

By: Representatives Watson,  
Reynolds, Clark

To: Ways and Means

HOUSE BILL NO. 1

1 AN ACT TO ESTABLISH AN INCOME TAX CREDIT FOR MANUFACTURING  
2 ENTERPRISES THAT HAVE OPERATED IN THIS STATE FOR NOT LESS THAN TWO  
3 YEARS IN AN AMOUNT EQUAL TO A CERTAIN PERCENTAGE OF THE  
4 ENTERPRISE'S INVESTMENT IN BUILDINGS OR EQUIPMENT; TO PROVIDE THAT  
5 ANY SUCH TAX CREDIT CLAIMED BUT NOT USED IN ANY TAXABLE YEAR MAY  
6 BE CARRIED FORWARD FOR FIVE YEARS FROM THE CLOSE OF THE TAX YEAR  
7 IN WHICH THE ELIGIBLE INVESTMENT WAS MADE; TO PROVIDE THAT THE  
8 CREDIT TAKEN IN ANY ONE TAX YEAR IS LIMITED TO AN AMOUNT NOT  
9 GREATER THAN 50% OF THE TAXPAYER'S STATE INCOME TAX LIABILITY  
10 WHICH IS ATTRIBUTABLE TO INCOME DERIVED FROM OPERATIONS IN THE  
11 STATE FOR THAT YEAR; TO PROVIDE THAT THE MANUFACTURING ENTERPRISE  
12 MUST INVEST AT LEAST \$1,000,000.00 TO BE ELIGIBLE FOR THE CREDIT;  
13 TO PROVIDE THAT THE MAXIMUM CUMULATIVE CREDIT THAT MAY BE CLAIMED  
14 BY A TAXPAYER FOR ANY ONE PROJECT IS LIMITED TO \$1,000,000.00; TO  
15 PROVIDE FOR RECAPTURE OF THE CREDIT UNDER CERTAIN CIRCUMSTANCES;  
16 TO AMEND SECTION 27-31-101, MISSISSIPPI CODE OF 1972, TO AUTHORIZE  
17 THE BOARD OF SUPERVISORS OF COUNTIES AND THE GOVERNING AUTHORITIES  
18 OF MUNICIPALITIES TO GRANT CERTAIN AD VALOREM TAX EXEMPTIONS TO  
19 DATA/INFORMATION PROCESSING ENTERPRISES AND TECHNOLOGY INTENSIVE  
20 ENTERPRISES MEETING MINIMUM CRITERIA ESTABLISHED BY THE  
21 MISSISSIPPI DEVELOPMENT AUTHORITY; TO AMEND SECTION 27-65-17,  
22 MISSISSIPPI CODE OF 1972, TO IMPOSE THE SALES TAX AT A REDUCED  
23 RATE ON CERTAIN SALES OF MACHINERY AND MACHINE PARTS TO A  
24 TECHNOLOGY INTENSIVE BUSINESS FOR PLANT USE; TO AMEND SECTION  
25 27-65-19, MISSISSIPPI CODE OF 1972, TO REDUCE THE SALES TAX ON  
26 CERTAIN FUELS SOLD TO OR USED BY TECHNOLOGY INTENSIVE ENTERPRISES;  
27 TO AMEND SECTION 27-65-101, MISSISSIPPI CODE OF 1972, TO EXEMPT  
28 FROM SALES TAXATION SALES OF COMPONENT MATERIALS USED IN THE  
29 CONSTRUCTION OF A FACILITY, OR ANY ADDITION OR IMPROVEMENT TO SUCH  
30 FACILITY, AND SALES OR LEASES OF MACHINERY AND EQUIPMENT TO BE  
31 USED IN SUCH FACILITIES, ADDITIONS OR IMPROVEMENTS, TO PERMANENT  
32 BUSINESS ENTERPRISES OPERATING A DATA/INFORMATION ENTERPRISE IN A  
33 TIER THREE AREA MEETING MINIMUM CRITERIA ESTABLISHED BY THE  
34 MISSISSIPPI DEVELOPMENT AUTHORITY; TO EXEMPT FROM SALES TAXATION  
35 SALES OF COMPONENT MATERIALS USED IN THE CONSTRUCTION OF A  
36 FACILITY, OR ANY ADDITION OR IMPROVEMENT TO SUCH FACILITY, AND  
37 SALES OF MACHINERY AND EQUIPMENT TO BE USED IN SUCH FACILITIES,  
38 ADDITIONS OR IMPROVEMENTS, TO TECHNOLOGY INTENSIVE ENTERPRISES FOR  
39 INDUSTRIAL PURPOSES IN A TIER THREE AREA; TO REDUCE THE SALES  
40 TAXATION ON SALES OF COMPONENT MATERIALS USED IN THE CONSTRUCTION  
41 OF A FACILITY, OR ANY ADDITION OR IMPROVEMENT TO SUCH BUILDING,  
42 AND SALES OR LEASES OF MACHINERY AND EQUIPMENT TO BE USED IN SUCH  
43 BUILDINGS, ADDITIONS OR IMPROVEMENTS, TO PERMANENT BUSINESS  
44 ENTERPRISES OPERATING A DATA/INFORMATION ENTERPRISE IN A TIER ONE  
45 OR TIER TWO AREA MEETING MINIMUM CRITERIA ESTABLISHED BY THE  
46 MISSISSIPPI DEVELOPMENT AUTHORITY; TO REDUCE THE SALES TAXATION ON  
47 SALES OF COMPONENT MATERIALS USED IN THE CONSTRUCTION OF A  
48 FACILITY, OR ANY ADDITION OR IMPROVEMENT TO SUCH FACILITY, AND  
49 SALES OF MACHINERY AND EQUIPMENT, TO TECHNOLOGY INTENSIVE  
50 ENTERPRISES FOR INDUSTRIAL PURPOSES IN A TIER ONE OR TIER TWO  
51 AREA; TO AMEND SECTION 57-73-21, MISSISSIPPI CODE OF 1972, TO  
52 REVISE THE AMOUNT OF THE JOB TAX CREDIT FOR CERTAIN PERMANENT

