

By: Representatives Fillingane, To: Ways and Means
 Akins, Aldridge, Baker (74th),
 Barnett, Beckett, Bentz,
 Bondurant, Bounds, Capps,
 Carlton, Chism, Denny,
 Ellington, Formby, Gregory, Gunn, Hamilton (109th), Hamilton (6th),
 Howell, Ishee, Jennings, Lott, Martinson, Masterson, Mayhall, McBride,
 Mims, Moore, Nicholson, Reed, Robinson (84th), Rogers (14th), Rogers
 (61st), Rotenberry, Simpson, Smith (59th), Snowden, Staples, Stevens,
 Turner, Upshaw, Weathersby, Wells-Smith, Woods

HOUSE BILL NO. 10

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 \$6,000,000.00 IN STATE GENERAL
 11 OBLIGATION BONDS TO PROVIDE FUNDS FOR THE MISSISSIPPI EXISTING
 12 INDUSTRY PRODUCTIVITY LOAN FUND; TO AUTHORIZE THE ISSUANCE OF
 13 \$7,000,000.00 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 57-61-25, MISSISSIPPI CODE OF 1972,
 24 TO INCREASE BY \$14,000,000.00 THE AMOUNT OF GENERAL OBLIGATION
 25 BONDS THAT MAY BE ISSUED UNDER THE MISSISSIPPI BUSINESS INVESTMENT
 26 ACT; TO AMEND SECTION 57-61-34, MISSISSIPPI CODE OF 1972, TO
 27 INCREASE BY \$7,000,000.00 THE AMOUNT OF BOND PROCEEDS THAT THE
 28 MISSISSIPPI DEVELOPMENT AUTHORITY MAY UTILIZE UNDER THE
 29 MISSISSIPPI BUSINESS INVESTMENT ACT FOR INTEREST-BEARING LOANS TO
 30 MUNICIPALITIES OR PRIVATE COMPANIES TO AID IN THE ESTABLISHMENT OF
 31 BUSINESS INCUBATION CENTERS AND THE CREATION OF NEW AND EXPANDING
 32 RESEARCH AND DEVELOPMENT AND TECHNOLOGY-BASED BUSINESS AND
 33 INDUSTRY; TO AMEND SECTION 57-61-36, MISSISSIPPI CODE OF 1972, TO
 34 INCREASE BY \$7,000,000.00 THE AMOUNT OF BOND PROCEEDS THAT THE
 35 MISSISSIPPI DEVELOPMENT AUTHORITY MAY UTILIZE UNDER THE
 36 MISSISSIPPI BUSINESS INVESTMENT ACT TO MAKE GRANTS OR LOANS TO
 37 COUNTIES AND MUNICIPALITIES THROUGH AN EQUIPMENT AND PUBLIC
 38 FACILITIES GRANT AND LOAN FUND TO AID IN INFRASTRUCTURE-RELATED
 39 IMPROVEMENTS, THE PURCHASE OF EQUIPMENT AND IN THE PURCHASE,
 40 CONSTRUCTION OR REPAIR AND RENOVATION OF PUBLIC FACILITIES; TO
 41 ESTABLISH AN INCOME TAX CREDIT FOR MANUFACTURING ENTERPRISES THAT
 42 HAVE OPERATED IN THIS STATE FOR NOT LESS THAN TWO YEARS IN AN
 43 AMOUNT EQUAL TO A CERTAIN PERCENTAGE OF THE ENTERPRISE'S
 44 INVESTMENT IN BUILDINGS OR EQUIPMENT; TO PROVIDE THAT ANY SUCH TAX
 45 CREDIT CLAIMED BUT NOT USED IN ANY TAXABLE YEAR MAY BE CARRIED
 46 FORWARD FOR FIVE YEARS FROM THE CLOSE OF THE TAX YEAR IN WHICH THE
 47 ELIGIBLE INVESTMENT WAS MADE; TO PROVIDE THAT THE CREDIT TAKEN IN
 48 ANY ONE TAX YEAR IS LIMITED TO AN AMOUNT NOT GREATER THAN 50% OF
 49 THE TAXPAYER'S STATE INCOME TAX LIABILITY WHICH IS ATTRIBUTABLE TO
 50 INCOME DERIVED FROM OPERATIONS IN THE STATE FOR THAT YEAR; TO
 51 PROVIDE THAT THE MANUFACTURING ENTERPRISE MUST INVEST AT LEAST
 52 \$1,000,000.00 TO BE ELIGIBLE FOR THE CREDIT; TO PROVIDE THAT THE

53 MAXIMUM CUMULATIVE CREDIT THAT MAY BE CLAIMED BY A TAXPAYER FOR
54 ANY ONE PROJECT IS LIMITED TO \$1,000,000.00; TO PROVIDE FOR
55 RECAPTURE OF THE CREDIT UNDER CERTAIN CIRCUMSTANCES; TO AMEND
56 SECTION 27-31-101, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE
57 BOARD OF SUPERVISORS OF COUNTIES AND THE GOVERNING AUTHORITIES OF
58 MUNICIPALITIES TO GRANT CERTAIN AD VALOREM TAX EXEMPTIONS TO
59 DATA/INFORMATION PROCESSING ENTERPRISES AND TECHNOLOGY INTENSIVE
60 ENTERPRISES MEETING MINIMUM CRITERIA ESTABLISHED BY THE
61 MISSISSIPPI DEVELOPMENT AUTHORITY; TO AMEND SECTION 27-65-17,
62 MISSISSIPPI CODE OF 1972, TO IMPOSE THE SALES TAX AT A REDUCED
63 RATE ON CERTAIN SALES OF MACHINERY AND MACHINE PARTS TO A
64 TECHNOLOGY INTENSIVE BUSINESS FOR PLANT USE; TO AMEND SECTION
65 27-65-19, MISSISSIPPI CODE OF 1972, TO REDUCE THE SALES TAX ON
66 CERTAIN FUELS SOLD TO OR USED BY TECHNOLOGY INTENSIVE ENTERPRISES;
67 TO AMEND SECTION 27-65-101, MISSISSIPPI CODE OF 1972, TO EXEMPT
68 FROM SALES TAXATION SALES OF COMPONENT MATERIALS USED IN THE
69 CONSTRUCTION OF A FACILITY, OR ANY ADDITION OR IMPROVEMENT TO SUCH
70 FACILITY, AND SALES OR LEASES OF MACHINERY AND EQUIPMENT TO BE
71 USED IN SUCH FACILITIES, ADDITIONS OR IMPROVEMENTS, TO PERMANENT
72 BUSINESS ENTERPRISES OPERATING A DATA/INFORMATION ENTERPRISE IN A
73 TIER THREE AREA MEETING MINIMUM CRITERIA ESTABLISHED BY THE
74 MISSISSIPPI DEVELOPMENT AUTHORITY; TO EXEMPT FROM SALES TAXATION
75 SALES OF COMPONENT MATERIALS USED IN THE CONSTRUCTION OF A
76 FACILITY, OR ANY ADDITION OR IMPROVEMENT TO SUCH FACILITY, AND
77 SALES OF MACHINERY AND EQUIPMENT TO BE USED IN SUCH FACILITIES,
78 ADDITIONS OR IMPROVEMENTS, TO TECHNOLOGY INTENSIVE ENTERPRISES FOR
79 INDUSTRIAL PURPOSES IN A TIER THREE AREA; TO REDUCE THE SALES
80 TAXATION ON SALES OF COMPONENT MATERIALS USED IN THE CONSTRUCTION
81 OF A FACILITY, OR ANY ADDITION OR IMPROVEMENT TO SUCH BUILDING,
82 AND SALES OR LEASES OF MACHINERY AND EQUIPMENT TO BE USED IN SUCH
83 BUILDINGS, ADDITIONS OR IMPROVEMENTS, TO PERMANENT BUSINESS
84 ENTERPRISES OPERATING A DATA/INFORMATION ENTERPRISE IN A TIER ONE
85 OR TIER TWO AREA MEETING MINIMUM CRITERIA ESTABLISHED BY THE
86 MISSISSIPPI DEVELOPMENT AUTHORITY; TO REDUCE THE SALES TAXATION ON
87 SALES OF COMPONENT MATERIALS USED IN THE CONSTRUCTION OF A
88 FACILITY, OR ANY ADDITION OR IMPROVEMENT TO SUCH FACILITY, AND
89 SALES OF MACHINERY AND EQUIPMENT, TO TECHNOLOGY INTENSIVE
90 ENTERPRISES FOR INDUSTRIAL PURPOSES IN A TIER ONE OR TIER TWO
91 AREA; TO AMEND SECTION 57-73-21, MISSISSIPPI CODE OF 1972, TO
92 REVISE THE AMOUNT OF THE JOB TAX CREDIT FOR CERTAIN PERMANENT
93 BUSINESS ENTERPRISES TO PROVIDE THAT THE AMOUNT OF THE CREDIT
94 SHALL BE A CERTAIN PERCENTAGE OF SUCH ENTERPRISE'S PAYROLL; TO
95 AMEND SECTION 57-73-25, MISSISSIPPI CODE OF 1972, IN CONFORMITY
96 THERETO; TO AMEND SECTION 57-10-401, MISSISSIPPI CODE OF 1972, TO
97 INCLUDE CERTAIN INFORMATION PROCESSING BUSINESSES, NATIONAL OR
98 REGIONAL HEADQUARTERS, RESEARCH AND DEVELOPMENT FACILITIES AND
99 TECHNOLOGY INTENSIVE ENTERPRISES OR FACILITIES WITHIN THE
100 DEFINITION OF THE TERM "ELIGIBLE COMPANY"; TO AMEND SECTIONS
101 57-62-5 AND 57-62-9, MISSISSIPPI CODE OF 1972, TO REVISE THE
102 DEFINITION OF THE TERM "QUALIFIED BUSINESS OR INDUSTRY" UNDER THE
103 MISSISSIPPI ADVANTAGE JOBS ACT TO ALLOW A BUSINESS TO BE ELIGIBLE
104 FOR THE INCENTIVE PAYMENT UNDER THE ACT IF IT IS A
105 DATA/INFORMATION PROCESSING ENTERPRISE, MANUFACTURING OR
106 DISTRIBUTION ENTERPRISE OR A RESEARCH AND DEVELOPMENT OR
107 TECHNOLOGY INTENSIVE ENTERPRISE THAT MEETS CERTAIN CRITERIA; TO
108 REQUIRE APPLICANTS FOR THE INCENTIVE PAYMENTS UNDER THE ACT TO
109 EXECUTE A PERFORMANCE AGREEMENT WITH THE MISSISSIPPI DEVELOPMENT
110 AUTHORITY THAT SPECIFIES THE MANNER IN WHICH THE APPLICANT WILL
111 UTILIZE THE INCENTIVE PAYMENT; TO AMEND SECTION 57-62-13,
112 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED
113 PURPOSES.

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

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

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

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

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

123 (ii) Meet criteria established by the Mississippi
124 Development Authority.

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

126 (2) (a) There is established the Mississippi Existing
127 Industry Productivity Loan Program to be administered by the MDA
128 for the purpose of providing loans to existing industries to
129 deploy long-term fixed assets that through new technology will
130 improve productivity and competitiveness. An existing industry
131 that accepts a loan under this program shall not reduce employment
132 by more than twenty percent (20%) through the use of the long-term
133 fixed assets for which the loan is granted.

134 (b) An enterprise desiring a loan under this section
135 must submit an application to the MDA. The application shall
136 include:

137 (i) A description of the purpose for which the
138 loan is requested;

139 (ii) The amount of the loan requested;

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

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

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

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

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

147 (c) The MDA shall require that binding commitments be
148 entered into requiring that:

149 (i) The minimum requirements of this section and
150 such other requirements as the MDA considers proper shall be met;
151 and

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

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

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

161 (f) The MDA shall have all powers necessary to
162 implement and administer the program established under this
163 section, and the MDA shall promulgate rules and regulations, in
164 accordance with the Mississippi Administrative Procedures Law,
165 necessary for the implementation of this section.

166 (2) (a) There is created in the State Treasury a special
167 fund to be designated as the "Mississippi Existing Industry
168 Productivity Loan Fund," which shall consist of funds appropriated
169 or otherwise made available by the Legislature in any manner and
170 funds from any other source designated for deposit into such fund.
171 Unexpended amounts remaining in the fund at the end of a fiscal
172 year shall not lapse into the State General Fund, and any
173 investment earnings or interest earned on amounts in the fund
174 shall be deposited to the credit of the fund. Monies in the fund
175 shall be used by the MDA for the purposes described in this
176 section.

177 (b) Monies in the fund which are derived from the
178 proceeds of general obligation bonds may be used to reimburse
179 reasonable actual and necessary costs incurred by the MDA in
180 providing loans under this section through the use of general
181 obligation bonds. An accounting of actual costs incurred for

182 which reimbursement is sought shall be maintained for each loan by
183 the MDA. Reimbursement of reasonable actual and necessary costs
184 shall not exceed three percent (3%) of the proceeds of bonds
185 issued under Sections 2 through 17 of this act. Monies authorized
186 for a particular loan may not be used to reimburse administrative
187 costs for unrelated loans. Reimbursements made under this
188 subsection shall satisfy any applicable federal tax law
189 requirements.

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

193 (a) "Accreted value" of any bonds means, as of any date
194 of computation, an amount equal to the sum of (i) the stated
195 initial value of such bond, plus (ii) the interest accrued thereon
196 from the issue date to the date of computation at the rate,
197 compounded semiannually, that is necessary to produce the
198 approximate yield to maturity shown for bonds of the same
199 maturity.

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

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

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

203 **SECTION 3.** (1) The Mississippi Development Authority, at
204 one time, or from time to time, may declare by resolution the
205 necessity for issuance of general obligation bonds of the State of
206 Mississippi to provide funds for the program authorized in Section
207 1 of House Bill No. _____, 2005 Second Extraordinary Session. Upon
208 the adoption of a resolution by the Mississippi Development
209 Authority, declaring the necessity for the issuance of any part or
210 all of the general obligation bonds authorized by this section,
211 the Mississippi Development Authority shall deliver a certified
212 copy of its resolution or resolutions to the commission. Upon
213 receipt of such resolution, the commission, in its discretion, may
214 act as the issuing agent, prescribe the form of the bonds,

215 advertise for and accept bids, issue and sell the bonds so
216 authorized to be sold and do any and all other things necessary
217 and advisable in connection with the issuance and sale of such
218 bonds. The total amount of bonds issued under this act shall not
219 exceed Six Million Dollars (\$6,000,000.00). No bonds shall be
220 issued under this act after July 1, 2008.

221 (2) The proceeds of bonds issued pursuant to this act shall
222 be deposited into the Mississippi Existing Industry Productivity
223 Loan Fund created pursuant to Section 1 of House Bill No. _____,
224 2005 Second Extraordinary Session. Any investment earnings on
225 bonds issued pursuant to this act shall be used to pay debt
226 service on bonds issued under this act, in accordance with the
227 proceedings authorizing issuance of such bonds.

228 **SECTION 4.** The principal of and interest on the bonds
229 authorized under this act shall be payable in the manner provided
230 in this section. Such bonds shall bear such date or dates, be in
231 such denomination or denominations, bear interest at such rate or
232 rates (not to exceed the limits set forth in Section 75-17-101,
233 Mississippi Code of 1972), be payable at such place or places
234 within or without the State of Mississippi, shall mature
235 absolutely at such time or times not to exceed twenty-five (25)
236 years from date of issue, be redeemable before maturity at such
237 time or times and upon such terms, with or without premium, shall
238 bear such registration privileges, and shall be substantially in
239 such form, all as shall be determined by resolution of the
240 commission.

241 **SECTION 5.** The bonds authorized by this act shall be signed
242 by the chairman of the commission, or by his facsimile signature,
243 and the official seal of the commission shall be affixed thereto,
244 attested by the secretary of the commission. The interest
245 coupons, if any, to be attached to such bonds may be executed by
246 the facsimile signatures of such officers. Whenever any such
247 bonds shall have been signed by the officials designated to sign

248 the bonds who were in office at the time of such signing but who
249 may have ceased to be such officers before the sale and delivery
250 of such bonds, or who may not have been in office on the date such
251 bonds may bear, the signatures of such officers upon such bonds
252 and coupons shall nevertheless be valid and sufficient for all
253 purposes and have the same effect as if the person so officially
254 signing such bonds had remained in office until their delivery to
255 the purchaser, or had been in office on the date such bonds may
256 bear. However, notwithstanding anything herein to the contrary,
257 such bonds may be issued as provided in the Registered Bond Act of
258 the State of Mississippi.

259 **SECTION 6.** All bonds and interest coupons issued under the
260 provisions of this act have all the qualities and incidents of
261 negotiable instruments under the provisions of the Uniform
262 Commercial Code, and in exercising the powers granted by this act,
263 the commission shall not be required to and need not comply with
264 the provisions of the Uniform Commercial Code.

265 **SECTION 7.** The commission shall act as the issuing agent for
266 the bonds authorized under this act, prescribe the form of the
267 bonds, advertise for and accept bids, issue and sell the bonds so
268 authorized to be sold, pay all fees and costs incurred in such
269 issuance and sale, and do any and all other things necessary and
270 advisable in connection with the issuance and sale of such bonds.
271 The commission is authorized and empowered to pay the costs that
272 are incident to the sale, issuance and delivery of the bonds
273 authorized under this act from the proceeds derived from the sale
274 of such bonds. The commission shall sell such bonds on sealed
275 bids at public sale, and for such price as it may determine to be
276 for the best interest of the State of Mississippi, but no such
277 sale shall be made at a price less than par plus accrued interest
278 to the date of delivery of the bonds to the purchaser. All
279 interest accruing on such bonds so issued shall be payable

280 semiannually or annually; however, the first interest payment may
281 be for any period of not more than one (1) year.

282 Notice of the sale of any such bonds shall be published at
283 least one time, not less than ten (10) days before the date of
284 sale, and shall be so published in one or more newspapers
285 published or having a general circulation in the City of Jackson,
286 Mississippi, and in one or more other newspapers or financial
287 journals with a national circulation, to be selected by the
288 commission.

289 The commission, when issuing any bonds under the authority of
290 this act, may provide that bonds, at the option of the State of
291 Mississippi, may be called in for payment and redemption at the
292 call price named therein and accrued interest on such date or
293 dates named therein.

