

By: Senator(s) Robertson,
Albritton, Brown, Browning,
Butler, Carmichael, Clarke,
Davis, Dearing, Doxey, Flowers,
Gordon, Harvey, Huggins, Hyde-
Smith, Jackson (11th), King,
Kirby, Little, Michel, Moffatt,
Morgan, Nunnelee, Pickering,
Posey, Ross, Thames, Walley

To: Finance

SENATE BILL NO. 2001

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 Senate Bill No. 2001, 2005 Second Extraordinary Session.
208 Upon 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 Senate Bill No. 2001,
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 (1) 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 Senate Bill No.
308 2001, 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 (1) 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 or entities
604 with a twenty percent (20%) or greater interest in the business or
605 industry; and

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

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

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

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

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

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

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

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

640 57-61-25. (1) The seller is authorized to borrow, on the
641 credit of the state upon receipt of a resolution from the
642 Mississippi Development Authority requesting the same, money not
643 exceeding the aggregate sum of Three Hundred Six Million Dollars
644 (\$306,000,000.00), not including money borrowed to refund
645 outstanding bonds, notes or replacement notes, as may be necessary
646 to carry out the purposes of this chapter. The rate of interest
647 on any such bonds or notes which are not subject to taxation shall
648 not exceed the rates set forth in Section 75-17-101, Mississippi
649 Code of 1972, for general obligation bonds.

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

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

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

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

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

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

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

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

705 administrative costs for unrelated programs or projects.
706 Reimbursements under this subsection shall satisfy any applicable
707 federal tax law requirements.

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

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

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

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

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

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

736 (2) Notwithstanding any provision of this chapter to the
737 contrary, the Mississippi Development Authority may utilize not

738 more than Seven Million Dollars (\$7,000,000.00) out of the
739 proceeds of bonds authorized to be issued in this chapter for the
740 purpose of making interest-bearing loans to any agency,
741 department, institution, instrumentality or political subdivision
742 of the state; or any agency, department, institution or
743 instrumentality of any political subdivision of the state; or any
744 business, organization, corporation, association or other legal
745 entity meeting criteria established by the department, through a
746 housing development revolving loan fund, to construct or repair
747 housing for low or moderate income earners; provided, however,
748 that the department may not utilize any bond proceeds authorized
749 under this chapter for the purpose of making any loans to the
750 Mississippi Home Corporation for any purpose whatsoever. No more
751 than forty percent (40%) of the additional bonds authorized by
752 Chapter 559, Laws of 1998, may be used for multiple family housing
753 activities. Funds authorized under this subsection may be
754 deposited in the Mississippi Affordable Housing Development Fund
755 authorized in Section 43-33-759 and used for purposes authorized
756 by that section. This subsection (2) shall be repealed from and
757 after July 1, 2006.

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

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

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

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

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

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

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

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

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

837 community development block grant funds. The maximum amount of
838 assistance that may be provided to a municipality under this
839 subsection shall not exceed Seventy-five Thousand Dollars
840 (\$75,000.00) in the aggregate.

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

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

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

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

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

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

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

865 (4) The maximum credit that may be claimed by a taxpayer on
866 any project shall be limited to One Million Dollars
867 (\$1,000,000.00).

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

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

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

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

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

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

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

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

930 * * *

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

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

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

948 (a) Warehouse and/or distribution centers;

949 (b) Manufacturing, processors and refineries;

950 (c) Research facilities;

951 (d) Corporate regional and national headquarters

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

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

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

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

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

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

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

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

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

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

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

1000 (i) Self-propelled, or * * *

1001 (ii) Mounted so that it is * * * permanently
1002 attached to other equipment which is self-propelled or * * *
1003 permanently attached to other equipment drawn by a vehicle which
1004 is self-propelled.

1005 (d) Except as otherwise provided in subsection (3) of
1006 this section, retail sales of aircraft, automobiles, trucks,
1007 truck-tractors, semitrailers and mobile homes shall be taxed at
1008 the rate of three percent (3%).

1009 (e) Sales of manufacturing machinery or manufacturing
1010 machine parts when made to a manufacturer or custom processor for
1011 plant use only when the machinery and machine parts will be used
1012 exclusively and directly within this state in manufacturing a
1013 commodity for sale, rental or in processing for a fee shall be
1014 taxed at the rate of one and one-half percent (1-1/2%).

1015 (f) Sales of machinery and machine parts when made to a
1016 technology intensive enterprise for plant use only when the
1017 machinery and machine parts will be used exclusively and directly
1018 within this state for industrial purposes, including, but not
1019 limited to, manufacturing or research and development activities,
1020 shall be taxed at the rate of one and one-half percent (1-1/2%).
1021 In order to be considered a technology intensive enterprise for
1022 purposes of this paragraph:

1023 (i) The enterprise shall meet minimum criteria
1024 established by the Mississippi Development Authority;

1025 (ii) The enterprise shall employ at least ten (10)
1026 persons in full-time jobs;

1027 (iii) At least ten percent (10%) of the workforce
1028 in the facility operated by the enterprise shall be scientists,
1029 engineers or computer specialists;

1030 (iv) The enterprise shall manufacture plastics,
1031 chemicals, automobiles, aircraft, computers or electronics; or
1032 shall be a research and development facility, a computer design or
1033 related facility, or a software publishing facility or other

1034 technology intensive facility or enterprise as determined by the
1035 Mississippi Development Authority;

1036 (v) The average wage of all workers employed by
1037 the enterprise at the facility shall be at least one hundred fifty
1038 percent (150%) of the state average annual wage; and

1039 (vi) The enterprise must provide a basic health
1040 care plan to all employees at the facility.

1041 (g) Sales of materials for use in track and track
1042 structures to a railroad whose rates are fixed by the Interstate
1043 Commerce Commission or the Mississippi Public Service Commission
1044 shall be taxed at the rate of three percent (3%).

1045 (h) Sales of tangible personal property to electric
1046 power associations for use in the ordinary and necessary operation
1047 of their generating or distribution systems shall be taxed at the
1048 rate of one percent (1%).

1049 (i) Wholesale sales of beer shall be taxed at the rate
1050 of seven percent (7%), and the retailer shall file a return and
1051 compute the retail tax on retail sales but may take credit for the
1052 amount of the tax paid to the wholesaler on said return covering
1053 the subsequent sales of same property, provided adequate invoices
1054 and records are maintained to substantiate the credit.

1055 (j) Wholesale sales of food and drink for human
1056 consumption to full service vending machine operators to be sold
1057 through vending machines located apart from and not connected with
1058 other taxable businesses shall be taxed at the rate of eight
1059 percent (8%).

1060 * * *

1061 (k) Sales of equipment used or designed for the purpose
1062 of assisting disabled persons, such as wheelchair equipment and
1063 lifts, that is mounted or attached to or installed on a private
1064 carrier of passengers or light carrier of property, as defined in
1065 Section 27-51-101, at the time when the private carrier of

1066 passengers or light carrier of property is sold shall be taxed at
1067 the same rate as the sale of such vehicles under this section.

1068 (2) From and after January 1, 1995, retail sales of private
1069 carriers of passengers and light carriers of property, as defined
1070 in Section 27-51-101, shall be taxed an additional two percent
1071 (2%).

1072 (3) In lieu of the tax levied in subsection (1) of this
1073 section, there is levied on retail sales of truck-tractors and
1074 semitrailers used in interstate commerce and registered under the
1075 International Registration Plan (IRP) or any similar reciprocity
1076 agreement or compact relating to the proportional registration of
1077 commercial vehicles entered into as provided for in Section
1078 27-19-143, a tax at the rate of three percent (3%) of the portion
1079 of the sale that is attributable to the usage of such
1080 truck-tractor or semitrailer in Mississippi. The portion of the
1081 retail sale that is attributable to the usage of such
1082 truck-tractor or semitrailer in Mississippi is the retail sales
1083 price of the truck-tractor or semitrailer multiplied by the
1084 percentage of the total miles traveled by the vehicle that are
1085 traveled in Mississippi. The tax levied pursuant to this
1086 subsection (3) shall be collected by the State Tax Commission from
1087 the purchaser of such truck-tractor or semitrailer at the time of
1088 registration of such truck-tractor or semitrailer.

1089 (4) A manufacturer selling at retail in this state shall be
1090 required to make returns of the gross proceeds of such sales and
1091 pay the tax imposed in this section.

1092 (5) Any person exercising any privilege taxable under
1093 Section 27-65-15 and selling his natural resource products at
1094 wholesale or to exempt persons shall pay the tax levied by said
1095 section in lieu of the tax levied by this section.

1096 **SECTION 41.** Section 27-65-19, Mississippi Code of 1972, is
1097 amended as follows:

1098 27-65-19. (1) (a) Except as otherwise provided in this
1099 subsection, upon every person selling to consumers, electricity,
1100 current, power, potable water, steam, coal, natural gas, liquefied
1101 petroleum gas or other fuel, there is hereby levied, assessed and
1102 shall be collected a tax equal to seven percent (7%) of the gross
1103 income of the business. Provided, gross income from sales to
1104 consumers of electricity, current, power, natural gas, liquefied
1105 petroleum gas or other fuel for residential heating, lighting or
1106 other residential noncommercial or nonagricultural use, and sales
1107 of potable water for residential, noncommercial or nonagricultural
1108 use shall be excluded from taxable gross income of the business.
1109 Provided further, upon every such seller using electricity,
1110 current, power, potable water, steam, coal, natural gas, liquefied
1111 petroleum gas or other fuel for nonindustrial purposes, there is
1112 hereby levied, assessed and shall be collected a tax equal to
1113 seven percent (7%) of the cost or value of the product or service
1114 used.

1115 (b) There is hereby levied, assessed and shall be
1116 collected a tax equal to one and one-half percent (1-1/2%) of the
1117 gross income of the business when the electricity, current, power,
1118 steam, coal, natural gas, liquefied petroleum gas or other fuel is
1119 sold to or used by a manufacturer, custom processor, technology
1120 intensive enterprise meeting the criteria provided for in Section
1121 27-65-17(1)(f), or public service company for industrial purposes,
1122 which shall include that used to generate electricity, to operate
1123 an electrical distribution or transmission system, to operate
1124 pipeline compressor or pumping stations or to operate railroad
1125 locomotives; however, sales of fuel used to produce electric power
1126 by a company primarily engaged in the business of producing,
1127 generating or distributing electric power for sale shall be exempt
1128 from sales tax as provided in Section 27-65-107.

1129 (c) The one and one-half percent (1-1/2%) industrial
1130 rate provided for in this subsection shall also apply when the

1131 electricity, current, power, steam, coal, natural gas, liquefied
1132 petroleum gas or other fuel is sold to a producer or processor for
1133 use directly in the production of poultry or poultry products, the
1134 production of livestock and livestock products, the production of
1135 domesticated fish and domesticated fish products, the production
1136 of marine aquaculture products, the production of plants or food
1137 by commercial horticulturists, the processing of milk and milk
1138 products, the processing of poultry and livestock feed, and the
1139 irrigation of farm crops.

1140 (d) The one and one-half percent (1-1/2%) rate provided
1141 for in this subsection shall not apply to sales of fuel for
1142 automobiles, trucks, truck-tractors, buses, farm tractors or
1143 airplanes.

1144 (e) Upon every person operating a telegraph or
1145 telephone business for the transmission of messages or
1146 conversations between points within this state, there is hereby
1147 levied, assessed and shall be collected a tax equal to seven
1148 percent (7%) of the gross income of such business, with no
1149 deduction or allowance for any part of an intrastate rate charge
1150 because of routing across a state line. Charges by one
1151 telecommunications provider to another telecommunications provider
1152 holding a permit issued under Section 27-65-27 for services that
1153 are resold by such other telecommunications provider, including,
1154 but not limited to, access charges, shall not be subject to the
1155 tax levied pursuant to this paragraph (e). However, any sale of a
1156 prepaid telephone calling card or prepaid authorization number, or
1157 both, shall be deemed to be the sale of tangible personal property
1158 subject only to such taxes imposed by law on the sale of tangible
1159 personal property. If the sale of a prepaid telephone calling
1160 card or prepaid authorization number does not take place at the
1161 vendor's place of business, it shall be conclusively determined to
1162 take place at the customer's shipping address. The
1163 reauthorization of a prepaid telephone calling card or a prepaid

1164 authorization number shall be conclusively determined to take
1165 place at the customer's billing address. Except for the
1166 provisions governing the sale of a prepaid telephone calling card
1167 or prepaid authorization number, this paragraph (e) shall not
1168 apply to persons providing mobile telecommunications services that
1169 are taxed pursuant to paragraph (g) of this section.