53 BUSINESS ENTERPRISES TO PROVIDE THAT THE AMOUNT OF THE CREDIT  
54 SHALL BE A CERTAIN PERCENTAGE OF SUCH ENTERPRISE'S PAYROLL; TO  
55 AMEND SECTION 57-73-25, MISSISSIPPI CODE OF 1972, IN CONFORMITY  
56 THERETO; TO AMEND SECTION 57-10-401, MISSISSIPPI CODE OF 1972, TO  
57 INCLUDE CERTAIN INFORMATION PROCESSING BUSINESSES, NATIONAL OR  
58 REGIONAL HEADQUARTERS, RESEARCH AND DEVELOPMENT FACILITIES AND  
59 TECHNOLOGY INTENSIVE ENTERPRISES OR FACILITIES WITHIN THE  
60 DEFINITION OF THE TERM "ELIGIBLE COMPANY"; TO AMEND SECTIONS  
61 57-62-5 AND 57-62-9, MISSISSIPPI CODE OF 1972, TO REVISE THE  
62 DEFINITION OF THE TERM "QUALIFIED BUSINESS OR INDUSTRY" UNDER THE  
63 MISSISSIPPI ADVANTAGE JOBS ACT TO ALLOW A BUSINESS TO BE ELIGIBLE  
64 FOR THE INCENTIVE PAYMENT UNDER THE ACT IF IT IS A  
65 DATA/INFORMATION PROCESSING ENTERPRISE, MANUFACTURING OR  
66 DISTRIBUTION ENTERPRISE OR A RESEARCH AND DEVELOPMENT OR  
67 TECHNOLOGY INTENSIVE ENTERPRISE THAT MEETS CERTAIN CRITERIA; TO  
68 REQUIRE APPLICANTS FOR THE INCENTIVE PAYMENTS UNDER THE ACT TO  
69 EXECUTE A PERFORMANCE AGREEMENT WITH THE MISSISSIPPI DEVELOPMENT  
70 AUTHORITY THAT SPECIFIES THE MANNER IN WHICH THE APPLICANT WILL  
71 UTILIZE THE INCENTIVE PAYMENT; TO AMEND SECTION 57-62-13,  
72 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED  
73 PURPOSES.