294 **SECTION 8.** The bonds issued under the provisions of this act
295 are general obligations of the State of Mississippi, and for the
296 payment thereof the full faith and credit of the State of
297 Mississippi is irrevocably pledged. If the funds appropriated by
298 the Legislature are insufficient to pay the principal of and the
299 interest on such bonds as they become due, then the deficiency
300 shall be paid by the State Treasurer from any funds in the State
301 Treasury not otherwise appropriated. All such bonds shall contain
302 recitals on their faces substantially covering the provisions of
303 this section.

304 **SECTION 9.** Upon the issuance and sale of bonds under the
305 provisions of this act, the commission shall transfer the proceeds
306 of any such sale or sales to the Mississippi Existing Industry
307 Productivity Loan Fund created in Section 1 of House Bill No.
308 _____, 2005 Second Extraordinary Session. The proceeds of such
309 bonds shall be disbursed solely upon the order of the Mississippi
310 Development Authority under such restrictions, if any, as may be
311 contained in the resolution providing for the issuance of the
312 bonds.

313 **SECTION 10.** The bonds authorized under this act may be
314 issued without any other proceedings or the happening of any other
315 conditions or things other than those proceedings, conditions and
316 things which are specified or required by this act. Any
317 resolution providing for the issuance of bonds under the
318 provisions of this act shall become effective immediately upon its
319 adoption by the commission, and any such resolution may be adopted
320 at any regular or special meeting of the commission by a majority
321 of its members.

322 **SECTION 11.** The bonds authorized under the authority of this
323 act may be validated in the Chancery Court of the First Judicial
324 District of Hinds County, Mississippi, in the manner and with the
325 force and effect provided by Chapter 13, Title 31, Mississippi
326 Code of 1972, for the validation of county, municipal, school
327 district and other bonds. The notice to taxpayers required by
328 such statutes shall be published in a newspaper published or
329 having a general circulation in the City of Jackson, Mississippi.

330 **SECTION 12.** Any holder of bonds issued under the provisions
331 of this act or of any of the interest coupons pertaining thereto
332 may, either at law or in equity, by suit, action, mandamus or
333 other proceeding, protect and enforce any and all rights granted
334 under this act, or under such resolution, and may enforce and
335 compel performance of all duties required by this act to be
336 performed, in order to provide for the payment of bonds and
337 interest thereon.

338 **SECTION 13.** All bonds issued under the provisions of this
339 act shall be legal investments for trustees and other fiduciaries,
340 and for savings banks, trust companies and insurance companies
341 organized under the laws of the State of Mississippi, and such
342 bonds shall be legal securities which may be deposited with and
343 shall be received by all public officers and bodies of this state
344 and all municipalities and political subdivisions for the purpose
345 of securing the deposit of public funds.

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

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

352 **SECTION 16.** The State Treasurer is authorized, without
353 further process of law, to certify to the Department of Finance
354 and Administration the necessity for warrants, and the Department
355 of Finance and Administration is authorized and directed to issue
356 such warrants, in such amounts as may be necessary to pay when due
357 the principal of, premium, if any, and interest on, or the
358 accreted value of, all bonds issued under this act; and the State
359 Treasurer shall forward the necessary amount to the designated
360 place or places of payment of such bonds in ample time to
361 discharge such bonds, or the interest thereon, on the due dates
362 thereof.

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

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

370 (a) "Accreted value" of any bonds means, as of any date
371 of computation, an amount equal to the sum of (i) the stated
372 initial value of such bond, plus (ii) the interest accrued thereon
373 from the issue date to the date of computation at the rate,
374 compounded semiannually, that is necessary to produce the
375 approximate yield to maturity shown for bonds of the same
376 maturity.

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

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

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

380 **SECTION 19.** (1) The Mississippi Development Authority, at
381 one time, or from time to time, may declare by resolution the
382 necessity for issuance of general obligation bonds of the State of
383 Mississippi to provide funds for the program authorized in Section
384 57-1-16. Upon the adoption of a resolution by the Mississippi
385 Development Authority, declaring the necessity for the issuance of
386 any part or all of the general obligation bonds authorized by this
387 section, the Mississippi Development Authority shall deliver a
388 certified copy of its resolution or resolutions to the commission.
389 Upon receipt of such resolution, the commission, in its
390 discretion, may act as the issuing agent, prescribe the form of
391 the bonds, advertise for and accept bids, issue and sell the bonds
392 so authorized to be sold and do any and all other things necessary
393 and advisable in connection with the issuance and sale of such
394 bonds. The total amount of bonds issued under this act shall not
395 exceed Seven Million Dollars (\$7,000,000.00). No bonds authorized
396 under this act shall be issued after July 1, 2009.

397 (2) The proceeds of bonds issued pursuant to this act shall
398 be deposited into the ACE Fund created pursuant to Section
399 57-1-16. Any investment earnings on bonds issued pursuant to this
400 act shall be used to pay debt service on bonds issued under this
401 act, in accordance with the proceedings authorizing issuance of
402 such bonds.

403 **SECTION 20.** The principal of and interest on the bonds
404 authorized under this act shall be payable in the manner provided
405 in this section. Such bonds shall bear such date or dates, be in
406 such denomination or denominations, bear interest at such rate or
407 rates (not to exceed the limits set forth in Section 75-17-101,
408 Mississippi Code of 1972), be payable at such place or places
409 within or without the State of Mississippi, shall mature
410 absolutely at such time or times not to exceed twenty-five (25)
411 years from date of issue, be redeemable before maturity at such

412 time or times and upon such terms, with or without premium, shall
413 bear such registration privileges, and shall be substantially in
414 such form, all as shall be determined by resolution of the
415 commission.

416 **SECTION 21.** The bonds authorized by this act shall be signed
417 by the chairman of the commission, or by his facsimile signature,
418 and the official seal of the commission shall be affixed thereto,
419 attested by the secretary of the commission. The interest
420 coupons, if any, to be attached to such bonds may be executed by
421 the facsimile signatures of such officers. Whenever any such
422 bonds shall have been signed by the officials designated to sign
423 the bonds who were in office at the time of such signing but who
424 may have ceased to be such officers before the sale and delivery
425 of such bonds, or who may not have been in office on the date such
426 bonds may bear, the signatures of such officers upon such bonds
427 and coupons shall nevertheless be valid and sufficient for all
428 purposes and have the same effect as if the person so officially
429 signing such bonds had remained in office until their delivery to
430 the purchaser, or had been in office on the date such bonds may
431 bear. However, notwithstanding anything herein to the contrary,
432 such bonds may be issued as provided in the Registered Bond Act of
433 the State of Mississippi.

434 **SECTION 22.** All bonds and interest coupons issued under the
435 provisions of this act have all the qualities and incidents of
436 negotiable instruments under the provisions of the Uniform
437 Commercial Code, and in exercising the powers granted by this act,
438 the commission shall not be required to and need not comply with
439 the provisions of the Uniform Commercial Code.

440 **SECTION 23.** The commission shall act as the issuing agent
441 for the bonds authorized under this act, prescribe the form of the
442 bonds, advertise for and accept bids, issue and sell the bonds so
443 authorized to be sold, pay all fees and costs incurred in such
444 issuance and sale, and do any and all other things necessary and

445 advisable in connection with the issuance and sale of such bonds.
446 The commission is authorized and empowered to pay the costs that
447 are incident to the sale, issuance and delivery of the bonds
448 authorized under this act from the proceeds derived from the sale
449 of such bonds. The commission shall sell such bonds on sealed
450 bids at public sale, and for such price as it may determine to be
451 for the best interest of the State of Mississippi, but no such
452 sale shall be made at a price less than par plus accrued interest
453 to the date of delivery of the bonds to the purchaser. All
454 interest accruing on such bonds so issued shall be payable
455 semiannually or annually; however, the first interest payment may
456 be for any period of not more than one (1) year.

457 Notice of the sale of any such bonds shall be published at
458 least one time, not less than ten (10) days before the date of
459 sale, and shall be so published in one or more newspapers
460 published or having a general circulation in the City of Jackson,
461 Mississippi, and in one or more other newspapers or financial
462 journals with a national circulation, to be selected by the
463 commission.

464 The commission, when issuing any bonds under the authority of
465 this act, may provide that bonds, at the option of the State of
466 Mississippi, may be called in for payment and redemption at the
467 call price named therein and accrued interest on such date or
468 dates named therein.

469 **SECTION 24.** The bonds issued under the provisions of this
470 act are general obligations of the State of Mississippi, and for
471 the payment thereof the full faith and credit of the State of
472 Mississippi is irrevocably pledged. If the funds appropriated by
473 the Legislature are insufficient to pay the principal of and the
474 interest on such bonds as they become due, then the deficiency
475 shall be paid by the State Treasurer from any funds in the State
476 Treasury not otherwise appropriated. All such bonds shall contain

477 recitals on their faces substantially covering the provisions of
478 this section.

479 **SECTION 25.** Upon the issuance and sale of bonds under the
480 provisions of this act, the commission shall transfer the proceeds
481 of any such sale or sales to the ACE Fund created in Section
482 57-1-16. The proceeds of such bonds shall be disbursed solely
483 upon the order of the Mississippi Development Authority under such
484 restrictions, if any, as may be contained in the resolution
485 providing for the issuance of the bonds.

486 **SECTION 26.** The bonds authorized under this act may be
487 issued without any other proceedings or the happening of any other
488 conditions or things other than those proceedings, conditions and
489 things which are specified or required by this act. Any
490 resolution providing for the issuance of bonds under the
491 provisions of this act shall become effective immediately upon its
492 adoption by the commission, and any such resolution may be adopted
493 at any regular or special meeting of the commission by a majority
494 of its members.

495 **SECTION 27.** The bonds authorized under the authority of this
496 act may be validated in the Chancery Court of the First Judicial
497 District of Hinds County, Mississippi, in the manner and with the
498 force and effect provided by Chapter 13, Title 31, Mississippi
499 Code of 1972, for the validation of county, municipal, school
500 district and other bonds. The notice to taxpayers required by
501 such statutes shall be published in a newspaper published or
502 having a general circulation in the City of Jackson, Mississippi.

503 **SECTION 28.** Any holder of bonds issued under the provisions
504 of this act or of any of the interest coupons pertaining thereto
505 may, either at law or in equity, by suit, action, mandamus or
506 other proceeding, protect and enforce any and all rights granted
507 under this act, or under such resolution, and may enforce and
508 compel performance of all duties required by this act to be

509 performed, in order to provide for the payment of bonds and
510 interest thereon.

511 **SECTION 29.** All bonds issued under the provisions of this
512 act shall be legal investments for trustees and other fiduciaries,
513 and for savings banks, trust companies and insurance companies
514 organized under the laws of the State of Mississippi, and such
515 bonds shall be legal securities which may be deposited with and
516 shall be received by all public officers and bodies of this state
517 and all municipalities and political subdivisions for the purpose
518 of securing the deposit of public funds.

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

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

525 **SECTION 32.** The State Treasurer is authorized, without
526 further process of law, to certify to the Department of Finance
527 and Administration the necessity for warrants, and the Department
528 of Finance and Administration is authorized and directed to issue
529 such warrants, in such amounts as may be necessary to pay when due
530 the principal of, premium, if any, and interest on, or the
531 accreted value of, all bonds issued under this act; and the State
532 Treasurer shall forward the necessary amount to the designated
533 place or places of payment of such bonds in ample time to
534 discharge such bonds, or the interest thereon, on the due dates
535 thereof.

536 **SECTION 33.** This act shall be deemed to be full and complete
537 authority for the exercise of the powers therein granted, but this
538 act shall not be deemed to repeal or to be in derogation of any
539 existing law of this state.

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

542 57-1-16. (1) As used in this section:

543 (a) "Extraordinary economic development opportunity"
544 means a new or expanded business or industry which maintains a
545 strong financial condition and minimal credit risk and creates
546 substantial employment, particularly in areas of high
547 unemployment.

548 (b) "Local economic development entities" means public
549 or private nonprofit local economic development entities,
550 including, but not limited to, chambers of commerce, local
551 authorities, commissions or other entities created by local and
552 private legislation or districts created pursuant to Section
553 19-5-99.

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

555 (2) (a) There is hereby created in the State Treasury a
556 special fund to be designated as the ACE Fund, which shall consist
557 of money from any public or private source designated for deposit
558 into such fund. Unexpended amounts remaining in the fund at the
559 end of a fiscal year shall not lapse into the State General Fund,
560 and any interest earned on amounts in the fund shall be deposited
561 to the credit of the fund. The purpose of the fund shall be to
562 assist in maximizing extraordinary economic development
563 opportunities related to any new or expanded business or industry.
564 Such funds may be used to make grants to local economic
565 development entities to assist any new or expanding business or
566 industry that meets the criteria provided in this section when
567 such assistance aids the consummation of a project within the
568 State of Mississippi.

569 (b) Monies in the fund which are derived from the
570 proceeds of general obligation bonds may be used to reimburse
571 reasonable actual and necessary costs incurred by the MDA in
572 providing assistance under this section through the use of general
573 obligation bonds. An accounting of actual costs incurred for
574 which reimbursement is sought shall be maintained for each grant

575 by the MDA. Reimbursement of reasonable actual and necessary
576 costs for a grant shall not exceed three percent (3%) of the
577 proceeds of bonds issued for such grant. Monies authorized for a
578 particular grant may not be used to reimburse administrative costs
579 for unrelated grants. Reimbursements made under this subsection
580 shall satisfy any applicable federal tax law requirements.

581 (3) The MDA shall establish a grant program to make grants
582 from the ACE Fund created under this section. Local economic
583 development entities may apply to the MDA for a grant under this
584 section in the manner provided for in subsection (4) of this
585 section.

586 (4) (a) Any business or industry desiring assistance from a
587 local economic development entity under this section shall submit
588 an application to the local economic development entity which
589 shall include, at a minimum:

590 (i) Evidence that the business or industry meets
591 the definition of an extraordinary economic development
592 opportunity;

593 (ii) A demonstration that the business or industry
594 is at an economic disadvantage by locating the new or expanded
595 project in the county;

596 (iii) A description, including the cost, of the
597 requested assistance;

598 (iv) A description of the purpose for which the
599 assistance is requested;

600 (v) A two-year business plan;

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

603 (vii) Credit reports on all persons with a twenty
604 percent (20%) or greater interest in the business or industry; and

605 (viii) Any other information required by the MDA.

606 (b) The MDA shall require that binding commitments be
607 entered into requiring that:

608 (i) The minimum requirements of this section and
609 such other requirements as the MDA considers proper shall be met;
610 and

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

614 (c) Upon receipt of the application from a business or
615 industry, the local economic development entity may apply to the
616 MDA for assistance under this section. Such application must
617 contain evidence that the business or industry meets the
618 definition of an extraordinary economic development opportunity, a
619 demonstration that the business or industry is at an economic
620 disadvantage by locating the new or expanded project in the
621 county, a description, including the cost, of the requested
622 assistance, and a statement of what efforts have been made or are
623 being made by the business or industry for securing or qualifying
624 for other local, state, federal or private funds for the project.

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

629 (5) The MDA shall promulgate rules and regulations, in
630 accordance with the Mississippi Administrative Procedures Law, for
631 the implementation of this section. However, before the
632 implementation of any such rules and regulations, they shall be
633 submitted to a committee consisting of five (5) members of the
634 Senate Finance Committee and five (5) members of the House of
635 Representatives Ways and Means Committee, appointed by the
636 respective committee chairmen.

637 **SECTION 35.** Section 57-61-25, Mississippi Code of 1972, is
638 amended as follows:

639 57-61-25. (1) The seller is authorized to borrow, on the
640 credit of the state upon receipt of a resolution from the

641 Mississippi Development Authority requesting the same, money not
642 exceeding the aggregate sum of Three Hundred Six Million Dollars
643 (\$306,000,000.00), not including money borrowed to refund
644 outstanding bonds, notes or replacement notes, as may be necessary
645 to carry out the purposes of this chapter. The rate of interest
646 on any such bonds or notes which are not subject to taxation shall
647 not exceed the rates set forth in Section 75-17-101, Mississippi
648 Code of 1972, for general obligation bonds.

649 (2) As evidence of indebtedness authorized in this chapter,
650 general or limited obligation bonds of the state shall be issued
651 from time to time, to provide monies necessary to carry out the
652 purposes of this chapter for such total amounts, in such form, in
653 such denominations payable in such currencies (either domestic or
654 foreign or both) and subject to such terms and conditions of
655 issue, redemption and maturity, rate of interest and time of
656 payment of interest as the seller directs, except that such bonds
657 shall mature or otherwise be retired in annual installments
658 beginning not more than five (5) years from date thereof and
659 extending not more than thirty (30) years from date thereof.

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

664 (4) All bonds and notes issued under authority of this
665 chapter may be general or limited obligations of the state, and
666 the full faith and credit of the State of Mississippi as to
667 general obligation bonds, or the revenues derived from projects
668 assisted as to limited obligation bonds, are hereby pledged for
669 the payment of the principal of and interest on such bonds and
670 notes.

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

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

677 (7) The seller is authorized to provide, by resolution, for
678 the issuance of refunding bonds for the purpose of refunding any
679 debt issued under the provision of this chapter and then
680 outstanding, either by voluntary exchange with the holders of the
681 outstanding debt or to provide funds to redeem and the costs of
682 issuance and retirement of the debt, at maturity or at any call
683 date. The issuance of the refunding bonds, the maturities and
684 other details thereof, the rights of the holders thereof and the
685 duties of the issuing officials in respect to the same shall be
686 governed by the provisions of this section, insofar as they may be
687 applicable.

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

692 (9) The proceeds of bonds issued under this chapter after
693 April 9, 2002, may be used to reimburse reasonable actual and
694 necessary costs incurred by the Mississippi Development Authority
695 in administering a program or providing assistance related to a
696 project, or both, for which funding is provided from the use of
697 proceeds of such bonds. An accounting of actual costs incurred
698 for which reimbursement is sought shall be maintained for each
699 project by the Mississippi Development Authority. Reimbursement
700 of reasonable actual and necessary costs for a program or project
701 shall not exceed three percent (3%) of the proceeds of bonds
702 issued for such program or project. Monies authorized for a
703 particular program or project may not be used to reimburse
704 administrative costs for unrelated programs or projects.

