one  
3180 hundred eighty (180) days of the date it receives the first  
3181 incentive payment pursuant to the provisions of this chapter, a  
3182 basic health benefits plan to the individuals it employs in new  
3183 direct jobs in this state which is approved by the MDA. Qualified  
3184 business or industry does not include retail business or gaming  
3185 business.

3186 (b) "New direct job" means full-time employment in this  
3187 state in a qualified business or industry that has qualified to  
3188 receive an incentive payment pursuant to this chapter, which  
3189 employment did not exist in this state before the date of approval  
3190 by the MDA of the application of the qualified business or  
3191 industry pursuant to the provisions of this chapter. "New direct  
3192 job" shall include full-time employment in this state of employees  
3193 who are employed by an entity other than the establishment that  
3194 has qualified to receive an incentive payment and who are leased  
3195 to the qualified business or industry, if such employment did not



3196 exist in this state before the date of approval by the MDA of the  
3197 application of the establishment.

3198 (c) "Full-time job" or "full-time employment" means a  
3199 job of at least thirty-five (35) hours per week.

3200 (d) "Estimated direct state benefits" means the tax  
3201 revenues projected by the MDA to accrue to the state as a result  
3202 of the qualified business or industry.

3203 (e) "Estimated direct state costs" means the costs  
3204 projected by the MDA to accrue to the state as a result of the  
3205 qualified business or industry.

3206 (f) "Estimated net direct state benefits" means the  
3207 estimated direct state benefits less the estimated direct state  
3208 costs.

3209 (g) "Net benefit rate" means the estimated net direct  
3210 state benefits computed as a percentage of gross payroll, provided  
3211 that:

3212 (i) Except as otherwise provided in this paragraph  
3213 (g), the net benefit rate may be variable and shall not exceed  
3214 four percent (4%) of the gross payroll; and shall be set in the  
3215 sole discretion of the MDA;

3216 (ii) In no event shall incentive payments,  
3217 cumulatively, exceed the estimated net direct state benefits.

3218 (h) "Gross payroll" means wages for new direct jobs of  
3219 the qualified business or industry. \* \* \*

3220 (i) "MDA" means the Mississippi Development Authority.

3221 **SECTION 71.** Section 57-62-9, Mississippi Code of 1972, is  
3222 amended as follows:

3223 **[For businesses or industries that received or applied for**  
3224 **incentive payments prior to July 1, 2005, this section shall read**  
3225 **as follows:]**

3226 57-62-9. (1) Except as otherwise provided in this section,  
3227 a qualified business or industry that meets the qualifications  
3228 specified in the Mississippi Advantage Jobs Act may receive

3229 quarterly incentive payments for a period not to exceed ten (10)  
3230 years from the State Tax Commission pursuant to the provisions of  
3231 the Mississippi Advantage Jobs Act in an amount which shall be  
3232 equal to the net benefit rate multiplied by the actual gross  
3233 payroll of new direct jobs for a calendar quarter as verified by  
3234 the Mississippi Department of Employment Security, but not to  
3235 exceed the amount of money previously paid into the fund by the  
3236 employer. A qualified business or industry that is a project as  
3237 defined in Section 57-75-5(f)(iv)1 may elect the date upon which  
3238 the ten-year period will begin. Such date may not be later than  
3239 sixty (60) months after the date the business or industry applied  
3240 for incentive payments.

3241 (2) (a) A qualified business or industry that is a project  
3242 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to  
3243 receive incentive payments for an additional period not to exceed  
3244 five (5) years beyond the expiration date of the initial ten-year  
3245 period if:

3246 (i) The qualified business or industry creates at  
3247 least three thousand (3,000) new direct jobs within five (5) years  
3248 after the date the business or industry commences commercial  
3249 production;

3250 (ii) Within five (5) years after the date the  
3251 business or industry commences commercial production, the average  
3252 annual wage of the jobs is at least one hundred fifty percent  
3253 (150%) of the most recently published state average annual wage or  
3254 the most recently published average annual wage of the county in  
3255 which the qualified business or industry is located as determined  
3256 by the Mississippi Department of Employment Security, whichever is  
3257 the lesser. The criteria for the average annual wage requirement  
3258 shall be based upon the state average annual wage or the average  
3259 annual wage of the county whichever is appropriate, at the time of  
3260 creation of the minimum number of jobs, and the threshold

3261 established at that time will remain constant for the duration of  
3262 the additional period; and

3263                   (iii) The qualified business or industry meets and  
3264 maintains the job and wage requirements of subparagraphs (i) and  
3265 (ii) of this paragraph (a) for four (4) consecutive calendar  
3266 quarters.