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

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

76 (a) "Manufacturing enterprise" means an enterprise  
77 that:

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

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

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

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

90 (3) Any tax credit claimed under this section but not used  
91 in any taxable year may be carried forward for five (5) years from  
92 the close of the tax year in which the eligible investment was  
93 made, but the credit established by this section taken in any one  
94 tax year shall not exceed fifty percent (50%) of the taxpayer's  
95 state income tax liability which is attributable to income derived

96 from operations in the state for that year reduced by the sum of  
97 all other income tax credits allowable to the taxpayer, except  
98 credit for tax payments made by or on behalf of the taxpayer.

99 (4) The maximum credit that may be claimed by a taxpayer on  
100 any project shall be limited to One Million Dollars  
101 (\$1,000,000.00).

102 (5) The credit received under this section is subject to  
103 recapture if the property for which the tax credit was received is  
104 disposed of, or converted to, other than business use. The amount  
105 of the credit subject to recapture is one hundred percent (100%)  
106 of the credit in the first year and fifty percent (50%) of the  
107 credit in the second year. This subsection shall not apply in  
108 cases in which an entire facility is sold.

109 (6) The sale, merger, acquisition, reorganization,  
110 bankruptcy or relocation from one (1) county to another county  
111 within the state of any manufacturing enterprise may not create  
112 new eligibility in any succeeding business entity, but any unused  
113 manufacturing investment tax credit may be transferred and  
114 continued by any transferee of the enterprise. The State Tax  
115 Commission shall determine whether or not qualifying net increases  
116 or decreases have occurred or proper transfers of credit have been  
117 made and may require reports, promulgate regulations, and hold  
118 hearings as needed for substantiation and qualification.

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

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

125 **SECTION 2.** Section 27-31-101, Mississippi Code of 1972, is  
126 amended as follows:

127 27-31-101. (1) County boards of supervisors and municipal  
128 authorities are hereby authorized and empowered, in their

129 discretion, to grant exemptions from ad valorem taxation, except  
130 state ad valorem taxation; however, such governing authorities  
131 shall not exempt ad valorem taxes for school district purposes on  
132 tangible property used in, or necessary to, the operation of the  
133 manufacturers and other new enterprises enumerated by classes in  
134 this section, except to the extent authorized in Sections  
135 27-31-104 and 27-31-105(2), nor shall they exempt from ad valorem  
136 taxes the products of the manufacturers or other new enterprises  
137 or automobiles and trucks belonging to the manufacturers or other  
138 new enterprises operating on and over the highways of the State of  
139 Mississippi. The time of such exemption shall be for a period not  
140 to exceed a total of ten (10) years which shall begin on the date  
141 of completion of the new enterprise for which the exemption is  
142 granted; however, boards of supervisors and municipal authorities,  
143 in lieu of granting the exemption for one (1) period of ten (10)  
144 years, may grant the exemption in a period of less than ten (10)  
145 years. When the initial exemption period granted is less than ten  
146 (10) years, the boards of supervisors and municipal authorities  
147 may grant a subsequent consecutive period or periods to follow the  
148 initial period of exemption, provided that the total of all  
149 periods of exemption shall not exceed ten (10) years. The date of  
150 completion of the new enterprise, from which the initial period of  
151 exemption shall begin, shall be the date on which operations of  
152 the new enterprise begin. The initial request for an exemption  
153 must be made in writing by June 1 of the year immediately  
154 following the year in which the date of completion of a new  
155 enterprise occurs. If the initial request for the exemption is  
156 not timely made, the board of supervisors or municipal authorities  
157 may grant a subsequent request for the exemption and, in such  
158 case, the exemption shall begin on the anniversary date of  
159 completion of the enterprise in the year in which the request is  
160 made and may be for a period of time extending not more than ten  
161 (10) years from the date of completion of the new enterprise. Any

162 subsequent request for the exemption must be made in writing by  
163 June 1 of the year in which it is granted.