1170 (f) Upon every person operating a telegraph or
1171 telecommunications business for the transmission of messages or
1172 conversations originating in this state or terminating in this
1173 state via interstate telecommunications, which are charged to the
1174 customer's service address in this state, regardless of where such
1175 amount is billed or paid, there is hereby levied, assessed and
1176 shall be collected a tax equal to seven percent (7%) of the gross
1177 income received by such business from such interstate
1178 telecommunications. However, a person, upon proof that he has
1179 paid a tax in another state on such event, shall be allowed a
1180 credit against the tax imposed in this paragraph (f) on interstate
1181 telecommunications charges to the extent that the amount of such
1182 tax is properly due and actually paid in such other state and to
1183 the extent that the rate of sales tax imposed by and paid to such
1184 other state does not exceed the rate of sales tax imposed by this
1185 paragraph (f). Charges by one telecommunications provider to
1186 another telecommunications provider holding a permit issued under
1187 Section 27-65-27 for services that are resold by such other
1188 telecommunications provider, including, but not limited to, access
1189 charges, shall not be subject to the tax levied pursuant to this
1190 paragraph (f). This paragraph (f) shall not apply to persons
1191 providing mobile telecommunications services that are taxed
1192 pursuant to paragraph (g) of this subsection.

1193 (g) (i) Upon every person providing mobile
1194 telecommunications services in this state there is hereby levied,
1195 assessed and shall be collected:

1196 1. A tax equal to seven percent (7%) of the
1197 gross income received on such services from all charges for
1198 transmission of messages or conversations between points within
1199 any single state as they shall be construed to be within this
1200 state; and

1201 2. A tax equal to seven percent (7%) on the
1202 gross income received from all charges for services that originate
1203 in one state and terminate in any other state.

1204 Charges by one telecommunications provider to another
1205 telecommunications provider holding a permit issued under Section
1206 27-65-27 for services that are resold by such other
1207 telecommunications provider, including, but not limited to, access
1208 charges, shall not be subject to the tax levied pursuant to this
1209 paragraph (g).

1210 (ii) Subject to the provisions of 4 USCS 116(c),
1211 the tax levied by this paragraph (g) shall apply only to those
1212 charges for mobile telecommunications services subject to tax
1213 which are deemed to be provided to a customer by a home service
1214 provider pursuant to 4 USCS 117(a), if the customer's place of
1215 primary use is located within this state.

1216 (iii) A home service provider shall be responsible
1217 for obtaining and maintaining the customer's place of primary use.
1218 The home service provider shall be entitled to rely on the
1219 applicable residential or business street address supplied by such
1220 customer, if the home service provider's reliance is in good
1221 faith; and the home service provider shall be held harmless from
1222 liability for any additional taxes based on a different
1223 determination of the place of primary use for taxes that are
1224 customarily passed on to the customer as a separate itemized
1225 charge. A home service provider shall be allowed to treat the
1226 address used for purposes of the tax levied by this chapter for
1227 any customer under a service contract in effect on August 1, 2002,
1228 as that customer's place of primary use for the remaining term of

1229 such service contract or agreement, excluding any extension or
1230 renewal of such service contract or agreement. Month-to-month
1231 services provided after the expiration of a contract shall be
1232 treated as an extension or renewal of such contract or agreement.

1233 If the commissioner determines that the address used by a
1234 home service provider as a customer's place of primary use does
1235 not meet the definition of the term "place of primary use" as
1236 defined in this paragraph, the commissioner shall give binding
1237 notice to the home service provider to change the place of primary
1238 use on a prospective basis from the date of notice of
1239 determination; however, the customer shall have the opportunity,
1240 prior to such notice of determination, to demonstrate that such
1241 address satisfies such definition.

1242 The commission has the right to collect any taxes due
1243 directly from the home service provider's customer that has failed
1244 to provide an address that meets the definition of the term "place
1245 of primary use" which resulted in a failure of tax otherwise due
1246 being remitted.

1247 (iv) For purposes of this paragraph (g):

1248 1. "Place of primary use" means the street
1249 address representative of where the customer's use of mobile
1250 telecommunications services primarily occurs, which shall be
1251 either the residential street address of the customer or the
1252 primary business street address of the customer.

1253 2. "Customer" means the person or entity that
1254 contracts with the home service provider for mobile
1255 telecommunications services. For determining the place of primary
1256 use, in those instances in which the end user of mobile
1257 telecommunications services is not the contracting party, the end
1258 user of the mobile telecommunications services shall be deemed the
1259 customer. The term "customer" shall not include a reseller of
1260 mobile telecommunications service, or a serving carrier under an

1261 arrangement to serve the customer outside the home service
1262 provider's licensed service area.

1263 3. "Home service provider" means the
1264 facilities-based carrier or reseller with which the customer
1265 contracts for the provision of mobile telecommunications services.

1266 (h) (i) For purposes of this paragraph (h), "bundled
1267 transaction" means a transaction that consists of distinct and
1268 identifiable properties or services which are sold for a single
1269 nonitemized price but which are treated differently for tax
1270 purposes.

1271 (ii) In the case of a bundled transaction that
1272 includes telecommunications services taxed under this section in
1273 which the price of the bundled transaction is attributable to
1274 properties or services that are taxable and nontaxable, the
1275 portion of the price that is attributable to any nontaxable
1276 property or service shall be subject to the tax unless the
1277 provider can reasonably identify that portion from its books and
1278 records kept in the regular course of business.

1279 (iii) In the case of a bundled transaction that
1280 includes telecommunications services subject to tax under this
1281 section in which the price is attributable to properties or
1282 services that are subject to the tax but the tax revenue from the
1283 different properties or services are dedicated to different funds
1284 or purposes, the provider shall allocate the price among the
1285 properties or services:

1286 1. By reasonably identifying the portion of
1287 the price attributable to each of the properties and services from
1288 its books and records kept in the regular course of business; or

1289 2. Based on a reasonable allocation
1290 methodology approved by the commission.

1291 (iv) This paragraph (h) shall not create a right
1292 of action for a customer to require that the provider or the
1293 commission, for purposes of determining the amount of tax

1294 applicable to a bundled transaction, allocate the price to the
1295 different portions of the transaction in order to minimize the
1296 amount of tax charged to the customer. A customer shall not be
1297 entitled to rely on the fact that a portion of the price is
1298 attributable to properties or services not subject to tax unless
1299 the provider elects, after receiving a written request from the
1300 customer in the form required by the provider, to provide
1301 verifiable data based upon the provider's books and records that
1302 are kept in the regular course of business that reasonably
1303 identifies the portion of the price attributable to the properties
1304 or services not subject to the tax.

1305 (2) Persons making sales to consumers of electricity,
1306 current, power, natural gas, liquefied petroleum gas or other fuel
1307 for residential heating, lighting or other residential
1308 noncommercial or nonagricultural use or sales of potable water for
1309 residential, noncommercial or nonagricultural use shall indicate
1310 on each statement rendered to customers that such charges are
1311 exempt from sales taxes.

1312 (3) There is hereby levied, assessed and shall be paid on
1313 transportation charges on shipments moving between points within
1314 this state when paid directly by the consumer, a tax equal to the
1315 rate applicable to the sale of the property being transported.
1316 Such tax shall be reported and paid directly to the State Tax
1317 Commission by the consumer.

1318 **SECTION 42.** Section 27-65-101, Mississippi Code of 1972, is
1319 amended as follows:

1320 27-65-101. (1) The exemptions from the provisions of this
1321 chapter which are of an industrial nature or which are more
1322 properly classified as industrial exemptions than any other
1323 exemption classification of this chapter shall be confined to
1324 those persons or property exempted by this section or by the
1325 provisions of the Constitution of the United States or the State
1326 of Mississippi. No industrial exemption as now provided by any

1327 other section except Section 57-3-33 shall be valid as against the
1328 tax herein levied. Any subsequent industrial exemption from the
1329 tax levied hereunder shall be provided by amendment to this
1330 section. No exemption provided in this section shall apply to
1331 taxes levied by Section 27-65-15 or 27-65-21.

1332 The tax levied by this chapter shall not apply to the
1333 following:

1334 (a) Sales of boxes, crates, cartons, cans, bottles and
1335 other packaging materials to manufacturers and wholesalers for use
1336 as containers or shipping materials to accompany goods sold by
1337 said manufacturers or wholesalers where possession thereof will
1338 pass to the customer at the time of sale of the goods contained
1339 therein and sales to anyone of containers or shipping materials
1340 for use in ships engaged in international commerce.

1341 (b) Sales of raw materials, catalysts, processing
1342 chemicals, welding gases or other industrial processing gases
1343 (except natural gas) to a manufacturer for use directly in
1344 manufacturing or processing a product for sale or rental or
1345 repairing or reconditioning vessels or barges of fifty (50) tons
1346 load displacement and over. For the purposes of this exemption,
1347 electricity used directly in the electrolysis process in the
1348 production of sodium chlorate shall be considered a raw material.
1349 This exemption shall not apply to any property used as fuel except
1350 to the extent that such fuel comprises by-products which have no
1351 market value.

1352 (c) The gross proceeds of sales of dry docks, offshore
1353 drilling equipment for use in oil exploitation or production,
1354 vessels or barges of fifty (50) tons load displacement and over,
1355 when sold by the manufacturer or builder thereof.

1356 (d) Sales to commercial fishermen of commercial fishing
1357 boats of over five (5) tons load displacement and not more than
1358 fifty (50) tons load displacement as registered with the United

1359 States Coast Guard and licensed by the Mississippi Commission on
1360 Marine Resources.

1361 (e) The gross income from repairs to vessels and barges
1362 engaged in foreign trade or interstate transportation.

1363 (f) Sales of petroleum products to vessels or barges
1364 for consumption in marine international commerce or interstate
1365 transportation businesses.

1366 (g) Sales and rentals of rail rolling stock (and
1367 component parts thereof) for ultimate use in interstate commerce
1368 and gross income from services with respect to manufacturing,
1369 repairing, cleaning, altering, reconditioning or improving such
1370 rail rolling stock (and component parts thereof).

1371 (h) Sales of raw materials, catalysts, processing
1372 chemicals, welding gases or other industrial processing gases
1373 (except natural gas) used or consumed directly in manufacturing,
1374 repairing, cleaning, altering, reconditioning or improving such
1375 rail rolling stock (and component parts thereof). This exemption
1376 shall not apply to any property used as fuel.

1377 (i) Sales of machinery or tools or repair parts
1378 therefor or replacements thereof, fuel or supplies used directly
1379 in manufacturing, converting or repairing ships, vessels or barges
1380 of three thousand (3,000) tons load displacement and over, but not
1381 to include office and plant supplies or other equipment not
1382 directly used on the ship, vessel or barge being built, converted
1383 or repaired. For purposes of this exemption, "ships, vessels or
1384 barges" shall not include floating structures described in Section
1385 27-65-18.

1386 (j) Sales of tangible personal property to persons
1387 operating ships in international commerce for use or consumption
1388 on board such ships. This exemption shall be limited to cases in
1389 which procedures satisfactory to the commissioner, ensuring
1390 against use in this state other than on such ships, are
1391 established.

1392 (k) Sales of materials used in the construction of a
1393 building, or any addition or improvement thereon, and sales of any
1394 machinery and equipment not later than three (3) months after the
1395 completion of construction of the building, or any addition
1396 thereon, to be used therein, to qualified businesses, as defined
1397 in Section 57-51-5, which are located in a county or portion
1398 thereof designated as an enterprise zone pursuant to Sections
1399 57-51-1 through 57-51-15.

1400 (l) Sales of materials used in the construction of a
1401 building, or any addition or improvement thereon, and sales of any
1402 machinery and equipment not later than three (3) months after the
1403 completion of construction of the building, or any addition
1404 thereon, to be used therein, to qualified businesses, as defined
1405 in Section 57-54-5.

1406 (m) Income from storage and handling of perishable
1407 goods by a public storage warehouse.

1408 (n) The value of natural gas lawfully injected into the
1409 earth for cycling, repressuring or lifting of oil, or lawfully
1410 vented or flared in connection with the production of oil;
1411 however, if any gas so injected into the earth is sold for such
1412 purposes, then the gas so sold shall not be exempt.

1413 (o) The gross collections from self-service commercial
1414 laundering, drying, cleaning and pressing equipment.

1415 (p) Sales of materials used in the construction of a
1416 building, or any addition or improvement thereon, and sales of any
1417 machinery and equipment not later than three (3) months after the
1418 completion of construction of the building, or any addition
1419 thereon, to be used therein, to qualified companies, certified as
1420 such by the Mississippi Development Authority under Section
1421 57-53-1.