3267                   (b) A qualified business or industry that is a project  
3268 as defined in Section 57-75-5(f)(iv)1 and qualified to receive  
3269 incentive payments for the additional period provided in paragraph  
3270 (a) of this subsection (2) may apply to the MDA to receive  
3271 incentive payments for an additional period not to exceed ten (10)  
3272 years beyond the expiration date of the additional period provided  
3273 in paragraph (a) of this subsection (2) if:

3274                   (i) The qualified business or industry creates at  
3275 least four thousand (4,000) new direct jobs after qualifying for  
3276 the additional incentive period provided in paragraph (a) of this  
3277 subsection (2) but before the expiration of the additional period.  
3278 For purposes of determining whether the business or industry meets  
3279 the minimum jobs requirement of this subparagraph (i), the number  
3280 of jobs the business or industry created in order to meet the  
3281 minimum jobs requirement of paragraph (a) of this subsection (2)  
3282 shall be subtracted from the minimum jobs requirement of this  
3283 subparagraph (i);

3284                   (ii) The average annual wage of the jobs is at  
3285 least one hundred fifty percent (150%) of the most recently  
3286 published state average annual wage or the most recently published  
3287 average annual wage of the county in which the qualified business  
3288 or industry is located as determined by the Mississippi Department  
3289 of Employment Security, whichever is the lesser. The criteria for  
3290 the average annual wage requirement shall be based upon the state  
3291 average annual wage or the average annual wage of the county  
3292 whichever is appropriate, at the time of creation of the minimum

3293 number of jobs, and the threshold established at that time will  
3294 remain constant for the duration of the additional period; and

3295 (iii) The qualified business or industry meets and  
3296 maintains the job and wage requirements of subparagraphs (i) and  
3297 (ii) of this paragraph (b) for four (4) consecutive calendar  
3298 quarters.

3299 (3) In order to receive incentive payments, an establishment  
3300 shall apply to the MDA. The application shall be on a form  
3301 prescribed by the MDA and shall contain such information as may be  
3302 required by the MDA to determine if the applicant is qualified.

3303 (4) In order to qualify to receive such payments, the  
3304 establishment applying shall be required to:

3305 (a) Be engaged in a qualified business or industry;

3306 (b) Provide an average salary, excluding benefits which  
3307 are not subject to Mississippi income taxes, of at least one  
3308 hundred twenty-five percent (125%) of the most recently published  
3309 state average annual wage or the most recently published average  
3310 annual wage of the county in which the qualified business or  
3311 industry is located as determined by the Mississippi Department of  
3312 Employment Security, whichever is the lesser. The criteria for  
3313 this requirement shall be based upon the state average annual wage  
3314 or the average annual wage of the county whichever is appropriate,  
3315 at the time of application, and the threshold established upon  
3316 application will remain constant for the duration of the project;

3317 (c) The business or industry must create and maintain a  
3318 minimum of ten (10) full-time jobs in counties that have an  
3319 average unemployment rate over the previous twelve-month period  
3320 which is at least one hundred fifty percent (150%) of the most  
3321 recently published state unemployment rate, as determined by the  
3322 Mississippi Department of Employment Security or in Tier Three  
3323 counties as determined under Section 57-73-21. In all other  
3324 counties, the business or industry must create and maintain a  
3325 minimum of twenty-five (25) full-time jobs. The criteria for this

3326 requirement shall be based on the designation of the county at the  
3327 time of the application. The threshold established upon the  
3328 application will remain constant for the duration of the project.  
3329 The business or industry must meet its job creation commitment  
3330 within twenty-four (24) months of the application approval.  
3331 However, if the qualified business or industry is applying for  
3332 incentive payments for an additional period under subsection (2)  
3333 of this section, the business or industry must comply with the  
3334 applicable job and wage requirements of subsection (2) of this  
3335 section.

3336 (5) The MDA shall determine if the applicant is qualified to  
3337 receive incentive payments. If the applicant is determined to be  
3338 qualified by the MDA, the MDA shall conduct a cost/benefit  
3339 analysis to determine the estimated net direct state benefits and  
3340 the net benefit rate applicable for a period not to exceed ten  
3341 (10) years and to estimate the amount of gross payroll for the  
3342 period. If the applicant is determined to be qualified to receive  
3343 incentive payments for an additional period under subsection (2)  
3344 of this section, the MDA shall conduct a cost/benefit analysis to  
3345 determine the estimated net direct state benefits and the net  
3346 benefit rate applicable for the appropriate additional period and  
3347 to estimate the amount of gross payroll for the additional period.  
3348 In conducting such cost/benefit analysis, the MDA shall consider  
3349 quantitative factors, such as the anticipated level of new tax  
3350 revenues to the state along with the cost to the state of the  
3351 qualified business or industry, and such other criteria as deemed  
3352 appropriate by the MDA, including the adequacy of retirement  
3353 benefits that the business or industry provides to individuals it  
3354 employs in new direct jobs in this state. In no event shall  
3355 incentive payments, cumulatively, exceed the estimated net direct  
3356 state benefits. Once the qualified business or industry is  
3357 approved by the MDA, an agreement shall be deemed to exist between  
3358 the qualified business or industry and the State of Mississippi,