164 \* \* \*

165 (2) Any board of supervisors or municipal authority which  
166 has granted an exemption for a period of less than ten (10) years  
167 may grant subsequent periods of exemption to run consecutively  
168 with the initial exemption period, or a subsequently granted  
169 exemption period, but in no case shall the total of the exemption  
170 periods granted for a new enterprise exceed ten (10) years. Any  
171 consecutive period of exemption shall be granted by entry of an  
172 order by the board or the authority granting the consecutive  
173 exemption on its minutes, reflecting the granting of the  
174 consecutive exemption period and the dates upon which such  
175 consecutive exemption period begins and expires. The entry of  
176 this order granting the consecutive period of exemption shall be  
177 made before the expiration of the exemption period immediately  
178 preceding the consecutive exemption period being granted.

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

- 182 (a) Warehouse and/or distribution centers;
- 183 (b) Manufacturing, processors and refineries;
- 184 (c) Research facilities;
- 185 (d) Corporate regional and national headquarters  
186 meeting minimum criteria established by the Department of Economic  
187 and Community Development;
- 188 (e) Movie industry studios meeting minimum criteria  
189 established by the Mississippi Development Authority;
- 190 (f) Air transportation and maintenance facilities  
191 meeting minimum criteria established by the Mississippi  
192 Development Authority;

193 (g) Recreational facilities that impact tourism meeting  
194 minimum criteria established by the Mississippi Development  
195 Authority; \* \* \*

196 (h) Data/information processing enterprises meeting  
197 minimum criteria established by the Mississippi Development  
198 Authority;

199 (i) Technology intensive enterprises or facilities  
200 meeting criteria established by the Mississippi Development  
201 Authority; and

202 (j) Telecommunications enterprises meeting minimum  
203 criteria established by the Mississippi Development Authority.

204 The term "telecommunications enterprises" means entities engaged  
205 in the creation, display, management, storage, processing,  
206 transmission or distribution for compensation of images, text,  
207 voice, video or data by wire or by wireless means, or entities  
208 engaged in the construction, design, development, manufacture,  
209 maintenance or distribution for compensation of devices, products,  
210 software or structures used in the above activities. Companies  
211 organized to do business as commercial broadcast radio stations,  
212 television stations or news organizations primarily serving  
213 in-state markets shall not be included within the definition of  
214 the term "telecommunications enterprises."

215 **SECTION 3.** Section 27-65-17, Mississippi Code of 1972, is  
216 amended as follows:

217 27-65-17. (1) (a) Except as otherwise provided in this  
218 section, upon every person engaging or continuing within this  
219 state in the business of selling any tangible personal property  
220 whatsoever there is hereby levied, assessed and shall be collected  
221 a tax equal to seven percent (7%) of the gross proceeds of the  
222 retail sales of the business \* \* \*.

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

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

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

235                   (ii) Mounted so that it is \* \* \* permanently  
236 attached to other equipment which is self-propelled or \* \* \*  
237 permanently attached to other equipment drawn by a vehicle which  
238 is self-propelled.