705 Reimbursements under this subsection shall satisfy any applicable
706 federal tax law requirements.

707 **SECTION 36.** Section 57-61-34, Mississippi Code of 1972, is
708 amended as follows:

709 57-61-34. Notwithstanding any provision of this chapter to
710 the contrary, the Mississippi Development Authority shall utilize
711 not more than Sixteen Million Dollars (\$16,000,000.00) out of the
712 proceeds of bonds authorized to be issued in this chapter to be
713 made available as interest-bearing loans to municipalities or
714 private companies to aid in the establishment of business
715 incubation centers and the creation of new and expanding research
716 and development and technology-based business and industry.

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

722 The requirements of Section 57-61-9 shall not apply to any
723 loan made under this section. The Mississippi Development
724 Authority shall establish criteria and guidelines to govern loans
725 made pursuant to this section.

726 **SECTION 37.** Section 57-61-36, Mississippi Code of 1972, is
727 amended as follows:

728 57-61-36. (1) Notwithstanding any provision of this chapter
729 to the contrary, the Mississippi Development Authority shall
730 utilize not more than Twelve Million Five Hundred Thousand Dollars
731 (\$12,500,000.00) out of the proceeds of bonds authorized to be
732 issued in this chapter for the purpose of making grants to
733 municipalities through a development infrastructure grant fund to
734 complete infrastructure related to new or expanded industry.

735 (2) Notwithstanding any provision of this chapter to the
736 contrary, the Mississippi Development Authority may utilize not
737 more than Seven Million Dollars (\$7,000,000.00) out of the

738 proceeds of bonds authorized to be issued in this chapter for the
739 purpose of making interest-bearing loans to any agency,
740 department, institution, instrumentality or political subdivision
741 of the state; or any agency, department, institution or
742 instrumentality of any political subdivision of the state; or any
743 business, organization, corporation, association or other legal
744 entity meeting criteria established by the department, through a
745 housing development revolving loan fund, to construct or repair
746 housing for low or moderate income earners; provided, however,
747 that the department may not utilize any bond proceeds authorized
748 under this chapter for the purpose of making any loans to the
749 Mississippi Home Corporation for any purpose whatsoever. No more
750 than forty percent (40%) of the additional bonds authorized by
751 Chapter 559, Laws of 1998, may be used for multiple family housing
752 activities. Funds authorized under this subsection may be
753 deposited in the Mississippi Affordable Housing Development Fund
754 authorized in Section 43-33-759 and used for purposes authorized
755 by that section. This subsection (2) shall be repealed from and
756 after July 1, 2006.

757 (3) Notwithstanding any provision of this chapter to the
758 contrary, the Mississippi Development Authority shall utilize not
759 more than Seventeen Million Five Hundred Thousand Dollars
760 (\$17,500,000.00) out of the proceeds of bonds authorized to be
761 issued in this chapter for the purpose of making grants or loans
762 to municipalities through an equipment and public facilities grant
763 and loan fund to aid in infrastructure-related improvements as
764 determined by the Mississippi Development Authority, the purchase
765 of equipment and in the purchase, construction or repair and
766 renovation of public facilities. Any bonds previously issued for
767 the Development Infrastructure Revolving Loan Program which have
768 not been loaned or applied for are eligible to be administered as
769 grants or loans.

770 The requirements of Section 57-61-9 shall not apply to any
771 grant made under this subsection. The Mississippi Development
772 Authority may establish criteria and guidelines to govern grants
773 made pursuant to this subsection.

774 (4) Notwithstanding any provision of this chapter to the
775 contrary, the Mississippi Development Authority may utilize not
776 more than Seven Hundred Fifty Thousand Dollars (\$750,000.00) out
777 of the proceeds of bonds authorized to be issued in this chapter
778 in order to match federal funds available from the United States
779 Department of Agriculture for the purpose of establishing an
780 intermediary relending program to be administered by the
781 Mississippi Development Authority. The Mississippi Development
782 Authority may establish criteria and guidelines to govern loans
783 made under such program. This subsection (4) shall be repealed
784 from and after April 9, 2002.

785 (5) The Mississippi Development Authority may establish a
786 capital access program and may contract with any financial
787 institution to participate in the program upon such terms and
788 conditions as the authority shall consider necessary and proper.
789 The Mississippi Development Authority may establish loss reserve
790 accounts at financial institutions that participate in the program
791 and require payments by the financial institution and the borrower
792 to such loss reserve accounts. All money in such loss reserve
793 accounts is the property of the Mississippi Development Authority.

794 Under the capital access program a participating financial
795 institution may make a loan to any borrower the Mississippi
796 Development Authority determines to be qualified under rules and
797 regulations adopted by the authority and be protected against
798 losses from such loans as provided in the program. Under such
799 rules and regulations as may be adopted by the Mississippi
800 Development Authority, a participating financial institution may
801 submit claims for the reimbursement for losses incurred as a
802 result of default on loans by qualified borrowers.

803 Notwithstanding any provision of this chapter to the
804 contrary, the Mississippi Development Authority may utilize not
805 more than Seven Hundred Fifty Thousand Dollars (\$750,000.00) out
806 of the proceeds of bonds authorized to be issued in this chapter
807 for the purpose of making payments to loan loss reserve accounts
808 established at financial institutions that participate in the
809 capital access program established by the Mississippi Development
810 Authority.

811 (6) Notwithstanding any provision of this chapter to the
812 contrary, the Mississippi Development Authority shall utilize not
813 more than Two Hundred Thousand Dollars (\$200,000.00) out of the
814 proceeds of bonds authorized to be issued in this chapter for the
815 purpose of assisting Warren County, Mississippi, in the
816 continuation and completion of the study for the proposed Kings
817 Point levee.

818 (7) Notwithstanding any provision of this chapter to the
819 contrary, the Mississippi Development Authority shall utilize not
820 more than One Hundred Thousand Dollars (\$100,000.00) out of the
821 proceeds of bonds authorized to be issued in this chapter for the
822 purpose of developing a long-range plan for coordinating the
823 resources of the state institutions of higher learning, the
824 community and junior colleges, the Mississippi Development
825 Authority and other state agencies in order to promote economic
826 development in the state.

827 (8) Notwithstanding any other provision of this chapter to
828 the contrary, the Mississippi Development Authority shall use not
829 more than One Hundred Fifty Thousand Dollars (\$150,000.00) out of
830 the proceeds of bonds authorized to be issued in this chapter for
831 the purpose of providing assistance to municipalities that have
832 received community development block grant funds for repair,
833 renovation and other improvements to buildings for use as
834 community centers. Assistance provided to a municipality under
835 this subsection shall be used by the municipality to match such

836 community development block grant funds. The maximum amount of
837 assistance that may be provided to a municipality under this
838 subsection shall not exceed Seventy-five Thousand Dollars
839 (\$75,000.00) in the aggregate.

840 **SECTION 38.** (1) As used in this section:

841 (a) "Manufacturing enterprise" means an enterprise
842 that:

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

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

848 (b) "Eligible investment" means an investment of at
849 least One Million Dollars (\$1,000,000.00) in buildings and/or
850 equipment for the manufacturing enterprise.

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

855 (3) Any tax credit claimed under this section but not used
856 in any taxable year may be carried forward for five (5) years from
857 the close of the tax year in which the eligible investment was
858 made, but the credit established by this section taken in any one
859 tax year shall not exceed fifty percent (50%) of the taxpayer's
860 state income tax liability which is attributable to income derived
861 from operations in the state for that year reduced by the sum of
862 all other income tax credits allowable to the taxpayer, except
863 credit for tax payments made by or on behalf of the taxpayer.

864 (4) The maximum credit that may be claimed by a taxpayer on
865 any project shall be limited to One Million Dollars
866 (\$1,000,000.00).

867 (5) The credit received under this section is subject to
868 recapture if the property for which the tax credit was received is

869 disposed of, or converted to, other than business use. The amount
870 of the credit subject to recapture is one hundred percent (100%)
871 of the credit in the first year and fifty percent (50%) of the
872 credit in the second year. This subsection shall not apply in
873 cases in which an entire facility is sold.

874 (6) The sale, merger, acquisition, reorganization,
875 bankruptcy or relocation from one (1) county to another county
876 within the state of any manufacturing enterprise may not create
877 new eligibility in any succeeding business entity, but any unused
878 manufacturing investment tax credit may be transferred and
879 continued by any transferee of the enterprise. The State Tax
880 Commission shall determine whether or not qualifying net increases
881 or decreases have occurred or proper transfers of credit have been
882 made and may require reports, promulgate regulations, and hold
883 hearings as needed for substantiation and qualification.

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

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

890 **SECTION 39.** Section 27-31-101, Mississippi Code of 1972, is
891 amended as follows:

892 27-31-101. (1) County boards of supervisors and municipal
893 authorities are hereby authorized and empowered, in their
894 discretion, to grant exemptions from ad valorem taxation, except
895 state ad valorem taxation; however, such governing authorities
896 shall not exempt ad valorem taxes for school district purposes on
897 tangible property used in, or necessary to, the operation of the
898 manufacturers and other new enterprises enumerated by classes in
899 this section, except to the extent authorized in Sections
900 27-31-104 and 27-31-105(2), nor shall they exempt from ad valorem
901 taxes the products of the manufacturers or other new enterprises

902 or automobiles and trucks belonging to the manufacturers or other
903 new enterprises operating on and over the highways of the State of
904 Mississippi. The time of such exemption shall be for a period not
905 to exceed a total of ten (10) years which shall begin on the date
906 of completion of the new enterprise for which the exemption is
907 granted; however, boards of supervisors and municipal authorities,
908 in lieu of granting the exemption for one (1) period of ten (10)
909 years, may grant the exemption in a period of less than ten (10)
910 years. When the initial exemption period granted is less than ten
911 (10) years, the boards of supervisors and municipal authorities
912 may grant a subsequent consecutive period or periods to follow the
913 initial period of exemption, provided that the total of all
914 periods of exemption shall not exceed ten (10) years. The date of
915 completion of the new enterprise, from which the initial period of
916 exemption shall begin, shall be the date on which operations of
917 the new enterprise begin. The initial request for an exemption
918 must be made in writing by June 1 of the year immediately
919 following the year in which the date of completion of a new
920 enterprise occurs. If the initial request for the exemption is
921 not timely made, the board of supervisors or municipal authorities
922 may grant a subsequent request for the exemption and, in such
923 case, the exemption shall begin on the anniversary date of
924 completion of the enterprise in the year in which the request is
925 made and may be for a period of time extending not more than ten
926 (10) years from the date of completion of the new enterprise. Any
927 subsequent request for the exemption must be made in writing by
928 June 1 of the year in which it is granted.

929 * * *

930 (2) Any board of supervisors or municipal authority which
931 has granted an exemption for a period of less than ten (10) years
932 may grant subsequent periods of exemption to run consecutively
933 with the initial exemption period, or a subsequently granted
934 exemption period, but in no case shall the total of the exemption

935 periods granted for a new enterprise exceed ten (10) years. Any
936 consecutive period of exemption shall be granted by entry of an
937 order by the board or the authority granting the consecutive
938 exemption on its minutes, reflecting the granting of the
939 consecutive exemption period and the dates upon which such
940 consecutive exemption period begins and expires. The entry of
941 this order granting the consecutive period of exemption shall be
942 made before the expiration of the exemption period immediately
943 preceding the consecutive exemption period being granted.

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

947 (a) Warehouse and/or distribution centers;

948 (b) Manufacturing, processors and refineries;

949 (c) Research facilities;

950 (d) Corporate regional and national headquarters

951 meeting minimum criteria established by the Department of Economic
952 and Community Development;

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

955 (f) Air transportation and maintenance facilities
956 meeting minimum criteria established by the Mississippi
957 Development Authority;

958 (g) Recreational facilities that impact tourism meeting
959 minimum criteria established by the Mississippi Development
960 Authority; * * *

961 (h) Data/information processing enterprises meeting
962 minimum criteria established by the Mississippi Development
963 Authority;

964 (i) Technology intensive enterprises or facilities
965 meeting criteria established by the Mississippi Development
966 Authority; and

967 (j) Telecommunications enterprises meeting minimum
968 criteria established by the Mississippi Development Authority.
969 The term "telecommunications enterprises" means entities engaged
970 in the creation, display, management, storage, processing,
971 transmission or distribution for compensation of images, text,
972 voice, video or data by wire or by wireless means, or entities
973 engaged in the construction, design, development, manufacture,
974 maintenance or distribution for compensation of devices, products,
975 software or structures used in the above activities. Companies
976 organized to do business as commercial broadcast radio stations,
977 television stations or news organizations primarily serving
978 in-state markets shall not be included within the definition of
979 the term "telecommunications enterprises."

980 **SECTION 40.** Section 27-65-17, Mississippi Code of 1972, is
981 amended as follows:

982 27-65-17. (1) (a) Except as otherwise provided in this
983 section, upon every person engaging or continuing within this
984 state in the business of selling any tangible personal property
985 whatsoever there is hereby levied, assessed and shall be collected
986 a tax equal to seven percent (7%) of the gross proceeds of the
987 retail sales of the business * * *.

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

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

999 (i) Self-propelled, or * * *

1000 (ii) Mounted so that it is * * * permanently
1001 attached to other equipment which is self-propelled or * * *
1002 permanently attached to other equipment drawn by a vehicle which
1003 is self-propelled.

1004 (d) Except as otherwise provided in subsection (3) of
1005 this section, retail sales of aircraft, automobiles, trucks,
1006 truck-tractors, semitrailers and mobile homes shall be taxed at
1007 the rate of three percent (3%).

1008 (e) Sales of manufacturing machinery or manufacturing
1009 machine parts when made to a manufacturer or custom processor for
1010 plant use only when the machinery and machine parts will be used
1011 exclusively and directly within this state in manufacturing a
1012 commodity for sale, rental or in processing for a fee shall be
1013 taxed at the rate of one and one-half percent (1-1/2%).

1014 (f) Sales of machinery and machine parts when made to a
1015 technology intensive enterprise for plant use only when the
1016 machinery and machine parts will be used exclusively and directly
1017 within this state for industrial purposes, including, but not
1018 limited to, manufacturing or research and development activities,
1019 shall be taxed at the rate of one and one-half percent (1-1/2%).
1020 In order to be considered a technology intensive enterprise for
1021 purposes of this paragraph:

1022 (i) The enterprise shall meet minimum criteria
1023 established by the Mississippi Development Authority;

1024 (ii) The enterprise shall employ at least ten (10)
1025 persons in full-time jobs;

1026 (iii) At least ten percent (10%) of the workforce
1027 in the facility operated by the enterprise shall be scientists,
1028 engineers or computer specialists;

1029 (iv) The enterprise shall manufacture plastics,
1030 chemicals, automobiles, aircraft, computers or electronics; or
1031 shall be a research and development facility, a computer design or
1032 related facility, or a software publishing facility or other

1033 technology intensive facility or enterprise as determined by the
1034 Mississippi Development Authority;

1035 (v) The average wage of all workers employed by
1036 the enterprise at the facility shall be at least one hundred fifty
1037 percent (150%) of the state average annual wage; and

1038 (vi) The enterprise must provide a basic health
1039 care plan to all employees at the facility.

1040 (g) Sales of materials for use in track and track
1041 structures to a railroad whose rates are fixed by the Interstate
1042 Commerce Commission or the Mississippi Public Service Commission
1043 shall be taxed at the rate of three percent (3%).

1044 (h) Sales of tangible personal property to electric
1045 power associations for use in the ordinary and necessary operation
1046 of their generating or distribution systems shall be taxed at the
1047 rate of one percent (1%).

1048 (i) Wholesale sales of beer shall be taxed at the rate
1049 of seven percent (7%), and the retailer shall file a return and
1050 compute the retail tax on retail sales but may take credit for the
1051 amount of the tax paid to the wholesaler on said return covering
1052 the subsequent sales of same property, provided adequate invoices
1053 and records are maintained to substantiate the credit.

1054 (j) Wholesale sales of food and drink for human
1055 consumption to full service vending machine operators to be sold
1056 through vending machines located apart from and not connected with
1057 other taxable businesses shall be taxed at the rate of eight
1058 percent (8%).

1059 * * *

1060 (k) Sales of equipment used or designed for the purpose
1061 of assisting disabled persons, such as wheelchair equipment and
1062 lifts, that is mounted or attached to or installed on a private
1063 carrier of passengers or light carrier of property, as defined in
1064 Section 27-51-101, at the time when the private carrier of

1065 passengers or light carrier of property is sold shall be taxed at
1066 the same rate as the sale of such vehicles under this section.

1067 (2) From and after January 1, 1995, retail sales of private
1068 carriers of passengers and light carriers of property, as defined
1069 in Section 27-51-101, shall be taxed an additional two percent
1070 (2%).

1071 (3) In lieu of the tax levied in subsection (1) of this
1072 section, there is levied on retail sales of truck-tractors and
1073 semitrailers used in interstate commerce and registered under the
1074 International Registration Plan (IRP) or any similar reciprocity
1075 agreement or compact relating to the proportional registration of
1076 commercial vehicles entered into as provided for in Section
1077 27-19-143, a tax at the rate of three percent (3%) of the portion
1078 of the sale that is attributable to the usage of such
1079 truck-tractor or semitrailer in Mississippi. The portion of the
1080 retail sale that is attributable to the usage of such
1081 truck-tractor or semitrailer in Mississippi is the retail sales
1082 price of the truck-tractor or semitrailer multiplied by the
1083 percentage of the total miles traveled by the vehicle that are
1084 traveled in Mississippi. The tax levied pursuant to this
1085 subsection (3) shall be collected by the State Tax Commission from
1086 the purchaser of such truck-tractor or semitrailer at the time of
1087 registration of such truck-tractor or semitrailer.

1088 (4) A manufacturer selling at retail in this state shall be
1089 required to make returns of the gross proceeds of such sales and
1090 pay the tax imposed in this section.

1091 (5) Any person exercising any privilege taxable under
1092 Section 27-65-15 and selling his natural resource products at
1093 wholesale or to exempt persons shall pay the tax levied by said
1094 section in lieu of the tax levied by this section.