3359 requiring the continued incentive payment to be made as long as  
3360 the qualified business or industry retains its eligibility.

3361 (6) Upon approval of such an application, the MDA shall  
3362 notify the State Tax Commission and shall provide it with a copy  
3363 of the approved application and the estimated net direct state  
3364 benefits. The State Tax Commission may require the qualified  
3365 business or industry to submit such additional information as may  
3366 be necessary to administer the provisions of this chapter. The  
3367 qualified business or industry shall report to the State Tax  
3368 Commission periodically to show its continued eligibility for  
3369 incentive payments. The qualified business or industry may be  
3370 audited by the State Tax Commission to verify such eligibility.

3371 **[For businesses or industries that apply for incentive**  
3372 **payments from and after July 1, 2005, this section shall read as**  
3373 **follows:]**

3374 57-62-9. (1) (a) Except as otherwise provided in this  
3375 section, a qualified business or industry that meets the  
3376 qualifications specified in the Mississippi Advantage Jobs Act may  
3377 receive quarterly incentive payments for a period not to exceed  
3378 ten (10) years from the State Tax Commission pursuant to the  
3379 provisions of the Mississippi Advantage Jobs Act in an amount  
3380 which shall be equal to the net benefit rate multiplied by the  
3381 actual gross payroll of new direct jobs for a calendar quarter as  
3382 verified by the Mississippi Department of Employment Security, but  
3383 not to exceed:

3384 (i) Ninety percent (90%) of the amount of money  
3385 previously paid into the fund by the employer if the employer  
3386 provides an average annual salary, excluding benefits which are  
3387 not subject to Mississippi income taxes, of at least one hundred  
3388 seventy-five percent (175%) of the most recently published state  
3389 average annual wage or the most recently published average annual  
3390 wage of the county in which the qualified business or industry is

3391 located as determined by the Mississippi Department of Employment  
3392 Security, whichever is the lesser;

3393 (ii) Eighty percent (80%) of the amount of money  
3394 previously paid into the fund by the employer if the employer  
3395 provides an average annual salary, excluding benefits which are  
3396 not subject to Mississippi income taxes, of at least one hundred  
3397 twenty-five percent (125%) but less than one hundred seventy-five  
3398 percent (175%) of the most recently published state average annual  
3399 wage or the most recently published average annual wage of the  
3400 county in which the qualified business or industry is located as  
3401 determined by the Mississippi Department of Employment Security,  
3402 whichever is the lesser; or

3403 (iii) Seventy percent (70%) of the amount of money  
3404 previously paid into the fund by the employer if the employer  
3405 provides an average annual salary, excluding benefits which are  
3406 not subject to Mississippi income taxes, of less than one hundred  
3407 twenty-five percent (125%) of the most recently published state  
3408 average annual wage or the most recently published average annual  
3409 wage of the county in which the qualified business or industry is  
3410 located as determined by the Mississippi Department of Employment  
3411 Security, whichever is the lesser.

3412 (b) A qualified business or industry that is a project  
3413 as defined in Section 57-75-5(f)(iv)1 may elect the date upon  
3414 which the ten-year period will begin. Such date may not be later  
3415 than sixty (60) months after the date the business or industry  
3416 applied for incentive payments.

3417 (2) (a) A qualified business or industry that is a project  
3418 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to  
3419 receive incentive payments for an additional period not to exceed  
3420 five (5) years beyond the expiration date of the initial ten-year  
3421 period if:

3422 (i) The qualified business or industry creates at  
3423 least three thousand (3,000) new direct jobs within five (5) years

3424 after the date the business or industry commences commercial  
3425 production;

3426                   (ii) Within five (5) years after the date the  
3427 business or industry commences commercial production, the average  
3428 annual wage of the jobs is at least one hundred fifty percent  
3429 (150%) of the most recently published state average annual wage or  
3430 the most recently published average annual wage of the county in  
3431 which the qualified business or industry is located as determined  
3432 by the Mississippi Department of Employment Security, whichever is  
3433 the lesser. The criteria for the average annual wage requirement  
3434 shall be based upon the state average annual wage or the average  
3435 annual wage of the county whichever is appropriate, at the time of  
3436 creation of the minimum number of jobs, and the threshold  
3437 established at that time will remain constant for the duration of  
3438 the additional period; and

3439                   (iii) The qualified business or industry meets and  
3440 maintains the job and wage requirements of subparagraphs (i) and  
3441 (ii) of this paragraph (a) for four (4) consecutive calendar  
3442 quarters.