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

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

249           (f) Sales of machinery and machine parts when made to a  
250 technology intensive enterprise for plant use only when the  
251 machinery and machine parts will be used exclusively and directly  
252 within this state for industrial purposes, including, but not  
253 limited to, manufacturing or research and development activities,  
254 shall be taxed at the rate of one and one-half percent (1-1/2%).  
255 In order to be considered a technology intensive enterprise for  
256 purposes of this paragraph:

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

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

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

264                   (iv) The enterprise shall manufacture plastics,  
265 chemicals, automobiles, aircraft, computers or electronics; or  
266 shall be a research and development facility, a computer design or  
267 related facility, or a software publishing facility or other  
268 technology intensive facility or enterprise as determined by the  
269 Mississippi Development Authority;

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

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

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

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

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

289                   (j) Wholesale sales of food and drink for human  
290 consumption to full service vending machine operators to be sold  
291 through vending machines located apart from and not connected with

292 other taxable businesses shall be taxed at the rate of eight  
293 percent (8%).

294 \* \* \*

295         (k) Sales of equipment used or designed for the purpose  
296 of assisting disabled persons, such as wheelchair equipment and  
297 lifts, that is mounted or attached to or installed on a private  
298 carrier of passengers or light carrier of property, as defined in  
299 Section 27-51-101, at the time when the private carrier of  
300 passengers or light carrier of property is sold shall be taxed at  
301 the same rate as the sale of such vehicles under this section.

302         (2) From and after January 1, 1995, retail sales of private  
303 carriers of passengers and light carriers of property, as defined  
304 in Section 27-51-101, shall be taxed an additional two percent  
305 (2%).

306         (3) In lieu of the tax levied in subsection (1) of this  
307 section, there is levied on retail sales of truck-tractors and  
308 semitrailers used in interstate commerce and registered under the  
309 International Registration Plan (IRP) or any similar reciprocity  
310 agreement or compact relating to the proportional registration of  
311 commercial vehicles entered into as provided for in Section  
312 27-19-143, a tax at the rate of three percent (3%) of the portion  
313 of the sale that is attributable to the usage of such  
314 truck-tractor or semitrailer in Mississippi. The portion of the  
315 retail sale that is attributable to the usage of such  
316 truck-tractor or semitrailer in Mississippi is the retail sales  
317 price of the truck-tractor or semitrailer multiplied by the  
318 percentage of the total miles traveled by the vehicle that are  
319 traveled in Mississippi. The tax levied pursuant to this  
320 subsection (3) shall be collected by the State Tax Commission from  
321 the purchaser of such truck-tractor or semitrailer at the time of  
322 registration of such truck-tractor or semitrailer.

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

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

330       **SECTION 4.** Section 27-65-19, Mississippi Code of 1972, is  
331 amended as follows:

332       27-65-19. (1) (a) Except as otherwise provided in this  
333 subsection, upon every person selling to consumers, electricity,  
334 current, power, potable water, steam, coal, natural gas, liquefied  
335 petroleum gas or other fuel, there is hereby levied, assessed and  
336 shall be collected a tax equal to seven percent (7%) of the gross  
337 income of the business. Provided, gross income from sales to  
338 consumers of electricity, current, power, natural gas, liquefied  
339 petroleum gas or other fuel for residential heating, lighting or  
340 other residential noncommercial or nonagricultural use, and sales  
341 of potable water for residential, noncommercial or nonagricultural  
342 use shall be excluded from taxable gross income of the business.  
343 Provided further, upon every such seller using electricity,  
344 current, power, potable water, steam, coal, natural gas, liquefied  
345 petroleum gas or other fuel for nonindustrial purposes, there is  
346 hereby levied, assessed and shall be collected a tax equal to  
347 seven percent (7%) of the cost or value of the product or service  
348 used.

349       (b) There is hereby levied, assessed and shall be  
350 collected a tax equal to one and one-half percent (1-1/2%) of the  
351 gross income of the business when the electricity, current, power,  
352 steam, coal, natural gas, liquefied petroleum gas or other fuel is  
353 sold to or used by a manufacturer, custom processor, technology  
354 intensive enterprise meeting the criteria provided for in Section  
355 27-65-17(1)(f), or public service company for industrial purposes,

356 which shall include that used to generate electricity, to operate  
357 an electrical distribution or transmission system, to operate  
358 pipeline compressor or pumping stations or to operate railroad  
359 locomotives; however, sales of fuel used to produce electric power  
360 by a company primarily engaged in the business of producing,  
361 generating or distributing electric power for sale shall be exempt  
362 from sales tax as provided in Section 27-65-107.