1422 (q) Sales of component materials used in the
1423 construction of a building, or any addition or improvement
1424 thereon, sales of machinery and equipment to be used therein, and

1425 sales of manufacturing or processing machinery and equipment which
1426 is permanently attached to the ground or to a permanent foundation
1427 and which is not by its nature intended to be housed within a
1428 building structure, not later than three (3) months after the
1429 initial start-up date, to permanent business enterprises engaging
1430 in manufacturing or processing in Tier Three areas (as such term
1431 is defined in Section 57-73-21), which businesses are certified by
1432 the State Tax Commission as being eligible for the exemption
1433 granted in this paragraph (q).

1434 (r) Sales of component materials used in the
1435 construction of a building, or any addition or improvement
1436 thereon, and sales of any machinery and equipment not later than
1437 three (3) months after the completion of the building, addition or
1438 improvement thereon, to be used therein, for any company
1439 establishing or transferring its national or regional headquarters
1440 from within or outside the State of Mississippi and creating a
1441 minimum of thirty-five (35) jobs at the new headquarters in this
1442 state. The Tax Commission shall establish criteria and prescribe
1443 procedures to determine if a company qualifies as a national or
1444 regional headquarters for the purpose of receiving the exemption
1445 provided in this paragraph.

1446 (s) The gross proceeds from the sale of semitrailers,
1447 trailers, boats, travel trailers, motorcycles and all-terrain
1448 cycles if exported from this state within forty-eight (48) hours
1449 and registered and first used in another state.

1450 (t) Gross income from the storage and handling of
1451 natural gas in underground salt domes and in other underground
1452 reservoirs, caverns, structures and formations suitable for such
1453 storage.

1454 (u) Sales of machinery and equipment to nonprofit
1455 organizations if the organization:

1456 (i) Is tax-exempt pursuant to Section 501(c)(4) of
1457 the Internal Revenue Code of 1986, as amended;

1458 (ii) Assists in the implementation of the national
1459 contingency plan or area contingency plan, and which is created in
1460 response to the requirements of Title IV, Subtitle B of the Oil
1461 Pollution Act of 1990, Public Law 101-380; and

1462 (iii) Engages primarily in programs to contain,
1463 clean up and otherwise mitigate spills of oil or other substances
1464 occurring in the United States coastal and tidal waters.

1465 For purposes of this exemption, "machinery and equipment"
1466 means any ocean-going vessels, barges, booms, skimmers and other
1467 capital equipment used primarily in the operations of nonprofit
1468 organizations referred to herein.

1469 (v) Sales or leases of materials and equipment to
1470 approved business enterprises as provided under the Growth and
1471 Prosperity Act.

1472 (w) From and after July 1, 2001, sales of pollution
1473 control equipment to manufacturers or custom processors for
1474 industrial use. For the purposes of this exemption, "pollution
1475 control equipment" means equipment, devices, machinery or systems
1476 used or acquired to prevent, control, monitor or reduce air, water
1477 or groundwater pollution, or solid or hazardous waste as required
1478 by federal or state law or regulation.

1479 (x) Sales or leases to a manufacturer of motor vehicles
1480 operating a project that has been certified by the Mississippi
1481 Major Economic Impact Authority as a project as defined in Section
1482 57-75-5(f)(iv)1 of machinery and equipment; special tooling such
1483 as dies, molds, jigs and similar items treated as special tooling
1484 for federal income tax purposes; or repair parts therefor or
1485 replacements thereof; repair services thereon; fuel, supplies,
1486 electricity, coal and natural gas used directly in the manufacture
1487 of motor vehicles or motor vehicle parts or used to provide
1488 climate control for manufacturing areas.

1489 (y) Sales or leases of component materials, machinery
1490 and equipment used in the construction of a building, or any

1491 addition or improvement thereon to an enterprise operating a
1492 project that has been certified by the Mississippi Major Economic
1493 Impact Authority as a project as defined in Section
1494 57-75-5(f)(iv)1 and any other sales or leases required to
1495 establish or operate such project.

1496 (z) Sales of component materials and equipment to a
1497 business enterprise as provided under Section 57-64-33.

1498 (aa) The gross income from the stripping and painting
1499 of commercial aircraft engaged in foreign or interstate
1500 transportation business.

1501 (bb) Sales of production items used in the production
1502 of motion pictures such as film; videotape; component building
1503 materials used in the construction of a set; makeup; fabric used
1504 as or in the making of costumes; clothing, including, shoes,
1505 accessories and jewelry used as wardrobes; materials used as set
1506 dressing; materials used as props on a set or by an actor;
1507 materials used in the creation of special effects; and expendable
1508 items purchased for limited use by grip, electric and camera
1509 departments such as tape, fasteners and compressed air. For the
1510 purposes of this paragraph (bb), the term "motion picture" means a
1511 nationally distributed feature-length film, video, television
1512 series or commercial made in Mississippi, in whole or in part, for
1513 theatrical or television viewing or as a television pilot. The
1514 term "motion picture" shall not include the production of
1515 television coverage of news and athletic events, or a film, video,
1516 television series or commercial that contains any material or
1517 performance defined in Section 97-29-103.

1518 (cc) Sales or leases to an enterprise owning or
1519 operating a project that has been designated by the Mississippi
1520 Major Economic Impact Authority as a project as defined in Section
1521 57-75-5(f)(xviii) of machinery and equipment; special tooling such
1522 as dies, molds, jigs and similar items treated as special tooling
1523 for federal income tax purposes; or repair parts therefor or

1524 replacements thereof; repair services thereon; fuel, supplies,
1525 electricity, coal and natural gas used directly in the
1526 manufacturing/production operations of the project or used to
1527 provide climate control for manufacturing/production areas.

1528 (dd) Sales or leases of component materials, machinery
1529 and equipment used in the construction of a building, or any
1530 addition or improvement thereon to an enterprise owning or
1531 operating a project that has been designated by the Mississippi
1532 Major Economic Impact Authority as a project as defined in Section
1533 57-75-5(f)(xviii) and any other sales or leases required to
1534 establish or operate such project.

1535 (ee) Sales of parts used in the repair and servicing of
1536 aircraft not registered in Mississippi engaged exclusively in the
1537 business of foreign or interstate transportation to businesses
1538 engaged in aircraft repair and maintenance.

1539 (ff) Sales of component materials used in the
1540 construction of a facility, or any addition or improvement
1541 thereon, and sales or leases of machinery and equipment not later
1542 than three (3) months after the completion of construction of the
1543 facility, or any addition or improvement thereto, to be used in
1544 the building or any addition or improvement thereto, to a
1545 permanent business enterprise operating a data/information
1546 enterprise in Tier Three areas (as such areas are designated in
1547 accordance with Section 57-73-21), meeting minimum criteria
1548 established by the Mississippi Development Authority.

1549 (gg) Sales of component materials used in the
1550 construction of a facility, or any addition or improvement
1551 thereto, and sales of machinery and equipment not later than three
1552 (3) months after the completion of construction of the facility,
1553 or any addition or improvement thereto, to be used in the facility
1554 or any addition or improvement thereto, to technology intensive
1555 enterprises for industrial purposes in Tier Three areas (as such
1556 areas are designated in accordance with Section 57-73-21), as

1557 certified by the State Tax Commission. For purposes of this
1558 paragraph, an enterprise must meet the criteria provided for in
1559 Section 27-65-17(1)(f) in order to be considered a technology
1560 intensive enterprise.

1561 (2) Sales of component materials used in the construction of
1562 a building, or any addition or improvement thereon, sales of
1563 machinery and equipment to be used therein, and sales of
1564 manufacturing or processing machinery and equipment which is
1565 permanently attached to the ground or to a permanent foundation
1566 and which is not by its nature intended to be housed within a
1567 building structure, not later than three (3) months after the
1568 initial start-up date, to permanent business enterprises engaging
1569 in manufacturing or processing in Tier Two areas and Tier One
1570 areas (as such areas are designated in accordance with Section
1571 57-73-21), which businesses are certified by the State Tax
1572 Commission as being eligible for the exemption granted in this
1573 paragraph, shall be exempt from one-half (1/2) of the taxes
1574 imposed on such transactions under this chapter.

1575 (3) Sales of component materials used in the construction of
1576 a facility, or any addition or improvement thereon, and sales or
1577 leases of machinery and equipment not later than three (3) months
1578 after the completion of construction of the facility, or any
1579 addition or improvement thereto, to be used in the building or any
1580 addition or improvement thereto, to a permanent business
1581 enterprise operating a data/information enterprise in Tier Two
1582 areas and Tier One areas (as such areas are designated in
1583 accordance with Section 57-73-21), which businesses meet minimum
1584 criteria established by the Mississippi Development Authority,
1585 shall be exempt from one-half (1/2) of the taxes imposed on such
1586 transaction under this chapter.

1587 (4) Sales of component materials used in the construction of
1588 a facility, or any addition or improvement thereto, and sales of
1589 machinery and equipment not later than three (3) months after the

1590 completion of construction of the facility, or any addition or
1591 improvement thereto, to be used in the building or any addition or
1592 improvement thereto, to technology intensive enterprises for
1593 industrial purposes in Tier Two areas and Tier One areas (as such
1594 areas are designated in accordance with Section 57-73-21), which
1595 businesses are certified by the State Tax Commission as being
1596 eligible for the exemption granted in this paragraph, shall be
1597 exempt from one-half (1/2) of the taxes imposed on such
1598 transactions under this chapter. For purposes of this subsection,
1599 an enterprise must meet the criteria provided for in Section
1600 27-65-17(1)(f) in order to be considered a technology intensive
1601 enterprise.

1602 (5) (a) For purposes of this subsection:

1603 (i) "Telecommunications enterprises" shall have
1604 the meaning ascribed to such term in Section 57-73-21 * * *;

1605 (ii) "Tier One areas" mean counties designated as
1606 Tier One areas pursuant to Section 57-73-21 * * *;

1607 (iii) "Tier Two areas" mean counties designated as
1608 Tier Two areas pursuant to Section 57-73-21 * * *;

1609 (iv) "Tier Three areas" mean counties designated
1610 as Tier Three areas pursuant to Section 57-73-21 * * *; and

1611 (v) "Equipment used in the deployment of broadband
1612 technologies" means any equipment capable of being used for or in
1613 connection with the transmission of information at a rate, prior
1614 to taking into account the effects of any signal degradation, that
1615 is not less than three hundred eighty-four (384) kilobits per
1616 second in at least one direction, including, but not limited to,
1617 asynchronous transfer mode switches, digital subscriber line
1618 access multiplexers, routers, servers, multiplexers, fiber optics
1619 and related equipment.

1620 (b) Sales of equipment to telecommunications
1621 enterprises after June 30, 2003, and before July 1, 2013, that is
1622 installed in Tier One areas and used in the deployment of

1623 broadband technologies shall be exempt from one-half (1/2) of the
1624 taxes imposed on such transactions under this chapter.

1625 (c) Sales of equipment to telecommunications
1626 enterprises after June 30, 2003, and before July 1, 2013, that is
1627 installed in Tier Two and Tier Three areas and used in the
1628 deployment of broadband technologies shall be exempt from the
1629 taxes imposed on such transactions under this chapter.

1630 **SECTION 43.** Section 57-73-21, Mississippi Code of 1972, is
1631 amended as follows:

1632 **[In cases involving business enterprises that received or**
1633 **applied for the job tax credit authorized by this section prior to**
1634 **January 1, 2005, this section shall read as follows:]**

1635 57-73-21. (1) Annually by December 31, using the most
1636 current data available from the University Research Center,
1637 Mississippi Department of Employment Security and the United
1638 States Department of Commerce, the State Tax Commission shall rank
1639 and designate the state's counties as provided in this section.
1640 The twenty-eight (28) counties in this state having a combination
1641 of the highest unemployment rate and lowest per capita income for
1642 the most recent thirty-six-month period, with equal weight being
1643 given to each category, are designated Tier Three areas. The
1644 twenty-seven (27) counties in the state with a combination of the
1645 next highest unemployment rate and next lowest per capita income
1646 for the most recent thirty-six-month period, with equal weight
1647 being given to each category, are designated Tier Two areas. The
1648 twenty-seven (27) counties in the state with a combination of the
1649 lowest unemployment rate and the highest per capita income for the
1650 most recent thirty-six-month period, with equal weight being given
1651 to each category, are designated Tier One areas. Counties
1652 designated by the Tax Commission qualify for the appropriate tax
1653 credit for jobs as provided in subsections (2), (3) and (4) of
1654 this section. The designation by the Tax Commission is effective
1655 for the tax years of permanent business enterprises which begin

1656 after the date of designation. For companies which plan an
1657 expansion in their labor forces, the Tax Commission shall
1658 prescribe certification procedures to ensure that the companies
1659 can claim credits in future years without regard to whether or not
1660 a particular county is removed from the list of Tier Three or Tier
1661 Two areas.