1095 **SECTION 41.** Section 27-65-19, Mississippi Code of 1972, is
1096 amended as follows:

1097 27-65-19. (1) (a) Except as otherwise provided in this
1098 subsection, upon every person selling to consumers, electricity,
1099 current, power, potable water, steam, coal, natural gas, liquefied
1100 petroleum gas or other fuel, there is hereby levied, assessed and
1101 shall be collected a tax equal to seven percent (7%) of the gross
1102 income of the business. Provided, gross income from sales to
1103 consumers of electricity, current, power, natural gas, liquefied
1104 petroleum gas or other fuel for residential heating, lighting or
1105 other residential noncommercial or nonagricultural use, and sales
1106 of potable water for residential, noncommercial or nonagricultural
1107 use shall be excluded from taxable gross income of the business.
1108 Provided further, upon every such seller using electricity,
1109 current, power, potable water, steam, coal, natural gas, liquefied
1110 petroleum gas or other fuel for nonindustrial purposes, there is
1111 hereby levied, assessed and shall be collected a tax equal to
1112 seven percent (7%) of the cost or value of the product or service
1113 used.

1114 (b) There is hereby levied, assessed and shall be
1115 collected a tax equal to one and one-half percent (1-1/2%) of the
1116 gross income of the business when the electricity, current, power,
1117 steam, coal, natural gas, liquefied petroleum gas or other fuel is
1118 sold to or used by a manufacturer, custom processor, technology
1119 intensive enterprise meeting the criteria provided for in Section
1120 27-65-17(1)(f), or public service company for industrial purposes,
1121 which shall include that used to generate electricity, to operate
1122 an electrical distribution or transmission system, to operate
1123 pipeline compressor or pumping stations or to operate railroad
1124 locomotives; however, sales of fuel used to produce electric power
1125 by a company primarily engaged in the business of producing,
1126 generating or distributing electric power for sale shall be exempt
1127 from sales tax as provided in Section 27-65-107.

1128 (c) The one and one-half percent (1-1/2%) industrial
1129 rate provided for in this subsection shall also apply when the

1130 electricity, current, power, steam, coal, natural gas, liquefied
1131 petroleum gas or other fuel is sold to a producer or processor for
1132 use directly in the production of poultry or poultry products, the
1133 production of livestock and livestock products, the production of
1134 domesticated fish and domesticated fish products, the production
1135 of marine aquaculture products, the production of plants or food
1136 by commercial horticulturists, the processing of milk and milk
1137 products, the processing of poultry and livestock feed, and the
1138 irrigation of farm crops.

1139 (d) The one and one-half percent (1-1/2%) rate provided
1140 for in this subsection shall not apply to sales of fuel for
1141 automobiles, trucks, truck-tractors, buses, farm tractors or
1142 airplanes.

1143 (e) Upon every person operating a telegraph or
1144 telephone business for the transmission of messages or
1145 conversations between points within this state, there is hereby
1146 levied, assessed and shall be collected a tax equal to seven
1147 percent (7%) of the gross income of such business, with no
1148 deduction or allowance for any part of an intrastate rate charge
1149 because of routing across a state line. Charges by one
1150 telecommunications provider to another telecommunications provider
1151 holding a permit issued under Section 27-65-27 for services that
1152 are resold by such other telecommunications provider, including,
1153 but not limited to, access charges, shall not be subject to the
1154 tax levied pursuant to this paragraph (e). However, any sale of a
1155 prepaid telephone calling card or prepaid authorization number, or
1156 both, shall be deemed to be the sale of tangible personal property
1157 subject only to such taxes imposed by law on the sale of tangible
1158 personal property. If the sale of a prepaid telephone calling
1159 card or prepaid authorization number does not take place at the
1160 vendor's place of business, it shall be conclusively determined to
1161 take place at the customer's shipping address. The
1162 reauthorization of a prepaid telephone calling card or a prepaid

1163 authorization number shall be conclusively determined to take
1164 place at the customer's billing address. Except for the
1165 provisions governing the sale of a prepaid telephone calling card
1166 or prepaid authorization number, this paragraph (e) shall not
1167 apply to persons providing mobile telecommunications services that
1168 are taxed pursuant to paragraph (g) of this section.

1169 (f) Upon every person operating a telegraph or
1170 telecommunications business for the transmission of messages or
1171 conversations originating in this state or terminating in this
1172 state via interstate telecommunications, which are charged to the
1173 customer's service address in this state, regardless of where such
1174 amount is billed or paid, there is hereby levied, assessed and
1175 shall be collected a tax equal to seven percent (7%) of the gross
1176 income received by such business from such interstate
1177 telecommunications. However, a person, upon proof that he has
1178 paid a tax in another state on such event, shall be allowed a
1179 credit against the tax imposed in this paragraph (f) on interstate
1180 telecommunications charges to the extent that the amount of such
1181 tax is properly due and actually paid in such other state and to
1182 the extent that the rate of sales tax imposed by and paid to such
1183 other state does not exceed the rate of sales tax imposed by this
1184 paragraph (f). Charges by one telecommunications provider to
1185 another telecommunications provider holding a permit issued under
1186 Section 27-65-27 for services that are resold by such other
1187 telecommunications provider, including, but not limited to, access
1188 charges, shall not be subject to the tax levied pursuant to this
1189 paragraph (f). This paragraph (f) shall not apply to persons
1190 providing mobile telecommunications services that are taxed
1191 pursuant to paragraph (g) of this subsection.

1192 (g) (i) Upon every person providing mobile
1193 telecommunications services in this state there is hereby levied,
1194 assessed and shall be collected:

1195 1. A tax equal to seven percent (7%) of the
1196 gross income received on such services from all charges for
1197 transmission of messages or conversations between points within
1198 any single state as they shall be construed to be within this
1199 state; and

1200 2. A tax equal to seven percent (7%) on the
1201 gross income received from all charges for services that originate
1202 in one state and terminate in any other state.

1203 Charges by one telecommunications provider to another
1204 telecommunications provider holding a permit issued under Section
1205 27-65-27 for services that are resold by such other
1206 telecommunications provider, including, but not limited to, access
1207 charges, shall not be subject to the tax levied pursuant to this
1208 paragraph (g).

1209 (ii) Subject to the provisions of 4 USCS 116(c),
1210 the tax levied by this paragraph (g) shall apply only to those
1211 charges for mobile telecommunications services subject to tax
1212 which are deemed to be provided to a customer by a home service
1213 provider pursuant to 4 USCS 117(a), if the customer's place of
1214 primary use is located within this state.

1215 (iii) A home service provider shall be responsible
1216 for obtaining and maintaining the customer's place of primary use.
1217 The home service provider shall be entitled to rely on the
1218 applicable residential or business street address supplied by such
1219 customer, if the home service provider's reliance is in good
1220 faith; and the home service provider shall be held harmless from
1221 liability for any additional taxes based on a different
1222 determination of the place of primary use for taxes that are
1223 customarily passed on to the customer as a separate itemized
1224 charge. A home service provider shall be allowed to treat the
1225 address used for purposes of the tax levied by this chapter for
1226 any customer under a service contract in effect on August 1, 2002,
1227 as that customer's place of primary use for the remaining term of

1228 such service contract or agreement, excluding any extension or
1229 renewal of such service contract or agreement. Month-to-month
1230 services provided after the expiration of a contract shall be
1231 treated as an extension or renewal of such contract or agreement.

1232 If the commissioner determines that the address used by a
1233 home service provider as a customer's place of primary use does
1234 not meet the definition of the term "place of primary use" as
1235 defined in this paragraph, the commissioner shall give binding
1236 notice to the home service provider to change the place of primary
1237 use on a prospective basis from the date of notice of
1238 determination; however, the customer shall have the opportunity,
1239 prior to such notice of determination, to demonstrate that such
1240 address satisfies such definition.

1241 The commission has the right to collect any taxes due
1242 directly from the home service provider's customer that has failed
1243 to provide an address that meets the definition of the term "place
1244 of primary use" which resulted in a failure of tax otherwise due
1245 being remitted.

1246 (iv) For purposes of this paragraph (g):

1247 1. "Place of primary use" means the street
1248 address representative of where the customer's use of mobile
1249 telecommunications services primarily occurs, which shall be
1250 either the residential street address of the customer or the
1251 primary business street address of the customer.

1252 2. "Customer" means the person or entity that
1253 contracts with the home service provider for mobile
1254 telecommunications services. For determining the place of primary
1255 use, in those instances in which the end user of mobile
1256 telecommunications services is not the contracting party, the end
1257 user of the mobile telecommunications services shall be deemed the
1258 customer. The term "customer" shall not include a reseller of
1259 mobile telecommunications service, or a serving carrier under an

1260 arrangement to serve the customer outside the home service
1261 provider's licensed service area.

1262 3. "Home service provider" means the
1263 facilities-based carrier or reseller with which the customer
1264 contracts for the provision of mobile telecommunications services.

1265 (h) (i) For purposes of this paragraph (h), "bundled
1266 transaction" means a transaction that consists of distinct and
1267 identifiable properties or services which are sold for a single
1268 nonitemized price but which are treated differently for tax
1269 purposes.

1270 (ii) In the case of a bundled transaction that
1271 includes telecommunications services taxed under this section in
1272 which the price of the bundled transaction is attributable to
1273 properties or services that are taxable and nontaxable, the
1274 portion of the price that is attributable to any nontaxable
1275 property or service shall be subject to the tax unless the
1276 provider can reasonably identify that portion from its books and
1277 records kept in the regular course of business.

1278 (iii) In the case of a bundled transaction that
1279 includes telecommunications services subject to tax under this
1280 section in which the price is attributable to properties or
1281 services that are subject to the tax but the tax revenue from the
1282 different properties or services are dedicated to different funds
1283 or purposes, the provider shall allocate the price among the
1284 properties or services:

1285 1. By reasonably identifying the portion of
1286 the price attributable to each of the properties and services from
1287 its books and records kept in the regular course of business; or

1288 2. Based on a reasonable allocation
1289 methodology approved by the commission.

1290 (iv) This paragraph (h) shall not create a right
1291 of action for a customer to require that the provider or the
1292 commission, for purposes of determining the amount of tax

1293 applicable to a bundled transaction, allocate the price to the
1294 different portions of the transaction in order to minimize the
1295 amount of tax charged to the customer. A customer shall not be
1296 entitled to rely on the fact that a portion of the price is
1297 attributable to properties or services not subject to tax unless
1298 the provider elects, after receiving a written request from the
1299 customer in the form required by the provider, to provide
1300 verifiable data based upon the provider's books and records that
1301 are kept in the regular course of business that reasonably
1302 identifies the portion of the price attributable to the properties
1303 or services not subject to the tax.

1304 (2) Persons making sales to consumers of electricity,
1305 current, power, natural gas, liquefied petroleum gas or other fuel
1306 for residential heating, lighting or other residential
1307 noncommercial or nonagricultural use or sales of potable water for
1308 residential, noncommercial or nonagricultural use shall indicate
1309 on each statement rendered to customers that such charges are
1310 exempt from sales taxes.

1311 (3) There is hereby levied, assessed and shall be paid on
1312 transportation charges on shipments moving between points within
1313 this state when paid directly by the consumer, a tax equal to the
1314 rate applicable to the sale of the property being transported.
1315 Such tax shall be reported and paid directly to the State Tax
1316 Commission by the consumer.

1317 **SECTION 42.** Section 27-65-101, Mississippi Code of 1972, is
1318 amended as follows:

1319 27-65-101. (1) The exemptions from the provisions of this
1320 chapter which are of an industrial nature or which are more
1321 properly classified as industrial exemptions than any other
1322 exemption classification of this chapter shall be confined to
1323 those persons or property exempted by this section or by the
1324 provisions of the Constitution of the United States or the State
1325 of Mississippi. No industrial exemption as now provided by any

1326 other section except Section 57-3-33 shall be valid as against the
1327 tax herein levied. Any subsequent industrial exemption from the
1328 tax levied hereunder shall be provided by amendment to this
1329 section. No exemption provided in this section shall apply to
1330 taxes levied by Section 27-65-15 or 27-65-21.

1331 The tax levied by this chapter shall not apply to the
1332 following:

1333 (a) Sales of boxes, crates, cartons, cans, bottles and
1334 other packaging materials to manufacturers and wholesalers for use
1335 as containers or shipping materials to accompany goods sold by
1336 said manufacturers or wholesalers where possession thereof will
1337 pass to the customer at the time of sale of the goods contained
1338 therein and sales to anyone of containers or shipping materials
1339 for use in ships engaged in international commerce.

1340 (b) Sales of raw materials, catalysts, processing
1341 chemicals, welding gases or other industrial processing gases
1342 (except natural gas) to a manufacturer for use directly in
1343 manufacturing or processing a product for sale or rental or
1344 repairing or reconditioning vessels or barges of fifty (50) tons
1345 load displacement and over. For the purposes of this exemption,
1346 electricity used directly in the electrolysis process in the
1347 production of sodium chlorate shall be considered a raw material.
1348 This exemption shall not apply to any property used as fuel except
1349 to the extent that such fuel comprises by-products which have no
1350 market value.

1351 (c) The gross proceeds of sales of dry docks, offshore
1352 drilling equipment for use in oil exploitation or production,
1353 vessels or barges of fifty (50) tons load displacement and over,
1354 when sold by the manufacturer or builder thereof.

1355 (d) Sales to commercial fishermen of commercial fishing
1356 boats of over five (5) tons load displacement and not more than
1357 fifty (50) tons load displacement as registered with the United

1358 States Coast Guard and licensed by the Mississippi Commission on
1359 Marine Resources.

1360 (e) The gross income from repairs to vessels and barges
1361 engaged in foreign trade or interstate transportation.

1362 (f) Sales of petroleum products to vessels or barges
1363 for consumption in marine international commerce or interstate
1364 transportation businesses.

1365 (g) Sales and rentals of rail rolling stock (and
1366 component parts thereof) for ultimate use in interstate commerce
1367 and gross income from services with respect to manufacturing,
1368 repairing, cleaning, altering, reconditioning or improving such
1369 rail rolling stock (and component parts thereof).

1370 (h) Sales of raw materials, catalysts, processing
1371 chemicals, welding gases or other industrial processing gases
1372 (except natural gas) used or consumed directly in manufacturing,
1373 repairing, cleaning, altering, reconditioning or improving such
1374 rail rolling stock (and component parts thereof). This exemption
1375 shall not apply to any property used as fuel.

1376 (i) Sales of machinery or tools or repair parts
1377 therefor or replacements thereof, fuel or supplies used directly
1378 in manufacturing, converting or repairing ships, vessels or barges
1379 of three thousand (3,000) tons load displacement and over, but not
1380 to include office and plant supplies or other equipment not
1381 directly used on the ship, vessel or barge being built, converted
1382 or repaired. For purposes of this exemption, "ships, vessels or
1383 barges" shall not include floating structures described in Section
1384 27-65-18.

1385 (j) Sales of tangible personal property to persons
1386 operating ships in international commerce for use or consumption
1387 on board such ships. This exemption shall be limited to cases in
1388 which procedures satisfactory to the commissioner, ensuring
1389 against use in this state other than on such ships, are
1390 established.

1391 (k) Sales of materials used in the construction of a
1392 building, or any addition or improvement thereon, and sales of any
1393 machinery and equipment not later than three (3) months after the
1394 completion of construction of the building, or any addition
1395 thereon, to be used therein, to qualified businesses, as defined
1396 in Section 57-51-5, which are located in a county or portion
1397 thereof designated as an enterprise zone pursuant to Sections
1398 57-51-1 through 57-51-15.

1399 (l) Sales of materials used in the construction of a
1400 building, or any addition or improvement thereon, and sales of any
1401 machinery and equipment not later than three (3) months after the
1402 completion of construction of the building, or any addition
1403 thereon, to be used therein, to qualified businesses, as defined
1404 in Section 57-54-5.

1405 (m) Income from storage and handling of perishable
1406 goods by a public storage warehouse.

1407 (n) The value of natural gas lawfully injected into the
1408 earth for cycling, repressuring or lifting of oil, or lawfully
1409 vented or flared in connection with the production of oil;
1410 however, if any gas so injected into the earth is sold for such
1411 purposes, then the gas so sold shall not be exempt.

1412 (o) The gross collections from self-service commercial
1413 laundering, drying, cleaning and pressing equipment.

1414 (p) Sales of materials used in the construction of a
1415 building, or any addition or improvement thereon, and sales of any
1416 machinery and equipment not later than three (3) months after the
1417 completion of construction of the building, or any addition
1418 thereon, to be used therein, to qualified companies, certified as
1419 such by the Mississippi Development Authority under Section
1420 57-53-1.

1421 (q) Sales of component materials used in the
1422 construction of a building, or any addition or improvement
1423 thereon, sales of machinery and equipment to be used therein, and

1424 sales of manufacturing or processing machinery and equipment which
1425 is permanently attached to the ground or to a permanent foundation
1426 and which is not by its nature intended to be housed within a
1427 building structure, not later than three (3) months after the
1428 initial start-up date, to permanent business enterprises engaging
1429 in manufacturing or processing in Tier Three areas (as such term
1430 is defined in Section 57-73-21), which businesses are certified by
1431 the State Tax Commission as being eligible for the exemption
1432 granted in this paragraph (q).

1433 (r) Sales of component materials used in the
1434 construction of a building, or any addition or improvement
1435 thereon, and sales of any machinery and equipment not later than
1436 three (3) months after the completion of the building, addition or
1437 improvement thereon, to be used therein, for any company
1438 establishing or transferring its national or regional headquarters
1439 from within or outside the State of Mississippi and creating a
1440 minimum of thirty-five (35) jobs at the new headquarters in this
1441 state. The Tax Commission shall establish criteria and prescribe
1442 procedures to determine if a company qualifies as a national or
1443 regional headquarters for the purpose of receiving the exemption
1444 provided in this paragraph.

1445 (s) The gross proceeds from the sale of semitrailers,
1446 trailers, boats, travel trailers, motorcycles and all-terrain
1447 cycles if exported from this state within forty-eight (48) hours
1448 and registered and first used in another state.

1449 (t) Gross income from the storage and handling of
1450 natural gas in underground salt domes and in other underground
1451 reservoirs, caverns, structures and formations suitable for such
1452 storage.

1453 (u) Sales of machinery and equipment to nonprofit
1454 organizations if the organization:

1455 (i) Is tax-exempt pursuant to Section 501(c)(4) of
1456 the Internal Revenue Code of 1986, as amended;

1457 (ii) Assists in the implementation of the national
1458 contingency plan or area contingency plan, and which is created in
1459 response to the requirements of Title IV, Subtitle B of the Oil
1460 Pollution Act of 1990, Public Law 101-380; and

1461 (iii) Engages primarily in programs to contain,
1462 clean up and otherwise mitigate spills of oil or other substances
1463 occurring in the United States coastal and tidal waters.