363 (c) The one and one-half percent (1-1/2%) industrial  
364 rate provided for in this subsection shall also apply when the  
365 electricity, current, power, steam, coal, natural gas, liquefied  
366 petroleum gas or other fuel is sold to a producer or processor for  
367 use directly in the production of poultry or poultry products, the  
368 production of livestock and livestock products, the production of  
369 domesticated fish and domesticated fish products, the production  
370 of marine aquaculture products, the production of plants or food  
371 by commercial horticulturists, the processing of milk and milk  
372 products, the processing of poultry and livestock feed, and the  
373 irrigation of farm crops.

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

378 (e) Upon every person operating a telegraph or  
379 telephone business for the transmission of messages or  
380 conversations between points within this state, there is hereby  
381 levied, assessed and shall be collected a tax equal to seven  
382 percent (7%) of the gross income of such business, with no  
383 deduction or allowance for any part of an intrastate rate charge  
384 because of routing across a state line. Charges by one  
385 telecommunications provider to another telecommunications provider  
386 holding a permit issued under Section 27-65-27 for services that  
387 are resold by such other telecommunications provider, including,  
388 but not limited to, access charges, shall not be subject to the

389 tax levied pursuant to this paragraph (e). However, any sale of a  
390 prepaid telephone calling card or prepaid authorization number, or  
391 both, shall be deemed to be the sale of tangible personal property  
392 subject only to such taxes imposed by law on the sale of tangible  
393 personal property. If the sale of a prepaid telephone calling  
394 card or prepaid authorization number does not take place at the  
395 vendor's place of business, it shall be conclusively determined to  
396 take place at the customer's shipping address. The  
397 reauthorization of a prepaid telephone calling card or a prepaid  
398 authorization number shall be conclusively determined to take  
399 place at the customer's billing address. Except for the  
400 provisions governing the sale of a prepaid telephone calling card  
401 or prepaid authorization number, this paragraph (e) shall not  
402 apply to persons providing mobile telecommunications services that  
403 are taxed pursuant to paragraph (g) of this section.

404 (f) Upon every person operating a telegraph or  
405 telecommunications business for the transmission of messages or  
406 conversations originating in this state or terminating in this  
407 state via interstate telecommunications, which are charged to the  
408 customer's service address in this state, regardless of where such  
409 amount is billed or paid, there is hereby levied, assessed and  
410 shall be collected a tax equal to seven percent (7%) of the gross  
411 income received by such business from such interstate  
412 telecommunications. However, a person, upon proof that he has  
413 paid a tax in another state on such event, shall be allowed a  
414 credit against the tax imposed in this paragraph (f) on interstate  
415 telecommunications charges to the extent that the amount of such  
416 tax is properly due and actually paid in such other state and to  
417 the extent that the rate of sales tax imposed by and paid to such  
418 other state does not exceed the rate of sales tax imposed by this  
419 paragraph (f). Charges by one telecommunications provider to  
420 another telecommunications provider holding a permit issued under  
421 Section 27-65-27 for services that are resold by such other

422 telecommunications provider, including, but not limited to, access  
423 charges, shall not be subject to the tax levied pursuant to this  
424 paragraph (f). This paragraph (f) shall not apply to persons  
425 providing mobile telecommunications services that are taxed  
426 pursuant to paragraph (g) of this subsection.

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

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

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

438 Charges by one telecommunications provider to another  
439 telecommunications provider holding a permit issued under Section  
440 27-65-27 for services that are resold by such other  
441 telecommunications provider, including, but not limited to, access  
442 charges, shall not be subject to the tax levied pursuant to this  
443 paragraph (g).