1662 (2) Permanent business enterprises primarily engaged in
1663 manufacturing, processing, warehousing, distribution, wholesaling
1664 and research and development, or permanent business enterprises
1665 designated by rule and regulation of the Mississippi Development
1666 Authority as air transportation and maintenance facilities, final
1667 destination or resort hotels having a minimum of one hundred fifty
1668 (150) guest rooms, recreational facilities that impact tourism,
1669 movie industry studios, telecommunications enterprises, data or
1670 information processing enterprises or computer software
1671 development enterprises or any technology intensive facility or
1672 enterprise, in counties designated by the Tax Commission as Tier
1673 Three areas are allowed a job tax credit for taxes imposed by
1674 Section 27-7-5 equal to Two Thousand Dollars (\$2,000.00) annually
1675 for each net new full-time employee job for five (5) years
1676 beginning with years two (2) through six (6) after the creation of
1677 the job. The number of new full-time jobs must be determined by
1678 comparing the monthly average number of full-time employees
1679 subject to the Mississippi income tax withholding for the taxable
1680 year with the corresponding period of the prior taxable year.
1681 Only those permanent businesses that increase employment by ten
1682 (10) or more in a Tier Three area are eligible for the credit.
1683 Credit is not allowed during any of the five (5) years if the net
1684 employment increase falls below ten (10). The Tax Commission
1685 shall adjust the credit allowed each year for the net new
1686 employment fluctuations above the minimum level of ten (10).

1687 (3) Permanent business enterprises primarily engaged in
1688 manufacturing, processing, warehousing, distribution, wholesaling

1689 and research and development, or permanent business enterprises
1690 designated by rule and regulation of the Mississippi Development
1691 Authority as air transportation and maintenance facilities, final
1692 destination or resort hotels having a minimum of one hundred fifty
1693 (150) guest rooms, recreational facilities that impact tourism,
1694 movie industry studios, telecommunications enterprises, data or
1695 information processing enterprises or computer software
1696 development enterprises or any technology intensive facility or
1697 enterprise, in counties that have been designated by the Tax
1698 Commission as Tier Two areas are allowed a job tax credit for
1699 taxes imposed by Section 27-7-5 equal to One Thousand Dollars
1700 (\$1,000.00) annually for each net new full-time employee job for
1701 five (5) years beginning with years two (2) through six (6) after
1702 the creation of the job. The number of new full-time jobs must be
1703 determined by comparing the monthly average number of full-time
1704 employees subject to Mississippi income tax withholding for the
1705 taxable year with the corresponding period of the prior taxable
1706 year. Only those permanent businesses that increase employment by
1707 fifteen (15) or more in Tier Two areas are eligible for the
1708 credit. The credit is not allowed during any of the five (5)
1709 years if the net employment increase falls below fifteen (15).
1710 The Tax Commission shall adjust the credit allowed each year for
1711 the net new employment fluctuations above the minimum level of
1712 fifteen (15).

1713 (4) Permanent business enterprises primarily engaged in
1714 manufacturing, processing, warehousing, distribution, wholesaling
1715 and research and development, or permanent business enterprises
1716 designated by rule and regulation of the Mississippi Development
1717 Authority as air transportation and maintenance facilities, final
1718 destination or resort hotels having a minimum of one hundred fifty
1719 (150) guest rooms, recreational facilities that impact tourism,
1720 movie industry studios, telecommunications enterprises, data or
1721 information processing enterprises or computer software

1722 development enterprises or any technology intensive facility or
1723 enterprise, in counties designated by the Tax Commission as Tier
1724 One areas are allowed a job tax credit for taxes imposed by
1725 Section 27-7-5 equal to Five Hundred Dollars (\$500.00) annually
1726 for each net new full-time employee job for five (5) years
1727 beginning with years two (2) through six (6) after the creation of
1728 the job. The number of new full-time jobs must be determined by
1729 comparing the monthly average number of full-time employees
1730 subject to Mississippi income tax withholding for the taxable year
1731 with the corresponding period of the prior taxable year. Only
1732 those permanent businesses that increase employment by twenty (20)
1733 or more in Tier One areas are eligible for the credit. The credit
1734 is not allowed during any of the five (5) years if the net
1735 employment increase falls below twenty (20). The Tax Commission
1736 shall adjust the credit allowed each year for the net new
1737 employment fluctuations above the minimum level of twenty (20).

1738 (5) In addition to the credits authorized in subsections
1739 (2), (3) and (4), an additional Five Hundred Dollars (\$500.00)
1740 credit for each net new full-time employee or an additional One
1741 Thousand Dollars (\$1,000.00) credit for each net new full-time
1742 employee who is paid a salary, excluding benefits which are not
1743 subject to Mississippi income taxation, of at least one hundred
1744 twenty-five percent (125%) of the average annual wage of the state
1745 or an additional Two Thousand Dollars (\$2,000.00) credit for each
1746 net new full-time employee who is paid a salary, excluding
1747 benefits which are not subject to Mississippi income taxation, of
1748 at least two hundred percent (200%) of the average annual wage of
1749 the state, shall be allowed for any company establishing or
1750 transferring its national or regional headquarters from within or
1751 outside the State of Mississippi. A minimum of thirty-five (35)
1752 jobs must be created to qualify for the additional credit. The
1753 State Tax Commission shall establish criteria and prescribe
1754 procedures to determine if a company qualifies as a national or

1755 regional headquarters for purposes of receiving the credit awarded
1756 in this subsection. As used in this subsection, the average
1757 annual wage of the state is the most recently published average
1758 annual wage as determined by the Mississippi Department of
1759 Employment Security.

1760 (6) In addition to the credits authorized in subsections
1761 (2), (3), (4) and (5), any job requiring research and development
1762 skills (chemist, engineer, etc.) shall qualify for an additional
1763 One Thousand Dollars (\$1,000.00) credit for each net new full-time
1764 employee.

1765 (7) In lieu of the tax credits provided in subsections (2)
1766 through (6), any commercial or industrial property owner which
1767 remediates contaminated property in accordance with Sections
1768 49-35-1 through 49-35-25, is allowed a job tax credit for taxes
1769 imposed by Section 27-7-5 equal to the amounts provided in
1770 subsection (2), (3) or (4) for each net new full-time employee job
1771 for five (5) years beginning with years two (2) through six (6)
1772 after the creation of the job. The number of new full-time jobs
1773 must be determined by comparing the monthly average number of
1774 full-time employees subject to Mississippi income tax withholding
1775 for the taxable year with the corresponding period of the prior
1776 taxable year. This subsection shall be administered in the same
1777 manner as subsections (2), (3) and (4), except the landowner shall
1778 not be required to increase employment by the levels provided in
1779 subsections (2), (3) and (4) to be eligible for the tax credit.

1780 (8) Tax credits for five (5) years for the taxes imposed by
1781 Section 27-7-5 shall be awarded for additional net new full-time
1782 jobs created by business enterprises qualified under subsections
1783 (2), (3), (4), (5), (6) and (7) of this section. Except as
1784 otherwise provided, the Tax Commission shall adjust the credit
1785 allowed in the event of employment fluctuations during the
1786 additional five (5) years of credit.

1787 (9) The sale, merger, acquisition, reorganization,
1788 bankruptcy or relocation from one county to another county within
1789 the state of any business enterprise may not create new
1790 eligibility in any succeeding business entity, but any unused job
1791 tax credit may be transferred and continued by any transferee of
1792 the business enterprise. The Tax Commission shall determine
1793 whether or not qualifying net increases or decreases have occurred
1794 or proper transfers of credit have been made and may require
1795 reports, promulgate regulations, and hold hearings as needed for
1796 substantiation and qualification.

1797 (10) Any tax credit claimed under this section but not used
1798 in any taxable year may be carried forward for five (5) years from
1799 the close of the tax year in which the qualified jobs were
1800 established but the credit established by this section taken in
1801 any one (1) tax year must be limited to an amount not greater than
1802 fifty percent (50%) of the taxpayer's state income tax liability
1803 which is attributable to income derived from operations in the
1804 state for that year.

1805 (11) No business enterprise for the transportation,
1806 handling, storage, processing or disposal of hazardous waste is
1807 eligible to receive the tax credits provided in this section.

1808 (12) The credits allowed under this section shall not be
1809 used by any business enterprise or corporation other than the
1810 business enterprise actually qualifying for the credits.

1811 (13) The tax credits provided for in this section shall be
1812 in addition to any tax credits described in Sections 57-51-13(b),
1813 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official
1814 action by the Department of Economic Development prior to July 1,
1815 1989, to any business enterprise determined prior to July 1, 1989,
1816 by the Department of Economic Development to be a qualified
1817 business as defined in Section 57-51-5(f) or Section 57-54-5(d) or
1818 a qualified company as described in Section 57-53-1, as the case
1819 may be; however, from and after July 1, 1989, tax credits shall be

1820 allowed only under either this section or Sections 57-51-13(b),
1821 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time
1822 employee.

1823 (14) As used in this section, the term "telecommunications
1824 enterprises" means entities engaged in the creation, display,
1825 management, storage, processing, transmission or distribution for
1826 compensation of images, text, voice, video or data by wire or by
1827 wireless means, or entities engaged in the construction, design,
1828 development, manufacture, maintenance or distribution for
1829 compensation of devices, products, software or structures used in
1830 the above activities. Companies organized to do business as
1831 commercial broadcast radio stations, television stations or news
1832 organizations primarily serving in-state markets shall not be
1833 included within the definition of the term "telecommunications
1834 enterprises."

1835 **[In cases involving business enterprises that apply for the**
1836 **job tax credit authorized by this section from and after January**
1837 **1, 2005, this section shall read as follows:]**

1838 57-73-21. (1) Annually by December 31, using the most
1839 current data available from the University Research Center,
1840 Mississippi Department of Employment Security and the United
1841 States Department of Commerce, the State Tax Commission shall rank
1842 and designate the state's counties as provided in this section.
1843 The twenty-eight (28) counties in this state having a combination
1844 of the highest unemployment rate and lowest per capita income for
1845 the most recent thirty-six-month period, with equal weight being
1846 given to each category, are designated Tier Three areas. The
1847 twenty-seven (27) counties in the state with a combination of the
1848 next highest unemployment rate and next lowest per capita income
1849 for the most recent thirty-six-month period, with equal weight
1850 being given to each category, are designated Tier Two areas. The
1851 twenty-seven (27) counties in the state with a combination of the
1852 lowest unemployment rate and the highest per capita income for the

1853 most recent thirty-six-month period, with equal weight being given
1854 to each category, are designated Tier One areas. Counties
1855 designated by the Tax Commission qualify for the appropriate tax
1856 credit for jobs as provided in * * * this section. The
1857 designation by the Tax Commission is effective for the tax years
1858 of permanent business enterprises which begin after the date of
1859 designation. For companies which plan an expansion in their labor
1860 forces, the Tax Commission shall prescribe certification
1861 procedures to ensure that the companies can claim credits in
1862 future years without regard to whether or not a particular county
1863 is removed from the list of Tier Three or Tier Two areas.

1864 (2) Permanent business enterprises * * * in counties
1865 designated by the Tax Commission as Tier Three areas are allowed a
1866 job tax credit for taxes imposed by Section 27-7-5 equal to ten
1867 percent (10%) of the payroll of the enterprise for net new
1868 full-time employee jobs for five (5) years beginning with years
1869 two (2) through six (6) after the creation of the minimum number
1870 of jobs required by this subsection. The number of new full-time
1871 jobs must be determined by comparing the monthly average number of
1872 full-time employees subject to the Mississippi income tax
1873 withholding for the taxable year with the corresponding period of
1874 the prior taxable year. Only those permanent business enterprises
1875 that increase employment by ten (10) or more in a Tier Three area
1876 are eligible for the credit. Credit is not allowed during any of
1877 the five (5) years if the net employment increase falls below ten
1878 (10). The Tax Commission shall adjust the credit allowed each
1879 year for the net new employment fluctuations above the minimum
1880 level of ten (10).

1881 (3) Permanent business enterprises * * * in counties that
1882 have been designated by the Tax Commission as Tier Two areas are
1883 allowed a job tax credit for taxes imposed by Section 27-7-5 equal
1884 to five percent (5%) of the payroll of the enterprise for net new
1885 full-time employee jobs for five (5) years beginning with years

1886 two (2) through six (6) after the creation of the minimum number
1887 of jobs required by this subsection. The number of new full-time
1888 jobs must be determined by comparing the monthly average number of
1889 full-time employees subject to Mississippi income tax withholding
1890 for the taxable year with the corresponding period of the prior
1891 taxable year. Only those permanent business enterprises that
1892 increase employment by fifteen (15) or more in Tier Two areas are
1893 eligible for the credit. The credit is not allowed during any of
1894 the five (5) years if the net employment increase falls below
1895 fifteen (15). The Tax Commission shall adjust the credit allowed
1896 each year for the net new employment fluctuations above the
1897 minimum level of fifteen (15).