1464 For purposes of this exemption, "machinery and equipment"
1465 means any ocean-going vessels, barges, booms, skimmers and other
1466 capital equipment used primarily in the operations of nonprofit
1467 organizations referred to herein.

1468 (v) Sales or leases of materials and equipment to
1469 approved business enterprises as provided under the Growth and
1470 Prosperity Act.

1471 (w) From and after July 1, 2001, sales of pollution
1472 control equipment to manufacturers or custom processors for
1473 industrial use. For the purposes of this exemption, "pollution
1474 control equipment" means equipment, devices, machinery or systems
1475 used or acquired to prevent, control, monitor or reduce air, water
1476 or groundwater pollution, or solid or hazardous waste as required
1477 by federal or state law or regulation.

1478 (x) Sales or leases to a manufacturer of motor vehicles
1479 operating a project that has been certified by the Mississippi
1480 Major Economic Impact Authority as a project as defined in Section
1481 57-75-5(f)(iv)1 of machinery and equipment; special tooling such
1482 as dies, molds, jigs and similar items treated as special tooling
1483 for federal income tax purposes; or repair parts therefor or
1484 replacements thereof; repair services thereon; fuel, supplies,
1485 electricity, coal and natural gas used directly in the manufacture
1486 of motor vehicles or motor vehicle parts or used to provide
1487 climate control for manufacturing areas.

1488 (y) Sales or leases of component materials, machinery
1489 and equipment used in the construction of a building, or any

1490 addition or improvement thereon to an enterprise operating a
1491 project that has been certified by the Mississippi Major Economic
1492 Impact Authority as a project as defined in Section
1493 57-75-5(f)(iv)1 and any other sales or leases required to
1494 establish or operate such project.

1495 (z) Sales of component materials and equipment to a
1496 business enterprise as provided under Section 57-64-33.

1497 (aa) The gross income from the stripping and painting
1498 of commercial aircraft engaged in foreign or interstate
1499 transportation business.

1500 (bb) Sales of production items used in the production
1501 of motion pictures such as film; videotape; component building
1502 materials used in the construction of a set; makeup; fabric used
1503 as or in the making of costumes; clothing, including, shoes,
1504 accessories and jewelry used as wardrobes; materials used as set
1505 dressing; materials used as props on a set or by an actor;
1506 materials used in the creation of special effects; and expendable
1507 items purchased for limited use by grip, electric and camera
1508 departments such as tape, fasteners and compressed air. For the
1509 purposes of this paragraph (bb), the term "motion picture" means a
1510 nationally distributed feature-length film, video, television
1511 series or commercial made in Mississippi, in whole or in part, for
1512 theatrical or television viewing or as a television pilot. The
1513 term "motion picture" shall not include the production of
1514 television coverage of news and athletic events, or a film, video,
1515 television series or commercial that contains any material or
1516 performance defined in Section 97-29-103.

1517 (cc) Sales or leases to an enterprise owning or
1518 operating a project that has been designated by the Mississippi
1519 Major Economic Impact Authority as a project as defined in Section
1520 57-75-5(f)(xviii) of machinery and equipment; special tooling such
1521 as dies, molds, jigs and similar items treated as special tooling
1522 for federal income tax purposes; or repair parts therefor or

1523 replacements thereof; repair services thereon; fuel, supplies,
1524 electricity, coal and natural gas used directly in the
1525 manufacturing/production operations of the project or used to
1526 provide climate control for manufacturing/production areas.

1527 (dd) Sales or leases of component materials, machinery
1528 and equipment used in the construction of a building, or any
1529 addition or improvement thereon to an enterprise owning or
1530 operating a project that has been designated by the Mississippi
1531 Major Economic Impact Authority as a project as defined in Section
1532 57-75-5(f)(xviii) and any other sales or leases required to
1533 establish or operate such project.

1534 (ee) Sales of parts used in the repair and servicing of
1535 aircraft not registered in Mississippi engaged exclusively in the
1536 business of foreign or interstate transportation to businesses
1537 engaged in aircraft repair and maintenance.

1538 (ff) Sales of component materials used in the
1539 construction of a facility, or any addition or improvement
1540 thereon, and sales or leases of machinery and equipment not later
1541 than three (3) months after the completion of construction of the
1542 facility, or any addition or improvement thereto, to be used in
1543 the building or any addition or improvement thereto, to a
1544 permanent business enterprise operating a data/information
1545 enterprise in Tier Three areas (as such areas are designated in
1546 accordance with Section 57-73-21), meeting minimum criteria
1547 established by the Mississippi Development Authority.

1548 (gg) Sales of component materials used in the
1549 construction of a facility, or any addition or improvement
1550 thereto, and sales of machinery and equipment not later than three
1551 (3) months after the completion of construction of the facility,
1552 or any addition or improvement thereto, to be used in the facility
1553 or any addition or improvement thereto, to technology intensive
1554 enterprises for industrial purposes in Tier Three areas (as such
1555 areas are designated in accordance with Section 57-73-21), as

1556 certified by the State Tax Commission. For purposes of this
1557 paragraph, an enterprise must meet the criteria provided for in
1558 Section 27-65-17(1)(f) in order to be considered a technology
1559 intensive enterprise.

1560 (2) Sales of component materials used in the construction of
1561 a building, or any addition or improvement thereon, sales of
1562 machinery and equipment to be used therein, and sales of
1563 manufacturing or processing machinery and equipment which is
1564 permanently attached to the ground or to a permanent foundation
1565 and which is not by its nature intended to be housed within a
1566 building structure, not later than three (3) months after the
1567 initial start-up date, to permanent business enterprises engaging
1568 in manufacturing or processing in Tier Two areas and Tier One
1569 areas (as such areas are designated in accordance with Section
1570 57-73-21), which businesses are certified by the State Tax
1571 Commission as being eligible for the exemption granted in this
1572 paragraph, shall be exempt from one-half (1/2) of the taxes
1573 imposed on such transactions under this chapter.

1574 (3) Sales of component materials used in the construction of
1575 a facility, or any addition or improvement thereon, and sales or
1576 leases of machinery and equipment not later than three (3) months
1577 after the completion of construction of the facility, or any
1578 addition or improvement thereto, to be used in the building or any
1579 addition or improvement thereto, to a permanent business
1580 enterprise operating a data/information enterprise in Tier Two
1581 areas and Tier One areas (as such areas are designated in
1582 accordance with Section 57-73-21), which businesses meet minimum
1583 criteria established by the Mississippi Development Authority,
1584 shall be exempt from one-half (1/2) of the taxes imposed on such
1585 transaction under this chapter.

1586 (4) Sales of component materials used in the construction of
1587 a facility, or any addition or improvement thereto, and sales of
1588 machinery and equipment not later than three (3) months after the

1589 completion of construction of the facility, or any addition or
1590 improvement thereto, to be used in the building or any addition or
1591 improvement thereto, to technology intensive enterprises for
1592 industrial purposes in Tier Two areas and Tier One areas (as such
1593 areas are designated in accordance with Section 57-73-21), which
1594 businesses are certified by the State Tax Commission as being
1595 eligible for the exemption granted in this paragraph, shall be
1596 exempt from one-half (1/2) of the taxes imposed on such
1597 transactions under this chapter. For purposes of this subsection,
1598 an enterprise must meet the criteria provided for in Section
1599 27-65-17(1)(f) in order to be considered a technology intensive
1600 enterprise.

1601 (5) (a) For purposes of this subsection:

1602 (i) "Telecommunications enterprises" shall have
1603 the meaning ascribed to such term in Section 57-73-21 * * *;

1604 (ii) "Tier One areas" mean counties designated as
1605 Tier One areas pursuant to Section 57-73-21 * * *;

1606 (iii) "Tier Two areas" mean counties designated as
1607 Tier Two areas pursuant to Section 57-73-21 * * *;

1608 (iv) "Tier Three areas" mean counties designated
1609 as Tier Three areas pursuant to Section 57-73-21 * * *; and

1610 (v) "Equipment used in the deployment of broadband
1611 technologies" means any equipment capable of being used for or in
1612 connection with the transmission of information at a rate, prior
1613 to taking into account the effects of any signal degradation, that
1614 is not less than three hundred eighty-four (384) kilobits per
1615 second in at least one direction, including, but not limited to,
1616 asynchronous transfer mode switches, digital subscriber line
1617 access multiplexers, routers, servers, multiplexers, fiber optics
1618 and related equipment.

1619 (b) Sales of equipment to telecommunications
1620 enterprises after June 30, 2003, and before July 1, 2013, that is
1621 installed in Tier One areas and used in the deployment of

1622 broadband technologies shall be exempt from one-half (1/2) of the
1623 taxes imposed on such transactions under this chapter.

1624 (c) Sales of equipment to telecommunications
1625 enterprises after June 30, 2003, and before July 1, 2013, that is
1626 installed in Tier Two and Tier Three areas and used in the
1627 deployment of broadband technologies shall be exempt from the
1628 taxes imposed on such transactions under this chapter.

1629 **SECTION 43.** Section 57-73-21, Mississippi Code of 1972, is
1630 amended as follows:

1631 **[In cases involving business enterprises that received or**
1632 **applied for the job tax credit authorized by this section prior to**
1633 **January 1, 2005, this section shall read as follows:]**

1634 57-73-21. (1) Annually by December 31, using the most
1635 current data available from the University Research Center,
1636 Mississippi Department of Employment Security and the United
1637 States Department of Commerce, the State Tax Commission shall rank
1638 and designate the state's counties as provided in this section.
1639 The twenty-eight (28) counties in this state having a combination
1640 of the highest unemployment rate and lowest per capita income for
1641 the most recent thirty-six-month period, with equal weight being
1642 given to each category, are designated Tier Three areas. The
1643 twenty-seven (27) counties in the state with a combination of the
1644 next highest unemployment rate and next lowest per capita income
1645 for the most recent thirty-six-month period, with equal weight
1646 being given to each category, are designated Tier Two areas. The
1647 twenty-seven (27) counties in the state with a combination of the
1648 lowest unemployment rate and the highest per capita income for the
1649 most recent thirty-six-month period, with equal weight being given
1650 to each category, are designated Tier One areas. Counties
1651 designated by the Tax Commission qualify for the appropriate tax
1652 credit for jobs as provided in subsections (2), (3) and (4) of
1653 this section. The designation by the Tax Commission is effective
1654 for the tax years of permanent business enterprises which begin

1655 after the date of designation. For companies which plan an
1656 expansion in their labor forces, the Tax Commission shall
1657 prescribe certification procedures to ensure that the companies
1658 can claim credits in future years without regard to whether or not
1659 a particular county is removed from the list of Tier Three or Tier
1660 Two areas.

1661 (2) Permanent business enterprises primarily engaged in
1662 manufacturing, processing, warehousing, distribution, wholesaling
1663 and research and development, or permanent business enterprises
1664 designated by rule and regulation of the Mississippi Development
1665 Authority as air transportation and maintenance facilities, final
1666 destination or resort hotels having a minimum of one hundred fifty
1667 (150) guest rooms, recreational facilities that impact tourism,
1668 movie industry studios, telecommunications enterprises, data or
1669 information processing enterprises or computer software
1670 development enterprises or any technology intensive facility or
1671 enterprise, in counties designated by the Tax Commission as Tier
1672 Three areas are allowed a job tax credit for taxes imposed by
1673 Section 27-7-5 equal to Two Thousand Dollars (\$2,000.00) annually
1674 for each net new full-time employee job for five (5) years
1675 beginning with years two (2) through six (6) after the creation of
1676 the job. The number of new full-time jobs must be determined by
1677 comparing the monthly average number of full-time employees
1678 subject to the Mississippi income tax withholding for the taxable
1679 year with the corresponding period of the prior taxable year.
1680 Only those permanent businesses that increase employment by ten
1681 (10) or more in a Tier Three area are eligible for the credit.
1682 Credit is not allowed during any of the five (5) years if the net
1683 employment increase falls below ten (10). The Tax Commission
1684 shall adjust the credit allowed each year for the net new
1685 employment fluctuations above the minimum level of ten (10).

1686 (3) Permanent business enterprises primarily engaged in
1687 manufacturing, processing, warehousing, distribution, wholesaling

1688 and research and development, or permanent business enterprises
1689 designated by rule and regulation of the Mississippi Development
1690 Authority as air transportation and maintenance facilities, final
1691 destination or resort hotels having a minimum of one hundred fifty
1692 (150) guest rooms, recreational facilities that impact tourism,
1693 movie industry studios, telecommunications enterprises, data or
1694 information processing enterprises or computer software
1695 development enterprises or any technology intensive facility or
1696 enterprise, in counties that have been designated by the Tax
1697 Commission as Tier Two areas are allowed a job tax credit for
1698 taxes imposed by Section 27-7-5 equal to One Thousand Dollars
1699 (\$1,000.00) annually for each net new full-time employee job for
1700 five (5) years beginning with years two (2) through six (6) after
1701 the creation of the job. The number of new full-time jobs must be
1702 determined by comparing the monthly average number of full-time
1703 employees subject to Mississippi income tax withholding for the
1704 taxable year with the corresponding period of the prior taxable
1705 year. Only those permanent businesses that increase employment by
1706 fifteen (15) or more in Tier Two areas are eligible for the
1707 credit. The credit is not allowed during any of the five (5)
1708 years if the net employment increase falls below fifteen (15).
1709 The Tax Commission shall adjust the credit allowed each year for
1710 the net new employment fluctuations above the minimum level of
1711 fifteen (15).

1712 (4) Permanent business enterprises primarily engaged in
1713 manufacturing, processing, warehousing, distribution, wholesaling
1714 and research and development, or permanent business enterprises
1715 designated by rule and regulation of the Mississippi Development
1716 Authority as air transportation and maintenance facilities, final
1717 destination or resort hotels having a minimum of one hundred fifty
1718 (150) guest rooms, recreational facilities that impact tourism,
1719 movie industry studios, telecommunications enterprises, data or
1720 information processing enterprises or computer software

1721 development enterprises or any technology intensive facility or
1722 enterprise, in counties designated by the Tax Commission as Tier
1723 One areas are allowed a job tax credit for taxes imposed by
1724 Section 27-7-5 equal to Five Hundred Dollars (\$500.00) annually
1725 for each net new full-time employee job for five (5) years
1726 beginning with years two (2) through six (6) after the creation of
1727 the job. The number of new full-time jobs must be determined by
1728 comparing the monthly average number of full-time employees
1729 subject to Mississippi income tax withholding for the taxable year
1730 with the corresponding period of the prior taxable year. Only
1731 those permanent businesses that increase employment by twenty (20)
1732 or more in Tier One areas are eligible for the credit. The credit
1733 is not allowed during any of the five (5) years if the net
1734 employment increase falls below twenty (20). The Tax Commission
1735 shall adjust the credit allowed each year for the net new
1736 employment fluctuations above the minimum level of twenty (20).

1737 (5) In addition to the credits authorized in subsections
1738 (2), (3) and (4), an additional Five Hundred Dollars (\$500.00)
1739 credit for each net new full-time employee or an additional One
1740 Thousand Dollars (\$1,000.00) credit for each net new full-time
1741 employee who is paid a salary, excluding benefits which are not
1742 subject to Mississippi income taxation, of at least one hundred
1743 twenty-five percent (125%) of the average annual wage of the state
1744 or an additional Two Thousand Dollars (\$2,000.00) credit for each
1745 net new full-time employee who is paid a salary, excluding
1746 benefits which are not subject to Mississippi income taxation, of
1747 at least two hundred percent (200%) of the average annual wage of
1748 the state, shall be allowed for any company establishing or
1749 transferring its national or regional headquarters from within or
1750 outside the State of Mississippi. A minimum of thirty-five (35)
1751 jobs must be created to qualify for the additional credit. The
1752 State Tax Commission shall establish criteria and prescribe
1753 procedures to determine if a company qualifies as a national or

1754 regional headquarters for purposes of receiving the credit awarded
1755 in this subsection. As used in this subsection, the average
1756 annual wage of the state is the most recently published average
1757 annual wage as determined by the Mississippi Department of
1758 Employment Security.

1759 (6) In addition to the credits authorized in subsections
1760 (2), (3), (4) and (5), any job requiring research and development
1761 skills (chemist, engineer, etc.) shall qualify for an additional
1762 One Thousand Dollars (\$1,000.00) credit for each net new full-time
1763 employee.

1764 (7) In lieu of the tax credits provided in subsections (2)
1765 through (6), any commercial or industrial property owner which
1766 remediates contaminated property in accordance with Sections
1767 49-35-1 through 49-35-25, is allowed a job tax credit for taxes
1768 imposed by Section 27-7-5 equal to the amounts provided in
1769 subsection (2), (3) or (4) for each net new full-time employee job
1770 for five (5) years beginning with years two (2) through six (6)
1771 after the creation of the job. The number of new full-time jobs
1772 must be determined by comparing the monthly average number of
1773 full-time employees subject to Mississippi income tax withholding
1774 for the taxable year with the corresponding period of the prior
1775 taxable year. This subsection shall be administered in the same
1776 manner as subsections (2), (3) and (4), except the landowner shall
1777 not be required to increase employment by the levels provided in
1778 subsections (2), (3) and (4) to be eligible for the tax credit.

1779 (8) Tax credits for five (5) years for the taxes imposed by
1780 Section 27-7-5 shall be awarded for additional net new full-time
1781 jobs created by business enterprises qualified under subsections
1782 (2), (3), (4), (5), (6) and (7) of this section. Except as
1783 otherwise provided, the Tax Commission shall adjust the credit
1784 allowed in the event of employment fluctuations during the
1785 additional five (5) years of credit.

1786 (9) The sale, merger, acquisition, reorganization,
1787 bankruptcy or relocation from one county to another county within
1788 the state of any business enterprise may not create new
1789 eligibility in any succeeding business entity, but any unused job
1790 tax credit may be transferred and continued by any transferee of
1791 the business enterprise. The Tax Commission shall determine
1792 whether or not qualifying net increases or decreases have occurred
1793 or proper transfers of credit have been made and may require
1794 reports, promulgate regulations, and hold hearings as needed for
1795 substantiation and qualification.

