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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.