1898 (4) Permanent business enterprises * * * in counties
1899 designated by the Tax Commission as Tier One areas are allowed a
1900 job tax credit for taxes imposed by Section 27-7-5 equal to two
1901 and one-half percent (2.5%) of the payroll of the enterprise for
1902 net new full-time employee jobs for five (5) years beginning with
1903 years two (2) through six (6) after the creation of the minimum
1904 number of jobs required by this subsection. The number of new
1905 full-time jobs must be determined by comparing the monthly average
1906 number of full-time employees subject to Mississippi income tax
1907 withholding for the taxable year with the corresponding period of
1908 the prior taxable year. Only those permanent business enterprises
1909 that increase employment by twenty (20) or more in Tier One areas
1910 are eligible for the credit. The credit is not allowed during any
1911 of the five (5) years if the net employment increase falls below
1912 twenty (20). The Tax Commission shall adjust the credit allowed
1913 each year for the net new employment fluctuations above the
1914 minimum level of twenty (20).

1915 (5) In addition to the other credits authorized in this
1916 section, an additional Five Hundred Dollars (\$500.00) credit for
1917 each net new full-time employee or an additional One Thousand
1918 Dollars (\$1,000.00) credit for each net new full-time employee who

1919 is paid a salary, excluding benefits which are not subject to
1920 Mississippi income taxation, of at least one hundred twenty-five
1921 percent (125%) of the average annual wage of the state or an
1922 additional Two Thousand Dollars (\$2,000.00) credit for each net
1923 new full-time employee who is paid a salary, excluding benefits
1924 which are not subject to Mississippi income taxation, of at least
1925 two hundred percent (200%) of the average annual wage of the
1926 state, shall be allowed for any company establishing or
1927 transferring its national or regional headquarters from within or
1928 outside the State of Mississippi. A minimum of thirty-five (35)
1929 jobs must be created to qualify for the additional credit. The
1930 State Tax Commission shall establish criteria and prescribe
1931 procedures to determine if a company qualifies as a national or
1932 regional headquarters for purposes of receiving the credit awarded
1933 in this subsection. As used in this subsection, the average
1934 annual wage of the state is the most recently published average
1935 annual wage as determined by the Mississippi Department of
1936 Employment Security.

1937 (6) In addition to the other credits authorized in this
1938 section, any job requiring research and development skills
1939 (chemist, engineer, etc.) shall qualify for an additional One
1940 Thousand Dollars (\$1,000.00) credit for each net new full-time
1941 employee.

1942 (7) In lieu of the other tax credits provided in this
1943 section, any commercial or industrial property owner which
1944 remediates contaminated property in accordance with Sections
1945 49-35-1 through 49-35-25, is allowed a job tax credit for taxes
1946 imposed by Section 27-7-5 equal to the percentage of payroll
1947 provided in subsection (2), (3) or (4) of this section for * * *
1948 net new full-time employee jobs for five (5) years beginning with
1949 years two (2) through six (6) after the creation of the jobs. The
1950 number of new full-time jobs must be determined by comparing the
1951 monthly average number of full-time employees subject to

1952 Mississippi income tax withholding for the taxable year with the
1953 corresponding period of the prior taxable year. This subsection
1954 shall be administered in the same manner as subsections (2), (3)
1955 and (4), except the landowner shall not be required to increase
1956 employment by the levels provided in subsections (2), (3) and (4)
1957 to be eligible for the tax credit.

1958 (8) (a) Tax credits for five (5) years for the taxes
1959 imposed by Section 27-7-5 shall be awarded for increases in the
1960 annual payroll for net new full-time jobs created by business
1961 enterprises qualified under this section. The Tax Commission
1962 shall adjust the credit allowed in the event of payroll
1963 fluctuations during the additional five (5) years of credit.

1964 (b) Tax credits for five (5) years for the taxes
1965 imposed by Section 27-7-5 shall be awarded for additional net new
1966 full-time jobs created by business enterprises qualified under
1967 subsections * * * (5) and (6) * * * of this section. * * * The
1968 Tax Commission shall adjust the credit allowed in the event of
1969 employment fluctuations during the additional five (5) years of
1970 credit.

1971 (9) The sale, merger, acquisition, reorganization,
1972 bankruptcy or relocation from one county to another county within
1973 the state of any business enterprise may not create new
1974 eligibility in any succeeding business entity, but any unused job
1975 tax credit may be transferred and continued by any transferee of
1976 the business enterprise. The Tax Commission shall determine
1977 whether or not qualifying net increases or decreases have occurred
1978 or proper transfers of credit have been made and may require
1979 reports, promulgate regulations, and hold hearings as needed for
1980 substantiation and qualification.

1981 (10) Any tax credit claimed under this section but not used
1982 in any taxable year may be carried forward for five (5) years from
1983 the close of the tax year in which the qualified jobs were
1984 established but the credit established by this section taken in

1985 any one tax year must be limited to an amount not greater than
1986 fifty percent (50%) of the taxpayer's state income tax liability
1987 which is attributable to income derived from operations in the
1988 state for that year.

1989 (11) No business enterprise for the transportation,
1990 handling, storage, processing or disposal of hazardous waste is
1991 eligible to receive the tax credits provided in this section.

1992 (12) The credits allowed under this section shall not be
1993 used by any business enterprise or corporation other than the
1994 business enterprise actually qualifying for the credits.

1995 (13) As used in this section:

1996 (a) "Business enterprises" means entities primarily
1997 engaged in:

1998 (i) Manufacturing, processing, warehousing,
1999 distribution, wholesaling and research and development, or

2000 (ii) Permanent business enterprises designated by
2001 rule and regulation of the Mississippi Development Authority as
2002 air transportation and maintenance facilities, final destination
2003 or resort hotels having a minimum of one hundred fifty (150) guest
2004 rooms, recreational facilities that impact tourism, movie industry
2005 studios, telecommunications enterprises, data or information
2006 processing enterprises or computer software development
2007 enterprises or any technology intensive facility or enterprise.

2008 (b) "Telecommunications enterprises" means entities
2009 engaged in the creation, display, management, storage, processing,
2010 transmission or distribution for compensation of images, text,
2011 voice, video or data by wire or by wireless means, or entities
2012 engaged in the construction, design, development, manufacture,
2013 maintenance or distribution for compensation of devices, products,
2014 software or structures used in the above activities. Companies
2015 organized to do business as commercial broadcast radio stations,
2016 television stations or news organizations primarily serving

2017 in-state markets shall not be included within the definition of
2018 the term "telecommunications enterprises."

2019 (14) The tax credits provided for in this section shall be
2020 in addition to any tax credits described in Sections 57-51-13(b),
2021 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official
2022 action by the Department of Economic Development prior to July 1,
2023 1989, to any business enterprise determined prior to July 1, 1989,
2024 by the Department of Economic Development to be a qualified
2025 business as defined in Section 57-51-5(f) or Section 57-54-5(d) or
2026 a qualified company as described in Section 57-53-1, as the case
2027 may be; however, from and after July 1, 1989, tax credits shall be
2028 allowed only under either this section or Sections 57-51-13(b),
2029 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time
2030 employee.

2031 * * *

2032 **SECTION 44.** Section 57-73-25, Mississippi Code of 1972, is
2033 amended as follows:

2034 57-73-25. (1) A fifty percent (50%) income tax credit shall
2035 be granted to any employer (as defined in subsection (4) of this
2036 section) sponsoring skills training. The fifty percent (50%)
2037 credit shall be granted to employers that participate in
2038 employer-sponsored training programs through any community/junior
2039 college in the district within which the employer is located or
2040 training approved by such community/junior college. The credit is
2041 applied to qualified training expenses, which are expenses related
2042 to instructors, instructional materials and equipment, and the
2043 construction and maintenance of facilities by such employer
2044 designated for training purposes which is attributable to training
2045 provided through such community/junior college or training
2046 approved by such community/junior college. The credits allowed
2047 under this section shall only be used by the actual employer
2048 qualifying for the credits. The credit shall not exceed fifty
2049 percent (50%) of the income tax liability in a tax year and may be

2050 carried forward for the five (5) successive years if the amount
2051 allowable as credit exceeds the income tax liability in a tax
2052 year; however, thereafter, if the amount allowable as a credit
2053 exceeds the tax liability, the amount of excess shall not be
2054 refundable or carried forward to any other taxable year. The
2055 credit authorized under this section shall not exceed Two Thousand
2056 Five Hundred Dollars (\$2,500.00) per employee during any one (1)
2057 year. Nothing in this section shall be interpreted in any manner
2058 as to prevent the continuing operation of state-supported
2059 university programs.

2060 (2) Employer-sponsored training shall include an evaluation
2061 by the local community or junior college that serves the employer
2062 to ensure that the training provided is job related and conforms
2063 to the definition of "skills training" as hereinafter defined.

2064 (3) Employers shall be certified as eligible for the tax
2065 credit by the local community or junior college that serves the
2066 employer and the State Tax Commission.

2067 (4) For the purposes of this section:

2068 (a) "Skills training" means any employer-sponsored
2069 training by an appropriate community/junior college or training
2070 approved by such community/junior college that enhances skills
2071 that improve job performance. If the employer provides
2072 pre-employment training, the portion of the pre-employment
2073 training that involves skills training shall be eligible for the
2074 credit.

2075 (b) "Employer-sponsored training" means training
2076 provided by the appropriate community/junior college in the
2077 district within which the employer is located or training approved
2078 by such community/junior college.

2079 (c) "Employer" means those permanent business
2080 enterprises as defined and set out in Section 57-73-21 * * *.

2081 (5) The tax credits provided for in this section shall be in
2082 addition to all other tax credits heretofore granted by the laws
2083 of the state.

2084 (6) A community/junior college may commit to provide
2085 employer-sponsored skills training programs for an employer for a
2086 multiple number of years, not to exceed five (5) years.

2087 (7) The State Board for Community and Junior Colleges shall
2088 make a report to the Legislature by January 30 of each year
2089 summarizing the number of participants, the junior or community
2090 college through which the training was offered and the type
2091 training offered.

2092 (8) This section shall stand repealed from and after July 1,
2093 2006.

2094 **SECTION 45.** Section 57-10-401, Mississippi Code of 1972, is
2095 amended as follows:

2096 **[In cases involving an economic development project for which**
2097 **the Mississippi Business Finance Corporation has issued bonds for**
2098 **the purpose of financing the approved costs of such project prior**
2099 **to July 1, 1994, this section shall read as follows:]**

2100 57-10-401. As used in Sections 57-10-401 through 57-10-445
2101 the following terms shall have the meanings ascribed to them
2102 herein unless the context clearly indicates otherwise:

2103 (a) "Approved company" means any eligible company
2104 seeking to locate an economic development project in a county,
2105 which eligible company is approved by the corporation.

2106 (b) "Approved costs" means:

2107 (i) Obligations incurred for equipment and labor
2108 and to contractors, subcontractors, builders and materialmen in
2109 connection with the acquisition, construction and installation of
2110 an economic development project;

2111 (ii) The cost of acquiring land or rights in land
2112 and any cost incidental thereto, including recording fees;

2113 (iii) The cost of contract bonds and of insurance
2114 of all kinds that may be required or necessary during the course
2115 of acquisition, construction and installation of an economic
2116 development project which is not paid by the contractor or
2117 contractors or otherwise provided for;

2118 (iv) All costs of architectural and engineering
2119 services, including test borings, surveys, estimates, plans and
2120 specifications, preliminary investigations, and supervision of
2121 construction, as well as for the performance of all the duties
2122 required by or consequent upon the acquisition, construction and
2123 installation of an economic development project;

2124 (v) All costs which shall be required to be paid
2125 under the terms of any contract or contracts for the acquisition,
2126 construction and installation of an economic development project;

2127 (vi) All costs, expenses and fees incurred in
2128 connection with the issuance of bonds pursuant to Sections
2129 57-10-401 through 57-10-445;

2130 (vii) All costs funded by a loan made under the
2131 Mississippi Small Enterprise Development Finance Act; and

2132 (viii) All costs of professionals permitted to be
2133 engaged under the Mississippi Small Enterprise Development Finance
2134 Act for a loan made under such act.