3443                   (b) A qualified business or industry that is a project  
3444 as defined in Section 57-75-5(f)(iv)1 and qualified to receive  
3445 incentive payments for the additional period provided in paragraph  
3446 (a) of this subsection (2) may apply to the MDA to receive  
3447 incentive payments for an additional period not to exceed ten (10)  
3448 years beyond the expiration date of the additional period provided  
3449 in paragraph (a) of this subsection (2) if:

3450                   (i) The qualified business or industry creates at  
3451 least four thousand (4,000) new direct jobs after qualifying for  
3452 the additional incentive period provided in paragraph (a) of this  
3453 subsection (2) but before the expiration of the additional period.  
3454 For purposes of determining whether the business or industry meets  
3455 the minimum jobs requirement of this subparagraph (i), the number  
3456 of jobs the business or industry created in order to meet the



3457 minimum jobs requirement of paragraph (a) of this subsection (2)  
3458 shall be subtracted from the minimum jobs requirement of this  
3459 subparagraph (i);

3460           (ii) The average annual wage of the jobs is at  
3461 least one hundred fifty percent (150%) of the most recently  
3462 published state average annual wage or the most recently published  
3463 average annual wage of the county in which the qualified business  
3464 or industry is located as determined by the Mississippi Department  
3465 of Employment Security, whichever is the lesser. The criteria for  
3466 the average annual wage requirement shall be based upon the state  
3467 average annual wage or the average annual wage of the county  
3468 whichever is appropriate, at the time of creation of the minimum  
3469 number of jobs, and the threshold established at that time will  
3470 remain constant for the duration of the additional period; and

3471           (iii) The qualified business or industry meets and  
3472 maintains the job and wage requirements of subparagraphs (i) and  
3473 (ii) of this paragraph (b) for four (4) consecutive calendar  
3474 quarters.

3475       (3) In order to receive incentive payments, an establishment  
3476 shall apply to the MDA. The application shall be on a form  
3477 prescribed by the MDA and shall contain such information as may be  
3478 required by the MDA to determine if the applicant is qualified.

3479       (4) (a) In order to qualify to receive such payments, the  
3480 establishment applying shall be required to \* \* \* meet the  
3481 definition of the term "qualified business or industry";

3482           (b) \* \* \* The criteria for the average annual salary  
3483 requirement shall be based upon the state average annual wage or  
3484 the average annual wage of the county whichever is appropriate, at  
3485 the time of application, and the threshold established upon  
3486 application will remain constant for the duration of the project;

3487           (c) \* \* \* The business or industry must meet its job  
3488 creation commitment within twenty-four (24) months of the  
3489 application approval. However, if the qualified business or

3490 industry is applying for incentive payments for an additional  
3491 period under subsection (2) of this section, the business or  
3492 industry must comply with the applicable job and wage requirements  
3493 of subsection (2) of this section.

3494 (5) (a) The MDA shall determine if the applicant is  
3495 qualified to receive incentive payments. If the applicant is  
3496 determined to be qualified by the MDA, the MDA shall:

3497 (i) Conduct a cost/benefit analysis to determine  
3498 the estimated net direct state benefits and the net benefit rate  
3499 applicable for a period not to exceed ten (10) years and to  
3500 estimate the amount of gross payroll for the period; and

3501 (ii) Require the applicant to execute a  
3502 performance agreement with the MDA that specifies the manner in  
3503 which the applicant will utilize the incentive payments made to it  
3504 under this chapter.

3505 (b) If the applicant is determined to be qualified to  
3506 receive incentive payments for an additional period under  
3507 subsection (2) of this section, the MDA shall conduct a  
3508 cost/benefit analysis to determine the estimated net direct state  
3509 benefits and the net benefit rate applicable for the appropriate  
3510 additional period and to estimate the amount of gross payroll for  
3511 the additional period. In conducting such cost/benefit analysis,  
3512 the MDA shall consider quantitative factors, such as the  
3513 anticipated level of new tax revenues to the state along with the  
3514 cost to the state of the qualified business or industry, and such  
3515 other criteria as deemed appropriate by the MDA, including the  
3516 adequacy of retirement benefits that the business or industry  
3517 provides to individuals it employs in new direct jobs in this  
3518 state. In no event shall incentive payments, cumulatively, exceed  
3519 the estimated net direct state benefits. Once the qualified  
3520 business or industry is approved by the MDA, an agreement shall be  
3521 deemed to exist between the qualified business or industry and the  
3522 State of Mississippi, requiring the continued incentive payment to

3523 be made as long as the qualified business or industry retains its  
3524 eligibility.