1796 (10) Any tax credit claimed under this section but not used
1797 in any taxable year may be carried forward for five (5) years from
1798 the close of the tax year in which the qualified jobs were
1799 established but the credit established by this section taken in
1800 any one (1) tax year must be limited to an amount not greater than
1801 fifty percent (50%) of the taxpayer's state income tax liability
1802 which is attributable to income derived from operations in the
1803 state for that year.

1804 (11) No business enterprise for the transportation,
1805 handling, storage, processing or disposal of hazardous waste is
1806 eligible to receive the tax credits provided in this section.

1807 (12) The credits allowed under this section shall not be
1808 used by any business enterprise or corporation other than the
1809 business enterprise actually qualifying for the credits.

1810 (13) The tax credits provided for in this section shall be
1811 in addition to any tax credits described in Sections 57-51-13(b),
1812 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official
1813 action by the Department of Economic Development prior to July 1,
1814 1989, to any business enterprise determined prior to July 1, 1989,
1815 by the Department of Economic Development to be a qualified
1816 business as defined in Section 57-51-5(f) or Section 57-54-5(d) or
1817 a qualified company as described in Section 57-53-1, as the case
1818 may be; however, from and after July 1, 1989, tax credits shall be

1819 allowed only under either this section or Sections 57-51-13(b),
1820 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time
1821 employee.

1822 (14) As used in this section, the term "telecommunications
1823 enterprises" means entities engaged in the creation, display,
1824 management, storage, processing, transmission or distribution for
1825 compensation of images, text, voice, video or data by wire or by
1826 wireless means, or entities engaged in the construction, design,
1827 development, manufacture, maintenance or distribution for
1828 compensation of devices, products, software or structures used in
1829 the above activities. Companies organized to do business as
1830 commercial broadcast radio stations, television stations or news
1831 organizations primarily serving in-state markets shall not be
1832 included within the definition of the term "telecommunications
1833 enterprises."

1834 **[In cases involving business enterprises that apply for the**
1835 **job tax credit authorized by this section from and after January**
1836 **1, 2005, this section shall read as follows:]**

1837 57-73-21. (1) Annually by December 31, using the most
1838 current data available from the University Research Center,
1839 Mississippi Department of Employment Security and the United
1840 States Department of Commerce, the State Tax Commission shall rank
1841 and designate the state's counties as provided in this section.
1842 The twenty-eight (28) counties in this state having a combination
1843 of the highest unemployment rate and lowest per capita income for
1844 the most recent thirty-six-month period, with equal weight being
1845 given to each category, are designated Tier Three areas. The
1846 twenty-seven (27) counties in the state with a combination of the
1847 next highest unemployment rate and next lowest per capita income
1848 for the most recent thirty-six-month period, with equal weight
1849 being given to each category, are designated Tier Two areas. The
1850 twenty-seven (27) counties in the state with a combination of the
1851 lowest unemployment rate and the highest per capita income for the

1852 most recent thirty-six-month period, with equal weight being given
1853 to each category, are designated Tier One areas. Counties
1854 designated by the Tax Commission qualify for the appropriate tax
1855 credit for jobs as provided in * * * this section. The
1856 designation by the Tax Commission is effective for the tax years
1857 of permanent business enterprises which begin after the date of
1858 designation. For companies which plan an expansion in their labor
1859 forces, the Tax Commission shall prescribe certification
1860 procedures to ensure that the companies can claim credits in
1861 future years without regard to whether or not a particular county
1862 is removed from the list of Tier Three or Tier Two areas.

1863 (2) Permanent business enterprises * * * in counties
1864 designated by the Tax Commission as Tier Three areas are allowed a
1865 job tax credit for taxes imposed by Section 27-7-5 equal to ten
1866 percent (10%) of the payroll of the enterprise for net new
1867 full-time employee jobs for five (5) years beginning with years
1868 two (2) through six (6) after the creation of the minimum number
1869 of jobs required by this subsection. The number of new full-time
1870 jobs must be determined by comparing the monthly average number of
1871 full-time employees subject to the Mississippi income tax
1872 withholding for the taxable year with the corresponding period of
1873 the prior taxable year. Only those permanent business enterprises
1874 that increase employment by ten (10) or more in a Tier Three area
1875 are eligible for the credit. Credit is not allowed during any of
1876 the five (5) years if the net employment increase falls below ten
1877 (10). The Tax Commission shall adjust the credit allowed each
1878 year for the net new employment fluctuations above the minimum
1879 level of ten (10).

1880 (3) Permanent business enterprises * * * in counties that
1881 have been designated by the Tax Commission as Tier Two areas are
1882 allowed a job tax credit for taxes imposed by Section 27-7-5 equal
1883 to five percent (5%) of the payroll of the enterprise for net new
1884 full-time employee jobs for five (5) years beginning with years

1885 two (2) through six (6) after the creation of the minimum number
1886 of jobs required by this subsection. The number of new full-time
1887 jobs must be determined by comparing the monthly average number of
1888 full-time employees subject to Mississippi income tax withholding
1889 for the taxable year with the corresponding period of the prior
1890 taxable year. Only those permanent business enterprises that
1891 increase employment by fifteen (15) or more in Tier Two areas are
1892 eligible for the credit. The credit is not allowed during any of
1893 the five (5) years if the net employment increase falls below
1894 fifteen (15). The Tax Commission shall adjust the credit allowed
1895 each year for the net new employment fluctuations above the
1896 minimum level of fifteen (15).

1897 (4) Permanent business enterprises * * * in counties
1898 designated by the Tax Commission as Tier One areas are allowed a
1899 job tax credit for taxes imposed by Section 27-7-5 equal to two
1900 and one-half percent (2.5%) of the payroll of the enterprise for
1901 net new full-time employee jobs for five (5) years beginning with
1902 years two (2) through six (6) after the creation of the minimum
1903 number of jobs required by this subsection. The number of new
1904 full-time jobs must be determined by comparing the monthly average
1905 number of full-time employees subject to Mississippi income tax
1906 withholding for the taxable year with the corresponding period of
1907 the prior taxable year. Only those permanent business enterprises
1908 that increase employment by twenty (20) or more in Tier One areas
1909 are eligible for the credit. The credit is not allowed during any
1910 of the five (5) years if the net employment increase falls below
1911 twenty (20). The Tax Commission shall adjust the credit allowed
1912 each year for the net new employment fluctuations above the
1913 minimum level of twenty (20).

1914 (5) In addition to the other credits authorized in this
1915 section, an additional Five Hundred Dollars (\$500.00) credit for
1916 each net new full-time employee or an additional One Thousand
1917 Dollars (\$1,000.00) credit for each net new full-time employee who

1918 is paid a salary, excluding benefits which are not subject to
1919 Mississippi income taxation, of at least one hundred twenty-five
1920 percent (125%) of the average annual wage of the state or an
1921 additional Two Thousand Dollars (\$2,000.00) credit for each net
1922 new full-time employee who is paid a salary, excluding benefits
1923 which are not subject to Mississippi income taxation, of at least
1924 two hundred percent (200%) of the average annual wage of the
1925 state, shall be allowed for any company establishing or
1926 transferring its national or regional headquarters from within or
1927 outside the State of Mississippi. A minimum of thirty-five (35)
1928 jobs must be created to qualify for the additional credit. The
1929 State Tax Commission shall establish criteria and prescribe
1930 procedures to determine if a company qualifies as a national or
1931 regional headquarters for purposes of receiving the credit awarded
1932 in this subsection. As used in this subsection, the average
1933 annual wage of the state is the most recently published average
1934 annual wage as determined by the Mississippi Department of
1935 Employment Security.

1936 (6) In addition to the other credits authorized in this
1937 section, any job requiring research and development skills
1938 (chemist, engineer, etc.) shall qualify for an additional One
1939 Thousand Dollars (\$1,000.00) credit for each net new full-time
1940 employee.

1941 (7) In lieu of the other tax credits provided in this
1942 section, any commercial or industrial property owner which
1943 remediates contaminated property in accordance with Sections
1944 49-35-1 through 49-35-25, is allowed a job tax credit for taxes
1945 imposed by Section 27-7-5 equal to the percentage of payroll
1946 provided in subsection (2), (3) or (4) of this section for * * *
1947 net new full-time employee jobs for five (5) years beginning with
1948 years two (2) through six (6) after the creation of the jobs. The
1949 number of new full-time jobs must be determined by comparing the
1950 monthly average number of full-time employees subject to

1951 Mississippi income tax withholding for the taxable year with the
1952 corresponding period of the prior taxable year. This subsection
1953 shall be administered in the same manner as subsections (2), (3)
1954 and (4), except the landowner shall not be required to increase
1955 employment by the levels provided in subsections (2), (3) and (4)
1956 to be eligible for the tax credit.

1957 (8) (a) Tax credits for five (5) years for the taxes
1958 imposed by Section 27-7-5 shall be awarded for increases in the
1959 annual payroll for net new full-time jobs created by business
1960 enterprises qualified under this section. The Tax Commission
1961 shall adjust the credit allowed in the event of payroll
1962 fluctuations during the additional five (5) years of credit.

1963 (b) Tax credits for five (5) years for the taxes
1964 imposed by Section 27-7-5 shall be awarded for additional net new
1965 full-time jobs created by business enterprises qualified under
1966 subsections * * * (5) and (6) * * * of this section. * * * The
1967 Tax Commission shall adjust the credit allowed in the event of
1968 employment fluctuations during the additional five (5) years of
1969 credit.

1970 (9) The sale, merger, acquisition, reorganization,
1971 bankruptcy or relocation from one county to another county within
1972 the state of any business enterprise may not create new
1973 eligibility in any succeeding business entity, but any unused job
1974 tax credit may be transferred and continued by any transferee of
1975 the business enterprise. The Tax Commission shall determine
1976 whether or not qualifying net increases or decreases have occurred
1977 or proper transfers of credit have been made and may require
1978 reports, promulgate regulations, and hold hearings as needed for
1979 substantiation and qualification.

1980 (10) Any tax credit claimed under this section but not used
1981 in any taxable year may be carried forward for five (5) years from
1982 the close of the tax year in which the qualified jobs were
1983 established but the credit established by this section taken in

1984 any one tax year must be limited to an amount not greater than
1985 fifty percent (50%) of the taxpayer's state income tax liability
1986 which is attributable to income derived from operations in the
1987 state for that year.

1988 (11) No business enterprise for the transportation,
1989 handling, storage, processing or disposal of hazardous waste is
1990 eligible to receive the tax credits provided in this section.

1991 (12) The credits allowed under this section shall not be
1992 used by any business enterprise or corporation other than the
1993 business enterprise actually qualifying for the credits.

1994 (13) As used in this section:

1995 (a) "Business enterprises" means entities primarily
1996 engaged in:

1997 (i) Manufacturing, processing, warehousing,
1998 distribution, wholesaling and research and development, or

1999 (ii) Permanent business enterprises designated by
2000 rule and regulation of the Mississippi Development Authority as
2001 air transportation and maintenance facilities, final destination
2002 or resort hotels having a minimum of one hundred fifty (150) guest
2003 rooms, recreational facilities that impact tourism, movie industry
2004 studios, telecommunications enterprises, data or information
2005 processing enterprises or computer software development
2006 enterprises or any technology intensive facility or enterprise.

2007 (b) "Telecommunications enterprises" means entities
2008 engaged in the creation, display, management, storage, processing,
2009 transmission or distribution for compensation of images, text,
2010 voice, video or data by wire or by wireless means, or entities
2011 engaged in the construction, design, development, manufacture,
2012 maintenance or distribution for compensation of devices, products,
2013 software or structures used in the above activities. Companies
2014 organized to do business as commercial broadcast radio stations,
2015 television stations or news organizations primarily serving

2016 in-state markets shall not be included within the definition of
2017 the term "telecommunications enterprises."

2018 (14) The tax credits provided for in this section shall be
2019 in addition to any tax credits described in Sections 57-51-13(b),
2020 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official
2021 action by the Department of Economic Development prior to July 1,
2022 1989, to any business enterprise determined prior to July 1, 1989,
2023 by the Department of Economic Development to be a qualified
2024 business as defined in Section 57-51-5(f) or Section 57-54-5(d) or
2025 a qualified company as described in Section 57-53-1, as the case
2026 may be; however, from and after July 1, 1989, tax credits shall be
2027 allowed only under either this section or Sections 57-51-13(b),
2028 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time
2029 employee.

2030 * * *

2031 **SECTION 44.** Section 57-73-25, Mississippi Code of 1972, is
2032 amended as follows:

2033 57-73-25. (1) A fifty percent (50%) income tax credit shall
2034 be granted to any employer (as defined in subsection (4) of this
2035 section) sponsoring skills training. The fifty percent (50%)
2036 credit shall be granted to employers that participate in
2037 employer-sponsored training programs through any community/junior
2038 college in the district within which the employer is located or
2039 training approved by such community/junior college. The credit is
2040 applied to qualified training expenses, which are expenses related
2041 to instructors, instructional materials and equipment, and the
2042 construction and maintenance of facilities by such employer
2043 designated for training purposes which is attributable to training
2044 provided through such community/junior college or training
2045 approved by such community/junior college. The credits allowed
2046 under this section shall only be used by the actual employer
2047 qualifying for the credits. The credit shall not exceed fifty
2048 percent (50%) of the income tax liability in a tax year and may be

2049 carried forward for the five (5) successive years if the amount
2050 allowable as credit exceeds the income tax liability in a tax
2051 year; however, thereafter, if the amount allowable as a credit
2052 exceeds the tax liability, the amount of excess shall not be
2053 refundable or carried forward to any other taxable year. The
2054 credit authorized under this section shall not exceed Two Thousand
2055 Five Hundred Dollars (\$2,500.00) per employee during any one (1)
2056 year. Nothing in this section shall be interpreted in any manner
2057 as to prevent the continuing operation of state-supported
2058 university programs.

2059 (2) Employer-sponsored training shall include an evaluation
2060 by the local community or junior college that serves the employer
2061 to ensure that the training provided is job related and conforms
2062 to the definition of "skills training" as hereinafter defined.

2063 (3) Employers shall be certified as eligible for the tax
2064 credit by the local community or junior college that serves the
2065 employer and the State Tax Commission.

2066 (4) For the purposes of this section:

2067 (a) "Skills training" means any employer-sponsored
2068 training by an appropriate community/junior college or training
2069 approved by such community/junior college that enhances skills
2070 that improve job performance. If the employer provides
2071 pre-employment training, the portion of the pre-employment
2072 training that involves skills training shall be eligible for the
2073 credit.

2074 (b) "Employer-sponsored training" means training
2075 provided by the appropriate community/junior college in the
2076 district within which the employer is located or training approved
2077 by such community/junior college.

2078 (c) "Employer" means those permanent business
2079 enterprises as defined and set out in Section 57-73-21 * * *.

2080 (5) The tax credits provided for in this section shall be in
2081 addition to all other tax credits heretofore granted by the laws
2082 of the state.

2083 (6) A community/junior college may commit to provide
2084 employer-sponsored skills training programs for an employer for a
2085 multiple number of years, not to exceed five (5) years.

2086 (7) The State Board for Community and Junior Colleges shall
2087 make a report to the Legislature by January 30 of each year
2088 summarizing the number of participants, the junior or community
2089 college through which the training was offered and the type
2090 training offered.

2091 (8) This section shall stand repealed from and after July 1,
2092 2006.

2093 **SECTION 45.** Section 57-10-401, Mississippi Code of 1972, is
2094 amended as follows:

2095 **[In cases involving an economic development project for which**
2096 **the Mississippi Business Finance Corporation has issued bonds for**
2097 **the purpose of financing the approved costs of such project prior**
2098 **to July 1, 1994, this section shall read as follows:]**

2099 57-10-401. As used in Sections 57-10-401 through 57-10-445
2100 the following terms shall have the meanings ascribed to them
2101 herein unless the context clearly indicates otherwise:

2102 (a) "Approved company" means any eligible company
2103 seeking to locate an economic development project in a county,
2104 which eligible company is approved by the corporation.

2105 (b) "Approved costs" means:

2106 (i) Obligations incurred for equipment and labor
2107 and to contractors, subcontractors, builders and materialmen in
2108 connection with the acquisition, construction and installation of
2109 an economic development project;

2110 (ii) The cost of acquiring land or rights in land
2111 and any cost incidental thereto, including recording fees;

2112 (iii) The cost of contract bonds and of insurance
2113 of all kinds that may be required or necessary during the course
2114 of acquisition, construction and installation of an economic
2115 development project which is not paid by the contractor or
2116 contractors or otherwise provided for;

2117 (iv) All costs of architectural and engineering
2118 services, including test borings, surveys, estimates, plans and
2119 specifications, preliminary investigations, and supervision of
2120 construction, as well as for the performance of all the duties
2121 required by or consequent upon the acquisition, construction and
2122 installation of an economic development project;

2123 (v) All costs which shall be required to be paid
2124 under the terms of any contract or contracts for the acquisition,
2125 construction and installation of an economic development project;

2126 (vi) All costs, expenses and fees incurred in
2127 connection with the issuance of bonds pursuant to Sections
2128 57-10-401 through 57-10-445;

2129 (vii) All costs funded by a loan made under the
2130 Mississippi Small Enterprise Development Finance Act; and

2131 (viii) All costs of professionals permitted to be
2132 engaged under the Mississippi Small Enterprise Development Finance
2133 Act for a loan made under such act.

2134 (c) "Assessment" means the job development assessment
2135 fee authorized in Section 57-10-413.

2136 (d) "Bonds" means the revenue bonds, notes or other
2137 debt obligations of the corporation authorized to be issued by the
2138 corporation on behalf of an eligible company or other state
2139 agency.

2140 (e) "Corporation" means the Mississippi Business
2141 Finance Corporation created under Section 57-10-167, Mississippi
2142 Code of 1972.

2143 (f) "Economic development project" means and includes
2144 the acquisition of any equipment or real estate in a county and

2145 the construction and installation thereon, and with respect
2146 thereto, of improvements and facilities necessary or desirable for
2147 improvement of the real estate, including surveys, site tests and
2148 inspections, subsurface site work, excavation, removal of
2149 structures, roadways, cemeteries and other surface obstructions,
2150 filling, grading and provision of drainage, storm water detention,
2151 installation of utilities such as water, sewer, sewage treatment,
2152 gas, electricity, communications and similar facilities, off-site
2153 construction of utility extensions to the boundaries of the real
2154 estate, and the acquisition, construction and installation of
2155 manufacturing, telecommunications, data processing, distribution
2156 or warehouse facilities on the real estate, for lease or financial
2157 arrangement by the corporation to an approved company for use and
2158 occupancy by the approved company or its affiliates for
2159 manufacturing, telecommunications, data processing, distribution
2160 or warehouse purposes. Such term also includes, without
2161 limitation, any project the financing of which has been approved
2162 under the Mississippi Small Enterprise Development Finance Act.