2135 (c) "Assessment" means the job development assessment
2136 fee authorized in Section 57-10-413.

2137 (d) "Bonds" means the revenue bonds, notes or other
2138 debt obligations of the corporation authorized to be issued by the
2139 corporation on behalf of an eligible company or other state
2140 agency.

2141 (e) "Corporation" means the Mississippi Business
2142 Finance Corporation created under Section 57-10-167, Mississippi
2143 Code of 1972.

2144 (f) "Economic development project" means and includes
2145 the acquisition of any equipment or real estate in a county and

2146 the construction and installation thereon, and with respect
2147 thereto, of improvements and facilities necessary or desirable for
2148 improvement of the real estate, including surveys, site tests and
2149 inspections, subsurface site work, excavation, removal of
2150 structures, roadways, cemeteries and other surface obstructions,
2151 filling, grading and provision of drainage, storm water detention,
2152 installation of utilities such as water, sewer, sewage treatment,
2153 gas, electricity, communications and similar facilities, off-site
2154 construction of utility extensions to the boundaries of the real
2155 estate, and the acquisition, construction and installation of
2156 manufacturing, telecommunications, data processing, distribution
2157 or warehouse facilities on the real estate, for lease or financial
2158 arrangement by the corporation to an approved company for use and
2159 occupancy by the approved company or its affiliates for
2160 manufacturing, telecommunications, data processing, distribution
2161 or warehouse purposes. Such term also includes, without
2162 limitation, any project the financing of which has been approved
2163 under the Mississippi Small Enterprise Development Finance Act.

2164 (g) "Eligible company" means any corporation,
2165 partnership, sole proprietorship, business trust, or other entity
2166 which is:

2167 (i) Engaged in manufacturing which meets the
2168 standards promulgated by the corporation under Sections 57-10-401
2169 through 57-10-445;

2170 (ii) A private company approved by the corporation
2171 for a loan under the Mississippi Small Enterprise Development
2172 Finance Act;

2173 (iii) A distribution or warehouse facility
2174 employing a minimum of fifty (50) people or employing a minimum of
2175 twenty (20) people and having a capital investment in such
2176 facility of at least Five Million Dollars (\$5,000,000.00); or

2177 (iv) A telecommunications or data processing
2178 business.

2179 (h) "Executive director" means the Executive Director
2180 of the Mississippi Business Finance Corporation.

2181 (i) "Financing agreement" means any financing documents
2182 and agreements, indentures, loan agreements, lease agreements,
2183 security agreements and the like, entered into by and among the
2184 corporation, private lenders and an approved company with respect
2185 to an economic development project.

2186 (j) "Manufacturing" means any activity involving the
2187 manufacturing, processing, assembling or production of any
2188 property, including the processing resulting in a change in the
2189 conditions of the property and any activity functionally related
2190 thereto, together with the storage, warehousing, distribution and
2191 related office facilities in respect thereof as determined by the
2192 Mississippi Business Finance Corporation; however, in no event
2193 shall "manufacturing" include mining, coal or mineral processing,
2194 or extraction of Mississippi minerals.

2195 (k) "State agency" means any state board, commission,
2196 committee, council, university, department or unit thereof created
2197 by the Constitution or laws of this state.

2198 (l) "Revenues" shall not be considered state funds.

2199 (m) "State" means the State of Mississippi.

2200 (n) "Mississippi Small Enterprise Development Finance
2201 Act" means the provisions of law contained in Section 57-71-1 et
2202 seq.

2203 **[In cases involving an economic development project for which**
2204 **the Mississippi Business Finance Corporation has not issued bonds**
2205 **for the purpose of financing the approved costs of such project**
2206 **prior to July 1, 1994, this section shall read as follows:]**

2207 57-10-401. As used in Sections 57-10-401 through 57-10-445
2208 the following terms shall have the meanings ascribed to them
2209 herein unless the context clearly indicates otherwise:

2210 (a) "Approved company" means any eligible company
2211 seeking to locate an economic development project in a county,
2212 which eligible company is approved by the corporation.

2213 (b) "Approved costs" means:

2214 (i) Obligations incurred for equipment and labor
2215 and to contractors, subcontractors, builders and materialmen in
2216 connection with the acquisition, construction and installation of
2217 an economic development project;

2218 (ii) The cost of acquiring land or rights in land
2219 and any cost incidental thereto, including recording fees;

2220 (iii) The cost of contract bonds and of insurance
2221 of all kinds that may be required or necessary during the course
2222 of acquisition, construction and installation of an economic
2223 development project which is not paid by the contractor or
2224 contractors or otherwise provided for;

2225 (iv) All costs of architectural and engineering
2226 services, including test borings, surveys, estimates, plans and
2227 specifications, preliminary investigations, and supervision of
2228 construction, as well as for the performance of all the duties
2229 required by or consequent upon the acquisition, construction and
2230 installation of an economic development project;

2231 (v) All costs which shall be required to be paid
2232 under the terms of any contract or contracts for the acquisition,
2233 construction and installation of an economic development project;

2234 (vi) All costs, expenses and fees incurred in
2235 connection with the issuance of bonds pursuant to Sections
2236 57-10-401 through 57-10-445;

2237 (vii) All costs funded by a loan made under the
2238 Mississippi Small Enterprise Development Finance Act; and

2239 (viii) All costs of professionals permitted to be
2240 engaged under the Mississippi Small Enterprise Development Finance
2241 Act for a loan made under such act.

2242 (c) "Assessment" means the job development assessment
2243 fee authorized in Section 57-10-413.

2244 (d) "Bonds" means the revenue bonds, notes or other
2245 debt obligations of the corporation authorized to be issued by the
2246 corporation on behalf of an eligible company or other state
2247 agency.

2248 (e) "Corporation" means the Mississippi Business
2249 Finance Corporation created under Section 57-10-167, Mississippi
2250 Code of 1972.

2251 (f) "Economic development project" means and includes
2252 the acquisition of any equipment or real estate in a county and
2253 the construction and installation thereon, and with respect
2254 thereto, of improvements and facilities necessary or desirable for
2255 improvement of the real estate, including surveys, site tests and
2256 inspections, subsurface site work, excavation, removal of
2257 structures, roadways, cemeteries and other surface obstructions,
2258 filling, grading and provision of drainage, storm water detention,
2259 installation of utilities such as water, sewer, sewage treatment,
2260 gas, electricity, communications and similar facilities, off-site
2261 construction of utility extensions to the boundaries of the real
2262 estate, and the acquisition, construction and installation of
2263 manufacturing, telecommunications, data processing, distribution
2264 or warehouse facilities on the real estate, for lease or financial
2265 arrangement by the corporation to an approved company for use and
2266 occupancy by the approved company or its affiliates for
2267 manufacturing, telecommunications, data processing, distribution
2268 or warehouse purposes. Such term also includes, without
2269 limitation, any project the financing of which has been approved
2270 under the Mississippi Small Enterprise Development Finance Act.

2271 If an eligible company closes a facility in this state and
2272 becomes an approved company under the provisions of Sections
2273 57-10-401 through 57-10-449, only that portion of the project for
2274 which such company is attempting to obtain financing that is in

2275 excess of the value of the closed facility shall be included
2276 within the definition of the term "economic development project."
2277 The Mississippi Business Finance Corporation shall promulgate
2278 rules and regulations to govern the determination of the
2279 difference between the value of the closed facility and the new
2280 facility.

2281 (g) "Eligible company" means any corporation,
2282 partnership, sole proprietorship, business trust, or other entity
2283 which:

2284 (i) Engaged in manufacturing which meets the
2285 standards promulgated by the corporation under Sections 57-10-401
2286 through 57-10-445;

2287 (ii) A private company approved by the corporation
2288 for a loan under the Mississippi Small Enterprise Development
2289 Finance Act;

2290 (iii) A distribution or warehouse facility
2291 employing a minimum of fifty (50) people or employing a minimum of
2292 twenty (20) people and having a capital investment in such
2293 facility of at least Five Million Dollars (\$5,000,000.00); * * *

2294 (iv) A telecommunications or data/information
2295 processing business meeting criteria established by the
2296 Mississippi Business Finance Corporation;

2297 (v) National or regional headquarters meeting
2298 criteria established by the Mississippi Business Finance
2299 Corporation;

2300 (vi) Research and development facilities meeting
2301 criteria established by the Mississippi Business Finance
2302 Corporation; or

2303 (vii) Technology intensive enterprises or
2304 facilities meeting criteria established by the Mississippi
2305 Business Finance Corporation.

2306 (h) "Executive director" means the Executive Director
2307 of the Mississippi Business Finance Corporation.

2308 (i) "Financing agreement" means any financing documents
2309 and agreements, indentures, loan agreements, lease agreements,
2310 security agreements and the like, entered into by and among the
2311 corporation, private lenders and an approved company with respect
2312 to an economic development project.

2313 (j) "Manufacturing" means any activity involving the
2314 manufacturing, processing, assembling or production of any
2315 property, including the processing resulting in a change in the
2316 conditions of the property and any activity functionally related
2317 thereto, together with the storage, warehousing, distribution and
2318 related office facilities in respect thereof as determined by the
2319 Mississippi Business Finance Corporation; however, in no event
2320 shall "manufacturing" include mining, coal or mineral processing,
2321 or extraction of Mississippi minerals.

2322 (k) "State agency" means any state board, commission,
2323 committee, council, university, department or unit thereof created
2324 by the Constitution or laws of this state.

2325 (l) "Revenues" shall not be considered state funds.

2326 (m) "State" means the State of Mississippi.

2327 (n) "Mississippi Small Enterprise Development Finance
2328 Act" means the provisions of law contained in Section 57-71-1 et
2329 seq.

2330 **SECTION 46.** Section 57-62-5, Mississippi Code of 1972, is
2331 amended as follows:

2332 **[For businesses or industries that received or applied for**
2333 **incentive payments prior to July 1, 2005, this section shall read**
2334 **as follows:]**

2335 57-62-5. As used in this chapter, the following words and
2336 phrases shall have the meanings ascribed in this section unless
2337 the context clearly indicates otherwise:

2338 (a) "Qualified business or industry" means any
2339 corporation, limited liability company, partnership, sole
2340 proprietorship, business trust or other legal entity and subunits

2341 or affiliates thereof, pursuant to rules and regulations of the
2342 MDA, which provides an average annual salary, excluding benefits
2343 which are not subject to Mississippi income taxes, of at least one
2344 hundred twenty-five percent (125%) of the most recently published
2345 state average annual wage or the most recently published average
2346 annual wage of the county in which the qualified business or
2347 industry is located as determined by the Mississippi Department of
2348 Employment Security, whichever is the lesser. An establishment
2349 shall not be considered to be a qualified business or industry
2350 unless it offers, or will offer within one hundred eighty (180)
2351 days of the date it receives the first incentive payment pursuant
2352 to the provisions of this chapter, a basic health benefits plan to
2353 the individuals it employs in new direct jobs in this state which
2354 is approved by the MDA. Qualified business or industry does not
2355 include retail business or gaming business;

2356 (b) "New direct job" means full-time employment in this
2357 state in a qualified business or industry that has qualified to
2358 receive an incentive payment pursuant to this chapter, which
2359 employment did not exist in this state before the date of approval
2360 by the MDA of the application of the qualified business or
2361 industry pursuant to the provisions of this chapter. "New direct
2362 job" shall include full-time employment in this state of employees
2363 who are employed by an entity other than the establishment that
2364 has qualified to receive an incentive payment and who are leased
2365 to the qualified business or industry, if such employment did not
2366 exist in this state before the date of approval by the MDA of the
2367 application of the establishment;

2368 (c) "Full-time job" means a job of at least thirty-five
2369 (35) hours per week;

2370 (d) "Estimated direct state benefits" means the tax
2371 revenues projected by the MDA to accrue to the state as a result
2372 of the qualified business or industry;

2373 (e) "Estimated direct state costs" means the costs
2374 projected by the MDA to accrue to the state as a result of the
2375 qualified business or industry;

2376 (f) "Estimated net direct state benefits" means the
2377 estimated direct state benefits less the estimated direct state
2378 costs;

2379 (g) "Net benefit rate" means the estimated net direct
2380 state benefits computed as a percentage of gross payroll, provided
2381 that:

2382 (i) Except as otherwise provided in this paragraph
2383 (g), the net benefit rate may be variable and shall not exceed
2384 four percent (4%) of the gross payroll; and shall be set in the
2385 sole discretion of the MDA;

2386 (ii) In no event shall incentive payments,
2387 cumulatively, exceed the estimated net direct state benefits;

2388 (h) "Gross payroll" means wages for new direct jobs of
2389 the qualified business or industry; and

2390 (i) "MDA" means the Mississippi Development Authority.