3525 (6) Upon approval of such an application, the MDA shall  
3526 notify the State Tax Commission and shall provide it with a copy  
3527 of the approved application and the estimated net direct state  
3528 benefits. The State Tax Commission may require the qualified  
3529 business or industry to submit such additional information as may  
3530 be necessary to administer the provisions of this chapter. The  
3531 qualified business or industry shall report to the State Tax  
3532 Commission periodically to show its continued eligibility for  
3533 incentive payments. The qualified business or industry may be  
3534 audited by the State Tax Commission to verify such eligibility.

3535 **SECTION 72.** Section 57-62-13, Mississippi Code of 1972, is  
3536 amended as follows:

3537 57-62-13. (1) As soon as practicable after the end of a  
3538 calendar quarter for which a qualified business or industry has  
3539 qualified to receive an incentive payment, the qualified business  
3540 or industry shall file a claim for the payment with the State Tax  
3541 Commission and shall specify the actual number of new direct jobs  
3542 created and maintained by the business or industry for the  
3543 calendar quarter and the gross payroll thereof. The State Tax  
3544 Commission shall verify the actual number of new direct jobs  
3545 created and maintained by the business or industry and compliance  
3546 with the average annual wage requirements for such business or  
3547 industry under this chapter. If the qualified business or  
3548 industry files a claim for an incentive payment during an  
3549 additional incentive period provided under Section 57-62-9(2), the  
3550 State Tax Commission shall verify the actual number of new direct  
3551 jobs created and maintained by the business or industry and  
3552 compliance with the average annual wage requirements for such  
3553 business or industry under this chapter. If the State Tax  
3554 Commission is not able to provide such verification utilizing all  
3555 available resources, the State Tax Commission may request such

3556 additional information from the business or industry as may be  
3557 necessary.

3558         (2) (a) The business or industry must meet the salary and  
3559 job requirements of this chapter for four (4) consecutive calendar  
3560 quarters prior to payment of the first incentive payment. If the  
3561 business or industry does not maintain the salary or job  
3562 requirements of this chapter at any other time during the ten-year  
3563 period after the date the first payment was made, the incentive  
3564 payments shall not be made and shall not be resumed until such  
3565 time as the actual verified number of new direct jobs created and  
3566 maintained by the business or industry equals or exceeds the  
3567 requirements of this chapter for one (1) calendar quarter.

3568         (b) If the business or industry is qualified to receive  
3569 incentive payments for an additional period provided under Section  
3570 57-62-9(2), the business or industry must meet the wage and job  
3571 requirements of Section 57-62-9(2), for four (4) consecutive  
3572 calendar quarters prior to payment of the first incentive payment.  
3573 If the business or industry does not maintain the wage or job  
3574 requirements of Section 57-62-9(2), at any other time during the  
3575 appropriate additional period after the date the first payment was  
3576 made, the incentive payments shall not be made and shall not be  
3577 resumed until such time as the actual verified number of new  
3578 direct jobs created and maintained by the business or industry  
3579 equals or exceeds the amounts specified in Section 57-62-9(2), for  
3580 one (1) calendar quarter.

3581         (3) An establishment that has qualified pursuant to this  
3582 chapter may receive payments only in accordance with the provision  
3583 under which it initially applied and was approved. If an  
3584 establishment that is receiving incentive payments expands, it may  
3585 apply for additional incentive payments based on the new gross  
3586 payroll for new direct jobs anticipated from the expansion only,  
3587 pursuant to this chapter.

3588           (4) As soon as practicable after verification of the  
3589 qualified business or industry meeting the requirements of this  
3590 chapter and all rules and regulations, the Department of Finance  
3591 and Administration, upon requisition of the State Tax Commission,  
3592 shall issue a warrant drawn on the Mississippi Advantage Jobs  
3593 Incentive Payment Fund to the establishment in the amount of the  
3594 net benefit rate multiplied by the actual gross payroll as  
3595 determined pursuant to subsection (1) of this section for the  
3596 calendar quarter.

3597           **SECTION 73.** Section 39 of this act shall take effect and be  
3598 in force from and after January 1, 2005, and the remainder of this  
3599 act shall take effect and be in force from and after July 1, 2005.