2163 (g) "Eligible company" means any corporation,
2164 partnership, sole proprietorship, business trust, or other entity
2165 which is:

2166 (i) Engaged in manufacturing which meets the
2167 standards promulgated by the corporation under Sections 57-10-401
2168 through 57-10-445;

2169 (ii) A private company approved by the corporation
2170 for a loan under the Mississippi Small Enterprise Development
2171 Finance Act;

2172 (iii) A distribution or warehouse facility
2173 employing a minimum of fifty (50) people or employing a minimum of
2174 twenty (20) people and having a capital investment in such
2175 facility of at least Five Million Dollars (\$5,000,000.00); or

2176 (iv) A telecommunications or data processing
2177 business.

2178 (h) "Executive director" means the Executive Director
2179 of the Mississippi Business Finance Corporation.

2180 (i) "Financing agreement" means any financing documents
2181 and agreements, indentures, loan agreements, lease agreements,
2182 security agreements and the like, entered into by and among the
2183 corporation, private lenders and an approved company with respect
2184 to an economic development project.

2185 (j) "Manufacturing" means any activity involving the
2186 manufacturing, processing, assembling or production of any
2187 property, including the processing resulting in a change in the
2188 conditions of the property and any activity functionally related
2189 thereto, together with the storage, warehousing, distribution and
2190 related office facilities in respect thereof as determined by the
2191 Mississippi Business Finance Corporation; however, in no event
2192 shall "manufacturing" include mining, coal or mineral processing,
2193 or extraction of Mississippi minerals.

2194 (k) "State agency" means any state board, commission,
2195 committee, council, university, department or unit thereof created
2196 by the Constitution or laws of this state.

2197 (l) "Revenues" shall not be considered state funds.

2198 (m) "State" means the State of Mississippi.

2199 (n) "Mississippi Small Enterprise Development Finance
2200 Act" means the provisions of law contained in Section 57-71-1 et
2201 seq.

2202 **[In cases involving an economic development project for which**
2203 **the Mississippi Business Finance Corporation has not issued bonds**
2204 **for the purpose of financing the approved costs of such project**
2205 **prior to July 1, 1994, this section shall read as follows:]**

2206 57-10-401. As used in Sections 57-10-401 through 57-10-445
2207 the following terms shall have the meanings ascribed to them
2208 herein unless the context clearly indicates otherwise:

2209 (a) "Approved company" means any eligible company
2210 seeking to locate an economic development project in a county,
2211 which eligible company is approved by the corporation.

2212 (b) "Approved costs" means:

2213 (i) Obligations incurred for equipment and labor
2214 and to contractors, subcontractors, builders and materialmen in
2215 connection with the acquisition, construction and installation of
2216 an economic development project;

2217 (ii) The cost of acquiring land or rights in land
2218 and any cost incidental thereto, including recording fees;

2219 (iii) The cost of contract bonds and of insurance
2220 of all kinds that may be required or necessary during the course
2221 of acquisition, construction and installation of an economic
2222 development project which is not paid by the contractor or
2223 contractors or otherwise provided for;

2224 (iv) All costs of architectural and engineering
2225 services, including test borings, surveys, estimates, plans and
2226 specifications, preliminary investigations, and supervision of
2227 construction, as well as for the performance of all the duties
2228 required by or consequent upon the acquisition, construction and
2229 installation of an economic development project;

2230 (v) All costs which shall be required to be paid
2231 under the terms of any contract or contracts for the acquisition,
2232 construction and installation of an economic development project;

2233 (vi) All costs, expenses and fees incurred in
2234 connection with the issuance of bonds pursuant to Sections
2235 57-10-401 through 57-10-445;

2236 (vii) All costs funded by a loan made under the
2237 Mississippi Small Enterprise Development Finance Act; and

2238 (viii) All costs of professionals permitted to be
2239 engaged under the Mississippi Small Enterprise Development Finance
2240 Act for a loan made under such act.

2241 (c) "Assessment" means the job development assessment
2242 fee authorized in Section 57-10-413.

2243 (d) "Bonds" means the revenue bonds, notes or other
2244 debt obligations of the corporation authorized to be issued by the
2245 corporation on behalf of an eligible company or other state
2246 agency.

2247 (e) "Corporation" means the Mississippi Business
2248 Finance Corporation created under Section 57-10-167, Mississippi
2249 Code of 1972.

2250 (f) "Economic development project" means and includes
2251 the acquisition of any equipment or real estate in a county and
2252 the construction and installation thereon, and with respect
2253 thereto, of improvements and facilities necessary or desirable for
2254 improvement of the real estate, including surveys, site tests and
2255 inspections, subsurface site work, excavation, removal of
2256 structures, roadways, cemeteries and other surface obstructions,
2257 filling, grading and provision of drainage, storm water detention,
2258 installation of utilities such as water, sewer, sewage treatment,
2259 gas, electricity, communications and similar facilities, off-site
2260 construction of utility extensions to the boundaries of the real
2261 estate, and the acquisition, construction and installation of
2262 manufacturing, telecommunications, data processing, distribution
2263 or warehouse facilities on the real estate, for lease or financial
2264 arrangement by the corporation to an approved company for use and
2265 occupancy by the approved company or its affiliates for
2266 manufacturing, telecommunications, data processing, distribution
2267 or warehouse purposes. Such term also includes, without
2268 limitation, any project the financing of which has been approved
2269 under the Mississippi Small Enterprise Development Finance Act.

2270 If an eligible company closes a facility in this state and
2271 becomes an approved company under the provisions of Sections
2272 57-10-401 through 57-10-449, only that portion of the project for
2273 which such company is attempting to obtain financing that is in

2274 excess of the value of the closed facility shall be included
2275 within the definition of the term "economic development project."
2276 The Mississippi Business Finance Corporation shall promulgate
2277 rules and regulations to govern the determination of the
2278 difference between the value of the closed facility and the new
2279 facility.

2280 (g) "Eligible company" means any corporation,
2281 partnership, sole proprietorship, business trust, or other entity
2282 which:

2283 (i) Engaged in manufacturing which meets the
2284 standards promulgated by the corporation under Sections 57-10-401
2285 through 57-10-445;

2286 (ii) A private company approved by the corporation
2287 for a loan under the Mississippi Small Enterprise Development
2288 Finance Act;

2289 (iii) A distribution or warehouse facility
2290 employing a minimum of fifty (50) people or employing a minimum of
2291 twenty (20) people and having a capital investment in such
2292 facility of at least Five Million Dollars (\$5,000,000.00); * * *

2293 (iv) A telecommunications or data/information
2294 processing business meeting criteria established by the
2295 Mississippi Business Finance Corporation;

2296 (v) National or regional headquarters meeting
2297 criteria established by the Mississippi Business Finance
2298 Corporation;

2299 (vi) Research and development facilities meeting
2300 criteria established by the Mississippi Business Finance
2301 Corporation; or

2302 (vii) Technology intensive enterprises or
2303 facilities meeting criteria established by the Mississippi
2304 Business Finance Corporation.

2305 (h) "Executive director" means the Executive Director
2306 of the Mississippi Business Finance Corporation.

2307 (i) "Financing agreement" means any financing documents
2308 and agreements, indentures, loan agreements, lease agreements,
2309 security agreements and the like, entered into by and among the
2310 corporation, private lenders and an approved company with respect
2311 to an economic development project.

2312 (j) "Manufacturing" means any activity involving the
2313 manufacturing, processing, assembling or production of any
2314 property, including the processing resulting in a change in the
2315 conditions of the property and any activity functionally related
2316 thereto, together with the storage, warehousing, distribution and
2317 related office facilities in respect thereof as determined by the
2318 Mississippi Business Finance Corporation; however, in no event
2319 shall "manufacturing" include mining, coal or mineral processing,
2320 or extraction of Mississippi minerals.

2321 (k) "State agency" means any state board, commission,
2322 committee, council, university, department or unit thereof created
2323 by the Constitution or laws of this state.

2324 (l) "Revenues" shall not be considered state funds.

2325 (m) "State" means the State of Mississippi.

2326 (n) "Mississippi Small Enterprise Development Finance
2327 Act" means the provisions of law contained in Section 57-71-1 et
2328 seq.

2329 **SECTION 46.** Section 57-62-5, Mississippi Code of 1972, is
2330 amended as follows:

2331 **[For businesses or industries that received or applied for**
2332 **incentive payments prior to July 1, 2005, this section shall read**
2333 **as follows:]**

2334 57-62-5. As used in this chapter, the following words and
2335 phrases shall have the meanings ascribed in this section unless
2336 the context clearly indicates otherwise:

2337 (a) "Qualified business or industry" means any
2338 corporation, limited liability company, partnership, sole
2339 proprietorship, business trust or other legal entity and subunits

2340 or affiliates thereof, pursuant to rules and regulations of the
2341 MDA, which provides an average annual salary, excluding benefits
2342 which are not subject to Mississippi income taxes, of at least one
2343 hundred twenty-five percent (125%) of the most recently published
2344 state average annual wage or the most recently published average
2345 annual wage of the county in which the qualified business or
2346 industry is located as determined by the Mississippi Department of
2347 Employment Security, whichever is the lesser. An establishment
2348 shall not be considered to be a qualified business or industry
2349 unless it offers, or will offer within one hundred eighty (180)
2350 days of the date it receives the first incentive payment pursuant
2351 to the provisions of this chapter, a basic health benefits plan to
2352 the individuals it employs in new direct jobs in this state which
2353 is approved by the MDA. Qualified business or industry does not
2354 include retail business or gaming business;

2355 (b) "New direct job" means full-time employment in this
2356 state in a qualified business or industry that has qualified to
2357 receive an incentive payment pursuant to this chapter, which
2358 employment did not exist in this state before the date of approval
2359 by the MDA of the application of the qualified business or
2360 industry pursuant to the provisions of this chapter. "New direct
2361 job" shall include full-time employment in this state of employees
2362 who are employed by an entity other than the establishment that
2363 has qualified to receive an incentive payment and who are leased
2364 to the qualified business or industry, if such employment did not
2365 exist in this state before the date of approval by the MDA of the
2366 application of the establishment;

2367 (c) "Full-time job" means a job of at least thirty-five
2368 (35) hours per week;

2369 (d) "Estimated direct state benefits" means the tax
2370 revenues projected by the MDA to accrue to the state as a result
2371 of the qualified business or industry;

2372 (e) "Estimated direct state costs" means the costs
2373 projected by the MDA to accrue to the state as a result of the
2374 qualified business or industry;

2375 (f) "Estimated net direct state benefits" means the
2376 estimated direct state benefits less the estimated direct state
2377 costs;

2378 (g) "Net benefit rate" means the estimated net direct
2379 state benefits computed as a percentage of gross payroll, provided
2380 that:

2381 (i) Except as otherwise provided in this paragraph
2382 (g), the net benefit rate may be variable and shall not exceed
2383 four percent (4%) of the gross payroll; and shall be set in the
2384 sole discretion of the MDA;

2385 (ii) In no event shall incentive payments,
2386 cumulatively, exceed the estimated net direct state benefits;

2387 (h) "Gross payroll" means wages for new direct jobs of
2388 the qualified business or industry; and

2389 (i) "MDA" means the Mississippi Development Authority.

2390 **[For businesses or industries that apply for incentive**
2391 **payments from and after July 1, 2005, this section shall read as**
2392 **follows:]**

2393 57-62-5. As used in this chapter, the following words and
2394 phrases shall have the meanings ascribed in this section unless
2395 the context clearly indicates otherwise:

2396 (a) "Qualified business or industry" means any
2397 corporation, limited liability company, partnership, sole
2398 proprietorship, business trust or other legal entity and subunits
2399 or affiliates thereof, pursuant to rules and regulations of the
2400 MDA, which:

2401 (i) Is a data/information processing enterprise
2402 meeting minimum criteria established by the MDA that provides an
2403 average annual salary, excluding benefits which are not subject to
2404 Mississippi income taxes, of at least one hundred percent (100%)

2405 of the most recently published state average annual wage or the
2406 most recently published average annual wage of the county in which
2407 the qualified business or industry is located as determined by the
2408 Mississippi Department of Employment Security, whichever is the
2409 lesser, and creates not less than two hundred (200) new direct
2410 jobs if the enterprise is located in a Tier One or Tier Two area
2411 (as such areas are designated in accordance with Section
2412 57-73-21), or which creates not less than one hundred (100) new
2413 jobs if the enterprise is located in a Tier Three area (as such
2414 areas are designated in accordance with Section 57-73-21);

2415 (ii)_ Is a manufacturing or distribution enterprise
2416 meeting minimum criteria established by the MDA that provides an
2417 average annual salary, excluding benefits which are not subject to
2418 Mississippi income taxes, of at least one hundred ten percent
2419 (110%) of the most recently published state average annual wage or
2420 the most recently published average annual wage of the county in
2421 which the qualified business or industry is located as determined
2422 by the Mississippi Department of Employment Security, whichever is
2423 the lesser, invests not less than Twenty Million Dollars
2424 (\$20,000,000.00) in land, buildings and equipment, and creates not
2425 less than fifty (50) new direct jobs if the enterprise is located
2426 in a Tier One or Tier Two area (as such areas are designated in
2427 accordance with Section 57-73-21), or which creates not less than
2428 twenty (20) new jobs if the enterprise is located in a Tier Three
2429 area (as such areas are designated in accordance with Section
2430 57-73-21);

2431 (iii)_ Is a corporation, limited liability company,
2432 partnership, sole proprietorship, business trust or other legal
2433 entity and subunits or affiliates thereof, pursuant to rules and
2434 regulations of the MDA, which provides an average annual salary,
2435 excluding benefits which are not subject to Mississippi income
2436 taxes, of at least one hundred twenty-five percent (125%) of the
2437 most recently published state average annual wage or the most

2438 recently published average annual wage of the county in which the
2439 qualified business or industry is located as determined by the
2440 Mississippi Department of Employment Security, whichever is the
2441 lesser. An establishment shall not be considered to be a
2442 qualified business or industry unless it offers, or will offer
2443 within one hundred eighty (180) days of the date it receives the
2444 first incentive payment pursuant to the provisions of this
2445 chapter, a basic health benefits plan to the individuals it
2446 employs in new direct jobs in this state which is approved by the
2447 MDA. Qualified business or industry does not include retail
2448 business or gaming business; or

2449 (iv) Is a research and development or a technology
2450 intensive enterprise meeting minimum criteria established by the
2451 MDA that provides an average annual salary, excluding benefits
2452 which are not subject to Mississippi income taxes, of at least one
2453 hundred fifty percent (150%) of the most recently published state
2454 average annual wage or the most recently published average annual
2455 wage of the county in which the qualified business or industry is
2456 located as determined by the Mississippi Department of Employment
2457 Security, whichever is the lesser, and creates not less than ten
2458 (10) new direct jobs.

2459 An establishment shall not be considered to be a qualified
2460 business or industry unless it offers, or will offer within one
2461 hundred eighty (180) days of the date it receives the first
2462 incentive payment pursuant to the provisions of this chapter, a
2463 basic health benefits plan to the individuals it employs in new
2464 direct jobs in this state which is approved by the MDA. Qualified
2465 business or industry does not include retail business or gaming
2466 business.

2467 (b) "New direct job" means full-time employment in this
2468 state in a qualified business or industry that has qualified to
2469 receive an incentive payment pursuant to this chapter, which
2470 employment did not exist in this state before the date of approval

2471 by the MDA of the application of the qualified business or
2472 industry pursuant to the provisions of this chapter. "New direct
2473 job" shall include full-time employment in this state of employees
2474 who are employed by an entity other than the establishment that
2475 has qualified to receive an incentive payment and who are leased
2476 to the qualified business or industry, if such employment did not
2477 exist in this state before the date of approval by the MDA of the
2478 application of the establishment.

2479 (c) "Full-time job" or "full-time employment" means a
2480 job of at least thirty-five (35) hours per week.

2481 (d) "Estimated direct state benefits" means the tax
2482 revenues projected by the MDA to accrue to the state as a result
2483 of the qualified business or industry.

2484 (e) "Estimated direct state costs" means the costs
2485 projected by the MDA to accrue to the state as a result of the
2486 qualified business or industry.

2487 (f) "Estimated net direct state benefits" means the
2488 estimated direct state benefits less the estimated direct state
2489 costs.

2490 (g) "Net benefit rate" means the estimated net direct
2491 state benefits computed as a percentage of gross payroll, provided
2492 that:

2493 (i) Except as otherwise provided in this paragraph
2494 (g), the net benefit rate may be variable and shall not exceed
2495 four percent (4%) of the gross payroll; and shall be set in the
2496 sole discretion of the MDA;

2497 (ii) In no event shall incentive payments,
2498 cumulatively, exceed the estimated net direct state benefits.

2499 (h) "Gross payroll" means wages for new direct jobs of
2500 the qualified business or industry.

2501 (i) "MDA" means the Mississippi Development Authority.

2502 **SECTION 47.** Section 57-62-9, Mississippi Code of 1972, is
2503 amended as follows:

2504 [For businesses or industries that received or applied for
2505 incentive payments prior to July 1, 2005, this section shall read
2506 as follows:]

2507 57-62-9. (1) Except as otherwise provided in this section,
2508 a qualified business or industry that meets the qualifications
2509 specified in the Mississippi Advantage Jobs Act may receive
2510 quarterly incentive payments for a period not to exceed ten (10)
2511 years from the State Tax Commission pursuant to the provisions of
2512 the Mississippi Advantage Jobs Act in an amount which shall be
2513 equal to the net benefit rate multiplied by the actual gross
2514 payroll of new direct jobs for a calendar quarter as verified by
2515 the Mississippi Department of Employment Security, but not to
2516 exceed the amount of money previously paid into the fund by the
2517 employer. A qualified business or industry that is a project as
2518 defined in Section 57-75-5(f)(iv)1 may elect the date upon which
2519 the ten-year period will begin. Such date may not be later than
2520 sixty (60) months after the date the business or industry applied
2521 for incentive payments.