2391 **[For businesses or industries that apply for incentive**
2392 **payments from and after July 1, 2005, this section shall read as**
2393 **follows:]**

2394 57-62-5. As used in this chapter, the following words and
2395 phrases shall have the meanings ascribed in this section unless
2396 the context clearly indicates otherwise:

2397 (a) "Qualified business or industry" means any
2398 corporation, limited liability company, partnership, sole
2399 proprietorship, business trust or other legal entity and subunits
2400 or affiliates thereof, pursuant to rules and regulations of the
2401 MDA, which:

2402 (i) Is a data/information processing enterprise
2403 meeting minimum criteria established by the MDA that provides an
2404 average annual salary, excluding benefits which are not subject to
2405 Mississippi income taxes, of at least one hundred percent (100%)

2406 of the most recently published state average annual wage or the
2407 most recently published average annual wage of the county in which
2408 the qualified business or industry is located as determined by the
2409 Mississippi Department of Employment Security, whichever is the
2410 lesser, and creates not less than two hundred (200) new direct
2411 jobs if the enterprise is located in a Tier One or Tier Two area
2412 (as such areas are designated in accordance with Section
2413 57-73-21), or which creates not less than one hundred (100) new
2414 jobs if the enterprise is located in a Tier Three area (as such
2415 areas are designated in accordance with Section 57-73-21);

2416 (ii)_ Is a manufacturing or distribution enterprise
2417 meeting minimum criteria established by the MDA that provides an
2418 average annual salary, excluding benefits which are not subject to
2419 Mississippi income taxes, of at least one hundred ten percent
2420 (110%) of the most recently published state average annual wage or
2421 the most recently published average annual wage of the county in
2422 which the qualified business or industry is located as determined
2423 by the Mississippi Department of Employment Security, whichever is
2424 the lesser, invests not less than Twenty Million Dollars
2425 (\$20,000,000.00) in land, buildings and equipment, and creates not
2426 less than fifty (50) new direct jobs if the enterprise is located
2427 in a Tier One or Tier Two area (as such areas are designated in
2428 accordance with Section 57-73-21), or which creates not less than
2429 twenty (20) new jobs if the enterprise is located in a Tier Three
2430 area (as such areas are designated in accordance with Section
2431 57-73-21);

2432 (iii)_ Is a corporation, limited liability company,
2433 partnership, sole proprietorship, business trust or other legal
2434 entity and subunits or affiliates thereof, pursuant to rules and
2435 regulations of the MDA, which provides an average annual salary,
2436 excluding benefits which are not subject to Mississippi income
2437 taxes, of at least one hundred twenty-five percent (125%) of the
2438 most recently published state average annual wage or the most

2439 recently published average annual wage of the county in which the
2440 qualified business or industry is located as determined by the
2441 Mississippi Department of Employment Security, whichever is the
2442 lesser. An establishment shall not be considered to be a
2443 qualified business or industry unless it offers, or will offer
2444 within one hundred eighty (180) days of the date it receives the
2445 first incentive payment pursuant to the provisions of this
2446 chapter, a basic health benefits plan to the individuals it
2447 employs in new direct jobs in this state which is approved by the
2448 MDA. Qualified business or industry does not include retail
2449 business or gaming business; or

2450 (iv) Is a research and development or a technology
2451 intensive enterprise meeting minimum criteria established by the
2452 MDA that provides an average annual salary, excluding benefits
2453 which are not subject to Mississippi income taxes, of at least one
2454 hundred fifty percent (150%) of the most recently published state
2455 average annual wage or the most recently published average annual
2456 wage of the county in which the qualified business or industry is
2457 located as determined by the Mississippi Department of Employment
2458 Security, whichever is the lesser, and creates not less than ten
2459 (10) new direct jobs.

2460 An establishment shall not be considered to be a qualified
2461 business or industry unless it offers, or will offer within one
2462 hundred eighty (180) days of the date it receives the first
2463 incentive payment pursuant to the provisions of this chapter, a
2464 basic health benefits plan to the individuals it employs in new
2465 direct jobs in this state which is approved by the MDA. Qualified
2466 business or industry does not include retail business or gaming
2467 business.

2468 (b) "New direct job" means full-time employment in this
2469 state in a qualified business or industry that has qualified to
2470 receive an incentive payment pursuant to this chapter, which
2471 employment did not exist in this state before the date of approval

2472 by the MDA of the application of the qualified business or
2473 industry pursuant to the provisions of this chapter. "New direct
2474 job" shall include full-time employment in this state of employees
2475 who are employed by an entity other than the establishment that
2476 has qualified to receive an incentive payment and who are leased
2477 to the qualified business or industry, if such employment did not
2478 exist in this state before the date of approval by the MDA of the
2479 application of the establishment.

2480 (c) "Full-time job" or "full-time employment" means a
2481 job of at least thirty-five (35) hours per week.

2482 (d) "Estimated direct state benefits" means the tax
2483 revenues projected by the MDA to accrue to the state as a result
2484 of the qualified business or industry.

2485 (e) "Estimated direct state costs" means the costs
2486 projected by the MDA to accrue to the state as a result of the
2487 qualified business or industry.

2488 (f) "Estimated net direct state benefits" means the
2489 estimated direct state benefits less the estimated direct state
2490 costs.

2491 (g) "Net benefit rate" means the estimated net direct
2492 state benefits computed as a percentage of gross payroll, provided
2493 that:

2494 (i) Except as otherwise provided in this paragraph
2495 (g), the net benefit rate may be variable and shall not exceed
2496 four percent (4%) of the gross payroll; and shall be set in the
2497 sole discretion of the MDA;

2498 (ii) In no event shall incentive payments,
2499 cumulatively, exceed the estimated net direct state benefits.

2500 (h) "Gross payroll" means wages for new direct jobs of
2501 the qualified business or industry. * * *

2502 (i) "MDA" means the Mississippi Development Authority.

2503 **SECTION 47.** Section 57-62-9, Mississippi Code of 1972, is
2504 amended as follows:

2505 [For businesses or industries that received or applied for
2506 incentive payments prior to July 1, 2005, this section shall read
2507 as follows:]

2508 57-62-9. (1) Except as otherwise provided in this section,
2509 a qualified business or industry that meets the qualifications
2510 specified in the Mississippi Advantage Jobs Act may receive
2511 quarterly incentive payments for a period not to exceed ten (10)
2512 years from the State Tax Commission pursuant to the provisions of
2513 the Mississippi Advantage Jobs Act in an amount which shall be
2514 equal to the net benefit rate multiplied by the actual gross
2515 payroll of new direct jobs for a calendar quarter as verified by
2516 the Mississippi Department of Employment Security, but not to
2517 exceed the amount of money previously paid into the fund by the
2518 employer. A qualified business or industry that is a project as
2519 defined in Section 57-75-5(f)(iv)1 may elect the date upon which
2520 the ten-year period will begin. Such date may not be later than
2521 sixty (60) months after the date the business or industry applied
2522 for incentive payments.

2523 (2) (a) A qualified business or industry that is a project
2524 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to
2525 receive incentive payments for an additional period not to exceed
2526 five (5) years beyond the expiration date of the initial ten-year
2527 period if:

2528 (i) The qualified business or industry creates at
2529 least three thousand (3,000) new direct jobs within five (5) years
2530 after the date the business or industry commences commercial
2531 production;

2532 (ii) Within five (5) years after the date the
2533 business or industry commences commercial production, the average
2534 annual wage of the jobs is at least one hundred fifty percent
2535 (150%) of the most recently published state average annual wage or
2536 the most recently published average annual wage of the county in
2537 which the qualified business or industry is located as determined

2538 by the Mississippi Department of Employment Security, whichever is
2539 the lesser. The criteria for the average annual wage requirement
2540 shall be based upon the state average annual wage or the average
2541 annual wage of the county whichever is appropriate, at the time of
2542 creation of the minimum number of jobs, and the threshold
2543 established at that time will remain constant for the duration of
2544 the additional period; and

2545 (iii) The qualified business or industry meets and
2546 maintains the job and wage requirements of subparagraphs (i) and
2547 (ii) of this paragraph (a) for four (4) consecutive calendar
2548 quarters.

2549 (b) A qualified business or industry that is a project
2550 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
2551 incentive payments for the additional period provided in paragraph
2552 (a) of this subsection (2) may apply to the MDA to receive
2553 incentive payments for an additional period not to exceed ten (10)
2554 years beyond the expiration date of the additional period provided
2555 in paragraph (a) of this subsection (2) if:

2556 (i) The qualified business or industry creates at
2557 least four thousand (4,000) new direct jobs after qualifying for
2558 the additional incentive period provided in paragraph (a) of this
2559 subsection (2) but before the expiration of the additional period.
2560 For purposes of determining whether the business or industry meets
2561 the minimum jobs requirement of this subparagraph (i), the number
2562 of jobs the business or industry created in order to meet the
2563 minimum jobs requirement of paragraph (a) of this subsection (2)
2564 shall be subtracted from the minimum jobs requirement of this
2565 subparagraph (i);

2566 (ii) The average annual wage of the jobs is at
2567 least one hundred fifty percent (150%) of the most recently
2568 published state average annual wage or the most recently published
2569 average annual wage of the county in which the qualified business
2570 or industry is located as determined by the Mississippi Department

2571 of Employment Security, whichever is the lesser. The criteria for
2572 the average annual wage requirement shall be based upon the state
2573 average annual wage or the average annual wage of the county
2574 whichever is appropriate, at the time of creation of the minimum
2575 number of jobs, and the threshold established at that time will
2576 remain constant for the duration of the additional period; and

2577 (iii) The qualified business or industry meets and
2578 maintains the job and wage requirements of subparagraphs (i) and
2579 (ii) of this paragraph (b) for four (4) consecutive calendar
2580 quarters.

2581 (3) In order to receive incentive payments, an establishment
2582 shall apply to the MDA. The application shall be on a form
2583 prescribed by the MDA and shall contain such information as may be
2584 required by the MDA to determine if the applicant is qualified.

2585 (4) In order to qualify to receive such payments, the
2586 establishment applying shall be required to:

2587 (a) Be engaged in a qualified business or industry;

2588 (b) Provide an average salary, excluding benefits which
2589 are not subject to Mississippi income taxes, of at least one
2590 hundred twenty-five percent (125%) of the most recently published
2591 state average annual wage or the most recently published average
2592 annual wage of the county in which the qualified business or
2593 industry is located as determined by the Mississippi Department of
2594 Employment Security, whichever is the lesser. The criteria for
2595 this requirement shall be based upon the state average annual wage
2596 or the average annual wage of the county whichever is appropriate,
2597 at the time of application, and the threshold established upon
2598 application will remain constant for the duration of the project;

2599 (c) The business or industry must create and maintain a
2600 minimum of ten (10) full-time jobs in counties that have an
2601 average unemployment rate over the previous twelve-month period
2602 which is at least one hundred fifty percent (150%) of the most
2603 recently published state unemployment rate, as determined by the

2604 Mississippi Department of Employment Security or in Tier Three
2605 counties as determined under Section 57-73-21. In all other
2606 counties, the business or industry must create and maintain a
2607 minimum of twenty-five (25) full-time jobs. The criteria for this
2608 requirement shall be based on the designation of the county at the
2609 time of the application. The threshold established upon the
2610 application will remain constant for the duration of the project.
2611 The business or industry must meet its job creation commitment
2612 within twenty-four (24) months of the application approval.
2613 However, if the qualified business or industry is applying for
2614 incentive payments for an additional period under subsection (2)
2615 of this section, the business or industry must comply with the
2616 applicable job and wage requirements of subsection (2) of this
2617 section.

2618 (5) The MDA shall determine if the applicant is qualified to
2619 receive incentive payments. If the applicant is determined to be
2620 qualified by the MDA, the MDA shall conduct a cost/benefit
2621 analysis to determine the estimated net direct state benefits and
2622 the net benefit rate applicable for a period not to exceed ten
2623 (10) years and to estimate the amount of gross payroll for the
2624 period. If the applicant is determined to be qualified to receive
2625 incentive payments for an additional period under subsection (2)
2626 of this section, the MDA shall conduct a cost/benefit analysis to
2627 determine the estimated net direct state benefits and the net
2628 benefit rate applicable for the appropriate additional period and
2629 to estimate the amount of gross payroll for the additional period.
2630 In conducting such cost/benefit analysis, the MDA shall consider
2631 quantitative factors, such as the anticipated level of new tax
2632 revenues to the state along with the cost to the state of the
2633 qualified business or industry, and such other criteria as deemed
2634 appropriate by the MDA, including the adequacy of retirement
2635 benefits that the business or industry provides to individuals it
2636 employs in new direct jobs in this state. In no event shall

2637 incentive payments, cumulatively, exceed the estimated net direct
2638 state benefits. Once the qualified business or industry is
2639 approved by the MDA, an agreement shall be deemed to exist between
2640 the qualified business or industry and the State of Mississippi,
2641 requiring the continued incentive payment to be made as long as
2642 the qualified business or industry retains its eligibility.