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

450 (iii) A home service provider shall be responsible  
451 for obtaining and maintaining the customer's place of primary use.  
452 The home service provider shall be entitled to rely on the  
453 applicable residential or business street address supplied by such  
454 customer, if the home service provider's reliance is in good

455 faith; and the home service provider shall be held harmless from  
456 liability for any additional taxes based on a different  
457 determination of the place of primary use for taxes that are  
458 customarily passed on to the customer as a separate itemized  
459 charge. A home service provider shall be allowed to treat the  
460 address used for purposes of the tax levied by this chapter for  
461 any customer under a service contract in effect on August 1, 2002,  
462 as that customer's place of primary use for the remaining term of  
463 such service contract or agreement, excluding any extension or  
464 renewal of such service contract or agreement. Month-to-month  
465 services provided after the expiration of a contract shall be  
466 treated as an extension or renewal of such contract or agreement.

467 If the commissioner determines that the address used by a  
468 home service provider as a customer's place of primary use does  
469 not meet the definition of the term "place of primary use" as  
470 defined in this paragraph, the commissioner shall give binding  
471 notice to the home service provider to change the place of primary  
472 use on a prospective basis from the date of notice of  
473 determination; however, the customer shall have the opportunity,  
474 prior to such notice of determination, to demonstrate that such  
475 address satisfies such definition.

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

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

482 1. "Place of primary use" means the street  
483 address representative of where the customer's use of mobile  
484 telecommunications services primarily occurs, which shall be  
485 either the residential street address of the customer or the  
486 primary business street address of the customer.

487                   2. "Customer" means the person or entity that  
488 contracts with the home service provider for mobile  
489 telecommunications services. For determining the place of primary  
490 use, in those instances in which the end user of mobile  
491 telecommunications services is not the contracting party, the end  
492 user of the mobile telecommunications services shall be deemed the  
493 customer. The term "customer" shall not include a reseller of  
494 mobile telecommunications service, or a serving carrier under an  
495 arrangement to serve the customer outside the home service  
496 provider's licensed service area.

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

500                   (h) (i) For purposes of this paragraph (h), "bundled  
501 transaction" means a transaction that consists of distinct and  
502 identifiable properties or services which are sold for a single  
503 nonitemized price but which are treated differently for tax  
504 purposes.

505                   (ii) In the case of a bundled transaction that  
506 includes telecommunications services taxed under this section in  
507 which the price of the bundled transaction is attributable to  
508 properties or services that are taxable and nontaxable, the  
509 portion of the price that is attributable to any nontaxable  
510 property or service shall be subject to the tax unless the  
511 provider can reasonably identify that portion from its books and  
512 records kept in the regular course of business.

513                   (iii) In the case of a bundled transaction that  
514 includes telecommunications services subject to tax under this  
515 section in which the price is attributable to properties or  
516 services that are subject to the tax but the tax revenue from the  
517 different properties or services are dedicated to different funds  
518 or purposes, the provider shall allocate the price among the  
519 properties or services:

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

523                   2. Based on a reasonable allocation  
524 methodology approved by the commission.

525                   (iv) This paragraph (h) shall not create a right  
526 of action for a customer to require that the provider or the  
527 commission, for purposes of determining the amount of tax  
528 applicable to a bundled transaction, allocate the price to the  
529 different portions of the transaction in order to minimize the  
530 amount of tax charged to the customer. A customer shall not be  
531 entitled to rely on the fact that a portion of the price is  
532 attributable to properties or services not subject to tax unless  
533 the provider elects, after receiving a written request from the  
534 customer in the form required by the provider, to provide  
535 verifiable data based upon the provider's books and records that  
536 are kept in the regular course of business that reasonably  
537 identifies the portion of the price attributable to the properties  
538 or services not subject to the tax.

539                   (2) Persons making sales to consumers of electricity,  
540 current, power, natural gas, liquefied petroleum gas or other fuel  
541 for residential heating, lighting or other residential  
542 noncommercial or nonagricultural use or sales of potable water for  
543 residential, noncommercial or nonagricultural use shall indicate  
544 on each statement rendered to customers that such charges are  
545 exempt from sales taxes.