2522 (2) (a) A qualified business or industry that is a project
2523 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to
2524 receive incentive payments for an additional period not to exceed
2525 five (5) years beyond the expiration date of the initial ten-year
2526 period if:

2527 (i) The qualified business or industry creates at
2528 least three thousand (3,000) new direct jobs within five (5) years
2529 after the date the business or industry commences commercial
2530 production;

2531 (ii) Within five (5) years after the date the
2532 business or industry commences commercial production, the average
2533 annual wage of the jobs is at least one hundred fifty percent
2534 (150%) of the most recently published state average annual wage or
2535 the most recently published average annual wage of the county in
2536 which the qualified business or industry is located as determined

2537 by the Mississippi Department of Employment Security, whichever is
2538 the lesser. The criteria for the average annual wage requirement
2539 shall be based upon the state average annual wage or the average
2540 annual wage of the county whichever is appropriate, at the time of
2541 creation of the minimum number of jobs, and the threshold
2542 established at that time will remain constant for the duration of
2543 the additional period; and

2544 (iii) The qualified business or industry meets and
2545 maintains the job and wage requirements of subparagraphs (i) and
2546 (ii) of this paragraph (a) for four (4) consecutive calendar
2547 quarters.

2548 (b) A qualified business or industry that is a project
2549 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
2550 incentive payments for the additional period provided in paragraph
2551 (a) of this subsection (2) may apply to the MDA to receive
2552 incentive payments for an additional period not to exceed ten (10)
2553 years beyond the expiration date of the additional period provided
2554 in paragraph (a) of this subsection (2) if:

2555 (i) The qualified business or industry creates at
2556 least four thousand (4,000) new direct jobs after qualifying for
2557 the additional incentive period provided in paragraph (a) of this
2558 subsection (2) but before the expiration of the additional period.
2559 For purposes of determining whether the business or industry meets
2560 the minimum jobs requirement of this subparagraph (i), the number
2561 of jobs the business or industry created in order to meet the
2562 minimum jobs requirement of paragraph (a) of this subsection (2)
2563 shall be subtracted from the minimum jobs requirement of this
2564 subparagraph (i);

2565 (ii) The average annual wage of the jobs is at
2566 least one hundred fifty percent (150%) of the most recently
2567 published state average annual wage or the most recently published
2568 average annual wage of the county in which the qualified business
2569 or industry is located as determined by the Mississippi Department

2570 of Employment Security, whichever is the lesser. The criteria for
2571 the average annual wage requirement shall be based upon the state
2572 average annual wage or the average annual wage of the county
2573 whichever is appropriate, at the time of creation of the minimum
2574 number of jobs, and the threshold established at that time will
2575 remain constant for the duration of the additional period; and

2576 (iii) The qualified business or industry meets and
2577 maintains the job and wage requirements of subparagraphs (i) and
2578 (ii) of this paragraph (b) for four (4) consecutive calendar
2579 quarters.

2580 (3) In order to receive incentive payments, an establishment
2581 shall apply to the MDA. The application shall be on a form
2582 prescribed by the MDA and shall contain such information as may be
2583 required by the MDA to determine if the applicant is qualified.

2584 (4) In order to qualify to receive such payments, the
2585 establishment applying shall be required to:

2586 (a) Be engaged in a qualified business or industry;

2587 (b) Provide an average salary, excluding benefits which
2588 are not subject to Mississippi income taxes, of at least one
2589 hundred twenty-five percent (125%) of the most recently published
2590 state average annual wage or the most recently published average
2591 annual wage of the county in which the qualified business or
2592 industry is located as determined by the Mississippi Department of
2593 Employment Security, whichever is the lesser. The criteria for
2594 this requirement shall be based upon the state average annual wage
2595 or the average annual wage of the county whichever is appropriate,
2596 at the time of application, and the threshold established upon
2597 application will remain constant for the duration of the project;

2598 (c) The business or industry must create and maintain a
2599 minimum of ten (10) full-time jobs in counties that have an
2600 average unemployment rate over the previous twelve-month period
2601 which is at least one hundred fifty percent (150%) of the most
2602 recently published state unemployment rate, as determined by the

2603 Mississippi Department of Employment Security or in Tier Three
2604 counties as determined under Section 57-73-21. In all other
2605 counties, the business or industry must create and maintain a
2606 minimum of twenty-five (25) full-time jobs. The criteria for this
2607 requirement shall be based on the designation of the county at the
2608 time of the application. The threshold established upon the
2609 application will remain constant for the duration of the project.
2610 The business or industry must meet its job creation commitment
2611 within twenty-four (24) months of the application approval.
2612 However, if the qualified business or industry is applying for
2613 incentive payments for an additional period under subsection (2)
2614 of this section, the business or industry must comply with the
2615 applicable job and wage requirements of subsection (2) of this
2616 section.

2617 (5) The MDA shall determine if the applicant is qualified to
2618 receive incentive payments. If the applicant is determined to be
2619 qualified by the MDA, the MDA shall conduct a cost/benefit
2620 analysis to determine the estimated net direct state benefits and
2621 the net benefit rate applicable for a period not to exceed ten
2622 (10) years and to estimate the amount of gross payroll for the
2623 period. If the applicant is determined to be qualified to receive
2624 incentive payments for an additional period under subsection (2)
2625 of this section, the MDA shall conduct a cost/benefit analysis to
2626 determine the estimated net direct state benefits and the net
2627 benefit rate applicable for the appropriate additional period and
2628 to estimate the amount of gross payroll for the additional period.
2629 In conducting such cost/benefit analysis, the MDA shall consider
2630 quantitative factors, such as the anticipated level of new tax
2631 revenues to the state along with the cost to the state of the
2632 qualified business or industry, and such other criteria as deemed
2633 appropriate by the MDA, including the adequacy of retirement
2634 benefits that the business or industry provides to individuals it
2635 employs in new direct jobs in this state. In no event shall

2636 incentive payments, cumulatively, exceed the estimated net direct
2637 state benefits. Once the qualified business or industry is
2638 approved by the MDA, an agreement shall be deemed to exist between
2639 the qualified business or industry and the State of Mississippi,
2640 requiring the continued incentive payment to be made as long as
2641 the qualified business or industry retains its eligibility.

2642 (6) Upon approval of such an application, the MDA shall
2643 notify the State Tax Commission and shall provide it with a copy
2644 of the approved application and the estimated net direct state
2645 benefits. The State Tax Commission may require the qualified
2646 business or industry to submit such additional information as may
2647 be necessary to administer the provisions of this chapter. The
2648 qualified business or industry shall report to the State Tax
2649 Commission periodically to show its continued eligibility for
2650 incentive payments. The qualified business or industry may be
2651 audited by the State Tax Commission to verify such eligibility.

2652 **[For businesses or industries that apply for incentive**
2653 **payments from and after July 1, 2005, this section shall read as**
2654 **follows:]**

2655 57-62-9. (1) (a) Except as otherwise provided in this
2656 section, a qualified business or industry that meets the
2657 qualifications specified in the Mississippi Advantage Jobs Act may
2658 receive quarterly incentive payments for a period not to exceed
2659 ten (10) years from the State Tax Commission pursuant to the
2660 provisions of the Mississippi Advantage Jobs Act in an amount
2661 which shall be equal to the net benefit rate multiplied by the
2662 actual gross payroll of new direct jobs for a calendar quarter as
2663 verified by the Mississippi Department of Employment Security, but
2664 not to exceed:

2665 (i) Ninety percent (90%) of the amount of money
2666 previously paid into the fund by the employer if the employer
2667 provides an average annual salary, excluding benefits which are
2668 not subject to Mississippi income taxes, of at least one hundred

2669 seventy-five percent (175%) of the most recently published state
2670 average annual wage or the most recently published average annual
2671 wage of the county in which the qualified business or industry is
2672 located as determined by the Mississippi Department of Employment
2673 Security, whichever is the lesser;

2674 (ii) Eighty percent (80%) of the amount of money
2675 previously paid into the fund by the employer if the employer
2676 provides an average annual salary, excluding benefits which are
2677 not subject to Mississippi income taxes, of at least one hundred
2678 twenty-five percent (125%) but less than one hundred seventy-five
2679 percent (175%) of the most recently published state average annual
2680 wage or the most recently published average annual wage of the
2681 county in which the qualified business or industry is located as
2682 determined by the Mississippi Department of Employment Security,
2683 whichever is the lesser; or

2684 (iii) Seventy percent (70%) of the amount of money
2685 previously paid into the fund by the employer if the employer
2686 provides an average annual salary, excluding benefits which are
2687 not subject to Mississippi income taxes, of less than one hundred
2688 twenty-five percent (125%) of the most recently published state
2689 average annual wage or the most recently published average annual
2690 wage of the county in which the qualified business or industry is
2691 located as determined by the Mississippi Department of Employment
2692 Security, whichever is the lesser.

2693 (b) A qualified business or industry that is a project
2694 as defined in Section 57-75-5(f)(iv)1 may elect the date upon
2695 which the ten-year period will begin. Such date may not be later
2696 than sixty (60) months after the date the business or industry
2697 applied for incentive payments.

2698 (2) (a) A qualified business or industry that is a project
2699 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to
2700 receive incentive payments for an additional period not to exceed

2701 five (5) years beyond the expiration date of the initial ten-year
2702 period if:

2703 (i) The qualified business or industry creates at
2704 least three thousand (3,000) new direct jobs within five (5) years
2705 after the date the business or industry commences commercial
2706 production;

2707 (ii) Within five (5) years after the date the
2708 business or industry commences commercial production, the average
2709 annual wage of the jobs is at least one hundred fifty percent
2710 (150%) of the most recently published state average annual wage or
2711 the most recently published average annual wage of the county in
2712 which the qualified business or industry is located as determined
2713 by the Mississippi Department of Employment Security, whichever is
2714 the lesser. The criteria for the average annual wage requirement
2715 shall be based upon the state average annual wage or the average
2716 annual wage of the county whichever is appropriate, at the time of
2717 creation of the minimum number of jobs, and the threshold
2718 established at that time will remain constant for the duration of
2719 the additional period; and

2720 (iii) The qualified business or industry meets and
2721 maintains the job and wage requirements of subparagraphs (i) and
2722 (ii) of this paragraph (a) for four (4) consecutive calendar
2723 quarters.

2724 (b) A qualified business or industry that is a project
2725 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
2726 incentive payments for the additional period provided in paragraph
2727 (a) of this subsection (2) may apply to the MDA to receive
2728 incentive payments for an additional period not to exceed ten (10)
2729 years beyond the expiration date of the additional period provided
2730 in paragraph (a) of this subsection (2) if:

2731 (i) The qualified business or industry creates at
2732 least four thousand (4,000) new direct jobs after qualifying for
2733 the additional incentive period provided in paragraph (a) of this

2734 subsection (2) but before the expiration of the additional period.
2735 For purposes of determining whether the business or industry meets
2736 the minimum jobs requirement of this subparagraph (i), the number
2737 of jobs the business or industry created in order to meet the
2738 minimum jobs requirement of paragraph (a) of this subsection (2)
2739 shall be subtracted from the minimum jobs requirement of this
2740 subparagraph (i);

2741 (ii) The average annual wage of the jobs is at
2742 least one hundred fifty percent (150%) of the most recently
2743 published state average annual wage or the most recently published
2744 average annual wage of the county in which the qualified business
2745 or industry is located as determined by the Mississippi Department
2746 of Employment Security, whichever is the lesser. The criteria for
2747 the average annual wage requirement shall be based upon the state
2748 average annual wage or the average annual wage of the county
2749 whichever is appropriate, at the time of creation of the minimum
2750 number of jobs, and the threshold established at that time will
2751 remain constant for the duration of the additional period; and

2752 (iii) The qualified business or industry meets and
2753 maintains the job and wage requirements of subparagraphs (i) and
2754 (ii) of this paragraph (b) for four (4) consecutive calendar
2755 quarters.

2756 (3) In order to receive incentive payments, an establishment
2757 shall apply to the MDA. The application shall be on a form
2758 prescribed by the MDA and shall contain such information as may be
2759 required by the MDA to determine if the applicant is qualified.

2760 (4) (a) In order to qualify to receive such payments, the
2761 establishment applying shall be required to meet the definition of
2762 the term "qualified business or industry";

2763 (b) * * * The criteria for the average annual salary
2764 requirement shall be based upon the state average annual wage or
2765 the average annual wage of the county whichever is appropriate, at

2766 the time of application, and the threshold established upon
2767 application will remain constant for the duration of the project;

2768 (c) * * * The business or industry must meet its job
2769 creation commitment within twenty-four (24) months of the
2770 application approval. However, if the qualified business or
2771 industry is applying for incentive payments for an additional
2772 period under subsection (2) of this section, the business or
2773 industry must comply with the applicable job and wage requirements
2774 of subsection (2) of this section.

2775 (5) (a) The MDA shall determine if the applicant is
2776 qualified to receive incentive payments. If the applicant is
2777 determined to be qualified by the MDA, the MDA shall:

2778 (i) Conduct a cost/benefit analysis to determine
2779 the estimated net direct state benefits and the net benefit rate
2780 applicable for a period not to exceed ten (10) years and to
2781 estimate the amount of gross payroll for the period; and

2782 (ii) Require the applicant to execute a
2783 performance agreement with the MDA that specifies the manner in
2784 which the applicant will utilize the incentive payments made to it
2785 under this chapter.

2786 (b) If the applicant is determined to be qualified to
2787 receive incentive payments for an additional period under
2788 subsection (2) of this section, the MDA shall conduct a
2789 cost/benefit analysis to determine the estimated net direct state
2790 benefits and the net benefit rate applicable for the appropriate
2791 additional period and to estimate the amount of gross payroll for
2792 the additional period. In conducting such cost/benefit analysis,
2793 the MDA shall consider quantitative factors, such as the
2794 anticipated level of new tax revenues to the state along with the
2795 cost to the state of the qualified business or industry, and such
2796 other criteria as deemed appropriate by the MDA, including the
2797 adequacy of retirement benefits that the business or industry
2798 provides to individuals it employs in new direct jobs in this

2799 state. In no event shall incentive payments, cumulatively, exceed
2800 the estimated net direct state benefits. Once the qualified
2801 business or industry is approved by the MDA, an agreement shall be
2802 deemed to exist between the qualified business or industry and the
2803 State of Mississippi, requiring the continued incentive payment to
2804 be made as long as the qualified business or industry retains its
2805 eligibility.

2806 (6) Upon approval of such an application, the MDA shall
2807 notify the State Tax Commission and shall provide it with a copy
2808 of the approved application and the estimated net direct state
2809 benefits. The State Tax Commission may require the qualified
2810 business or industry to submit such additional information as may
2811 be necessary to administer the provisions of this chapter. The
2812 qualified business or industry shall report to the State Tax
2813 Commission periodically to show its continued eligibility for
2814 incentive payments. The qualified business or industry may be
2815 audited by the State Tax Commission to verify such eligibility.

2816 **SECTION 48.** Section 57-62-13, Mississippi Code of 1972, is
2817 amended as follows:

2818 57-62-13. (1) As soon as practicable after the end of a
2819 calendar quarter for which a qualified business or industry has
2820 qualified to receive an incentive payment, the qualified business
2821 or industry shall file a claim for the payment with the State Tax
2822 Commission and shall specify the actual number of new direct jobs
2823 created and maintained by the business or industry for the
2824 calendar quarter and the gross payroll thereof. The State Tax
2825 Commission shall verify the actual number of new direct jobs
2826 created and maintained by the business or industry and compliance
2827 with the average annual wage requirements for such business or
2828 industry under this chapter. If the qualified business or
2829 industry files a claim for an incentive payment during an
2830 additional incentive period provided under Section 57-62-9(2), the
2831 State Tax Commission shall verify the actual number of new direct

2832 jobs created and maintained by the business or industry and
2833 compliance with the average annual wage requirements for such
2834 business or industry under this chapter. If the State Tax
2835 Commission is not able to provide such verification utilizing all
2836 available resources, the State Tax Commission may request such
2837 additional information from the business or industry as may be
2838 necessary.

2839 (2) (a) The business or industry must meet the salary and
2840 job requirements of this chapter for four (4) consecutive calendar
2841 quarters prior to payment of the first incentive payment. If the
2842 business or industry does not maintain the salary or job
2843 requirements of this chapter at any other time during the ten-year
2844 period after the date the first payment was made, the incentive
2845 payments shall not be made and shall not be resumed until such
2846 time as the actual verified number of new direct jobs created and
2847 maintained by the business or industry equals or exceeds the
2848 requirements of this chapter for one (1) calendar quarter.

2849 (b) If the business or industry is qualified to receive
2850 incentive payments for an additional period provided under Section
2851 57-62-9(2), the business or industry must meet the wage and job
2852 requirements of Section 57-62-9(2), for four (4) consecutive
2853 calendar quarters prior to payment of the first incentive payment.
2854 If the business or industry does not maintain the wage or job
2855 requirements of Section 57-62-9(2), at any other time during the
2856 appropriate additional period after the date the first payment was
2857 made, the incentive payments shall not be made and shall not be
2858 resumed until such time as the actual verified number of new
2859 direct jobs created and maintained by the business or industry
2860 equals or exceeds the amounts specified in Section 57-62-9(2), for
2861 one (1) calendar quarter.

2862 (3) An establishment that has qualified pursuant to this
2863 chapter may receive payments only in accordance with the provision
2864 under which it initially applied and was approved. If an

2865 establishment that is receiving incentive payments expands, it may
2866 apply for additional incentive payments based on the new gross
2867 payroll for new direct jobs anticipated from the expansion only,
2868 pursuant to this chapter.

2869 (4) As soon as practicable after verification of the
2870 qualified business or industry meeting the requirements of this
2871 chapter and all rules and regulations, the Department of Finance
2872 and Administration, upon requisition of the State Tax Commission,
2873 shall issue a warrant drawn on the Mississippi Advantage Jobs
2874 Incentive Payment Fund to the establishment in the amount of the
2875 net benefit rate multiplied by the actual gross payroll as
2876 determined pursuant to subsection (1) of this section for the
2877 calendar quarter.

2878 **SECTION 49.** Section 38 of this act shall take effect and be
2879 in force from and after January 1, 2005, and the remainder of this
2880 act shall take effect and be in force from and after July 1, 2005.