2643 (6) Upon approval of such an application, the MDA shall
2644 notify the State Tax Commission and shall provide it with a copy
2645 of the approved application and the estimated net direct state
2646 benefits. The State Tax Commission may require the qualified
2647 business or industry to submit such additional information as may
2648 be necessary to administer the provisions of this chapter. The
2649 qualified business or industry shall report to the State Tax
2650 Commission periodically to show its continued eligibility for
2651 incentive payments. The qualified business or industry may be
2652 audited by the State Tax Commission to verify such eligibility.

2653 **[For businesses or industries that apply for incentive**
2654 **payments from and after July 1, 2005, this section shall read as**
2655 **follows:]**

2656 57-62-9. (1) (a) Except as otherwise provided in this
2657 section, a qualified business or industry that meets the
2658 qualifications specified in the Mississippi Advantage Jobs Act may
2659 receive quarterly incentive payments for a period not to exceed
2660 ten (10) years from the State Tax Commission pursuant to the
2661 provisions of the Mississippi Advantage Jobs Act in an amount
2662 which shall be equal to the net benefit rate multiplied by the
2663 actual gross payroll of new direct jobs for a calendar quarter as
2664 verified by the Mississippi Department of Employment Security, but
2665 not to exceed:

2666 (i) Ninety percent (90%) of the amount of money
2667 previously paid into the fund by the employer if the employer
2668 provides an average annual salary, excluding benefits which are
2669 not subject to Mississippi income taxes, of at least one hundred

2670 seventy-five percent (175%) of the most recently published state
2671 average annual wage or the most recently published average annual
2672 wage of the county in which the qualified business or industry is
2673 located as determined by the Mississippi Department of Employment
2674 Security, whichever is the lesser;

2675 (ii) Eighty percent (80%) of the amount of money
2676 previously paid into the fund by the employer if the employer
2677 provides an average annual salary, excluding benefits which are
2678 not subject to Mississippi income taxes, of at least one hundred
2679 twenty-five percent (125%) but less than one hundred seventy-five
2680 percent (175%) of the most recently published state average annual
2681 wage or the most recently published average annual wage of the
2682 county in which the qualified business or industry is located as
2683 determined by the Mississippi Department of Employment Security,
2684 whichever is the lesser; or

2685 (iii) Seventy percent (70%) of the amount of money
2686 previously paid into the fund by the employer if the employer
2687 provides an average annual salary, excluding benefits which are
2688 not subject to Mississippi income taxes, of less than one hundred
2689 twenty-five percent (125%) of the most recently published state
2690 average annual wage or the most recently published average annual
2691 wage of the county in which the qualified business or industry is
2692 located as determined by the Mississippi Department of Employment
2693 Security, whichever is the lesser.

2694 (b) A qualified business or industry that is a project
2695 as defined in Section 57-75-5(f)(iv)1 may elect the date upon
2696 which the ten-year period will begin. Such date may not be later
2697 than sixty (60) months after the date the business or industry
2698 applied for incentive payments.

2699 (2) (a) A qualified business or industry that is a project
2700 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to
2701 receive incentive payments for an additional period not to exceed

2702 five (5) years beyond the expiration date of the initial ten-year
2703 period if:

2704 (i) The qualified business or industry creates at
2705 least three thousand (3,000) new direct jobs within five (5) years
2706 after the date the business or industry commences commercial
2707 production;

2708 (ii) Within five (5) years after the date the
2709 business or industry commences commercial production, the average
2710 annual wage of the jobs is at least one hundred fifty percent
2711 (150%) of the most recently published state average annual wage or
2712 the most recently published average annual wage of the county in
2713 which the qualified business or industry is located as determined
2714 by the Mississippi Department of Employment Security, whichever is
2715 the lesser. The criteria for the average annual wage requirement
2716 shall be based upon the state average annual wage or the average
2717 annual wage of the county whichever is appropriate, at the time of
2718 creation of the minimum number of jobs, and the threshold
2719 established at that time will remain constant for the duration of
2720 the additional period; and

2721 (iii) The qualified business or industry meets and
2722 maintains the job and wage requirements of subparagraphs (i) and
2723 (ii) of this paragraph (a) for four (4) consecutive calendar
2724 quarters.

2725 (b) A qualified business or industry that is a project
2726 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
2727 incentive payments for the additional period provided in paragraph
2728 (a) of this subsection (2) may apply to the MDA to receive
2729 incentive payments for an additional period not to exceed ten (10)
2730 years beyond the expiration date of the additional period provided
2731 in paragraph (a) of this subsection (2) if:

2732 (i) The qualified business or industry creates at
2733 least four thousand (4,000) new direct jobs after qualifying for
2734 the additional incentive period provided in paragraph (a) of this

2735 subsection (2) but before the expiration of the additional period.
2736 For purposes of determining whether the business or industry meets
2737 the minimum jobs requirement of this subparagraph (i), the number
2738 of jobs the business or industry created in order to meet the
2739 minimum jobs requirement of paragraph (a) of this subsection (2)
2740 shall be subtracted from the minimum jobs requirement of this
2741 subparagraph (i);

2742 (ii) The average annual wage of the jobs is at
2743 least one hundred fifty percent (150%) of the most recently
2744 published state average annual wage or the most recently published
2745 average annual wage of the county in which the qualified business
2746 or industry is located as determined by the Mississippi Department
2747 of Employment Security, whichever is the lesser. The criteria for
2748 the average annual wage requirement shall be based upon the state
2749 average annual wage or the average annual wage of the county
2750 whichever is appropriate, at the time of creation of the minimum
2751 number of jobs, and the threshold established at that time will
2752 remain constant for the duration of the additional period; and

2753 (iii) The qualified business or industry meets and
2754 maintains the job and wage requirements of subparagraphs (i) and
2755 (ii) of this paragraph (b) for four (4) consecutive calendar
2756 quarters.

2757 (3) In order to receive incentive payments, an establishment
2758 shall apply to the MDA. The application shall be on a form
2759 prescribed by the MDA and shall contain such information as may be
2760 required by the MDA to determine if the applicant is qualified.

2761 (4) (a) In order to qualify to receive such payments, the
2762 establishment applying shall be required to meet the definition of
2763 the term "qualified business or industry";

2764 (b) * * * The criteria for the average annual salary
2765 requirement shall be based upon the state average annual wage or
2766 the average annual wage of the county whichever is appropriate, at

2767 the time of application, and the threshold established upon
2768 application will remain constant for the duration of the project;

2769 (c) * * * The business or industry must meet its job
2770 creation commitment within twenty-four (24) months of the
2771 application approval. However, if the qualified business or
2772 industry is applying for incentive payments for an additional
2773 period under subsection (2) of this section, the business or
2774 industry must comply with the applicable job and wage requirements
2775 of subsection (2) of this section.

2776 (5) (a) The MDA shall determine if the applicant is
2777 qualified to receive incentive payments. If the applicant is
2778 determined to be qualified by the MDA, the MDA shall:

2779 (i) Conduct a cost/benefit analysis to determine
2780 the estimated net direct state benefits and the net benefit rate
2781 applicable for a period not to exceed ten (10) years and to
2782 estimate the amount of gross payroll for the period; and

2783 (ii) Require the applicant to execute a
2784 performance agreement with the MDA that specifies the manner in
2785 which the applicant will utilize the incentive payments made to it
2786 under this chapter.

2787 (b) If the applicant is determined to be qualified to
2788 receive incentive payments for an additional period under
2789 subsection (2) of this section, the MDA shall conduct a
2790 cost/benefit analysis to determine the estimated net direct state
2791 benefits and the net benefit rate applicable for the appropriate
2792 additional period and to estimate the amount of gross payroll for
2793 the additional period. In conducting such cost/benefit analysis,
2794 the MDA shall consider quantitative factors, such as the
2795 anticipated level of new tax revenues to the state along with the
2796 cost to the state of the qualified business or industry, and such
2797 other criteria as deemed appropriate by the MDA, including the
2798 adequacy of retirement benefits that the business or industry
2799 provides to individuals it employs in new direct jobs in this

2800 state. In no event shall incentive payments, cumulatively, exceed
2801 the estimated net direct state benefits. Once the qualified
2802 business or industry is approved by the MDA, an agreement shall be
2803 deemed to exist between the qualified business or industry and the
2804 State of Mississippi, requiring the continued incentive payment to
2805 be made as long as the qualified business or industry retains its
2806 eligibility.

2807 (6) Upon approval of such an application, the MDA shall
2808 notify the State Tax Commission and shall provide it with a copy
2809 of the approved application and the estimated net direct state
2810 benefits. The State Tax Commission may require the qualified
2811 business or industry to submit such additional information as may
2812 be necessary to administer the provisions of this chapter. The
2813 qualified business or industry shall report to the State Tax
2814 Commission periodically to show its continued eligibility for
2815 incentive payments. The qualified business or industry may be
2816 audited by the State Tax Commission to verify such eligibility.

2817 **SECTION 48.** Section 57-62-13, Mississippi Code of 1972, is
2818 amended as follows:

2819 57-62-13. (1) As soon as practicable after the end of a
2820 calendar quarter for which a qualified business or industry has
2821 qualified to receive an incentive payment, the qualified business
2822 or industry shall file a claim for the payment with the State Tax
2823 Commission and shall specify the actual number of new direct jobs
2824 created and maintained by the business or industry for the
2825 calendar quarter and the gross payroll thereof. The State Tax
2826 Commission shall verify the actual number of new direct jobs
2827 created and maintained by the business or industry and compliance
2828 with the average annual wage requirements for such business or
2829 industry under this chapter. If the qualified business or
2830 industry files a claim for an incentive payment during an
2831 additional incentive period provided under Section 57-62-9(2), the
2832 State Tax Commission shall verify the actual number of new direct

2833 jobs created and maintained by the business or industry and
2834 compliance with the average annual wage requirements for such
2835 business or industry under this chapter. If the State Tax
2836 Commission is not able to provide such verification utilizing all
2837 available resources, the State Tax Commission may request such
2838 additional information from the business or industry as may be
2839 necessary.

2840 (2) (a) The business or industry must meet the salary and
2841 job requirements of this chapter for four (4) consecutive calendar
2842 quarters prior to payment of the first incentive payment. If the
2843 business or industry does not maintain the salary or job
2844 requirements of this chapter at any other time during the ten-year
2845 period after the date the first payment was made, the incentive
2846 payments shall not be made and shall not be resumed until such
2847 time as the actual verified number of new direct jobs created and
2848 maintained by the business or industry equals or exceeds the
2849 requirements of this chapter for one (1) calendar quarter.

2850 (b) If the business or industry is qualified to receive
2851 incentive payments for an additional period provided under Section
2852 57-62-9(2), the business or industry must meet the wage and job
2853 requirements of Section 57-62-9(2), for four (4) consecutive
2854 calendar quarters prior to payment of the first incentive payment.
2855 If the business or industry does not maintain the wage or job
2856 requirements of Section 57-62-9(2), at any other time during the
2857 appropriate additional period after the date the first payment was
2858 made, the incentive payments shall not be made and shall not be
2859 resumed until such time as the actual verified number of new
2860 direct jobs created and maintained by the business or industry
2861 equals or exceeds the amounts specified in Section 57-62-9(2), for
2862 one (1) calendar quarter.

2863 (3) An establishment that has qualified pursuant to this
2864 chapter may receive payments only in accordance with the provision
2865 under which it initially applied and was approved. If an

2866 establishment that is receiving incentive payments expands, it may
2867 apply for additional incentive payments based on the new gross
2868 payroll for new direct jobs anticipated from the expansion only,
2869 pursuant to this chapter.

2870 (4) As soon as practicable after verification of the
2871 qualified business or industry meeting the requirements of this
2872 chapter and all rules and regulations, the Department of Finance
2873 and Administration, upon requisition of the State Tax Commission,
2874 shall issue a warrant drawn on the Mississippi Advantage Jobs
2875 Incentive Payment Fund to the establishment in the amount of the
2876 net benefit rate multiplied by the actual gross payroll as
2877 determined pursuant to subsection (1) of this section for the
2878 calendar quarter.

2879 **SECTION 49.** Section 38 of this act shall take effect and be
2880 in force from and after January 1, 2005, and the remainder of this
2881 act shall take effect and be in force from and after July 1, 2005.