546                   (3) There is hereby levied, assessed and shall be paid on  
547 transportation charges on shipments moving between points within  
548 this state when paid directly by the consumer, a tax equal to the  
549 rate applicable to the sale of the property being transported.  
550 Such tax shall be reported and paid directly to the State Tax  
551 Commission by the consumer.

552           **SECTION 5.** Section 27-65-101, Mississippi Code of 1972, is  
553 amended as follows:

554           27-65-101. (1) The exemptions from the provisions of this  
555 chapter which are of an industrial nature or which are more  
556 properly classified as industrial exemptions than any other  
557 exemption classification of this chapter shall be confined to  
558 those persons or property exempted by this section or by the  
559 provisions of the Constitution of the United States or the State  
560 of Mississippi. No industrial exemption as now provided by any  
561 other section except Section 57-3-33 shall be valid as against the  
562 tax herein levied. Any subsequent industrial exemption from the  
563 tax levied hereunder shall be provided by amendment to this  
564 section. No exemption provided in this section shall apply to  
565 taxes levied by Section 27-65-15 or 27-65-21.

566           The tax levied by this chapter shall not apply to the  
567 following:

568           (a) Sales of boxes, crates, cartons, cans, bottles and  
569 other packaging materials to manufacturers and wholesalers for use  
570 as containers or shipping materials to accompany goods sold by  
571 said manufacturers or wholesalers where possession thereof will  
572 pass to the customer at the time of sale of the goods contained  
573 therein and sales to anyone of containers or shipping materials  
574 for use in ships engaged in international commerce.

575           (b) Sales of raw materials, catalysts, processing  
576 chemicals, welding gases or other industrial processing gases  
577 (except natural gas) to a manufacturer for use directly in  
578 manufacturing or processing a product for sale or rental or  
579 repairing or reconditioning vessels or barges of fifty (50) tons  
580 load displacement and over. For the purposes of this exemption,  
581 electricity used directly in the electrolysis process in the  
582 production of sodium chlorate shall be considered a raw material.  
583 This exemption shall not apply to any property used as fuel except

584 to the extent that such fuel comprises by-products which have no  
585 market value.

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

590 (d) Sales to commercial fishermen of commercial fishing  
591 boats of over five (5) tons load displacement and not more than  
592 fifty (50) tons load displacement as registered with the United  
593 States Coast Guard and licensed by the Mississippi Commission on  
594 Marine Resources.

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

597 (f) Sales of petroleum products to vessels or barges  
598 for consumption in marine international commerce or interstate  
599 transportation businesses.

600 (g) Sales and rentals of rail rolling stock (and  
601 component parts thereof) for ultimate use in interstate commerce  
602 and gross income from services with respect to manufacturing,  
603 repairing, cleaning, altering, reconditioning or improving such  
604 rail rolling stock (and component parts thereof).

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

611 (i) Sales of machinery or tools or repair parts  
612 therefor or replacements thereof, fuel or supplies used directly  
613 in manufacturing, converting or repairing ships, vessels or barges  
614 of three thousand (3,000) tons load displacement and over, but not  
615 to include office and plant supplies or other equipment not  
616 directly used on the ship, vessel or barge being built, converted

617 or repaired. For purposes of this exemption, "ships, vessels or  
618 barges" shall not include floating structures described in Section  
619 27-65-18.

620 (j) Sales of tangible personal property to persons  
621 operating ships in international commerce for use or consumption  
622 on board such ships. This exemption shall be limited to cases in  
623 which procedures satisfactory to the commissioner, ensuring  
624 against use in this state other than on such ships, are  
625 established.

626 (k) Sales of materials used in the construction of a  
627 building, or any addition or improvement thereon, and sales of any  
628 machinery and equipment not later than three (3) months after the  
629 completion of construction of the building, or any addition  
630 thereon, to be used therein, to qualified businesses, as defined  
631 in Section 57-51-5, which are located in a county or portion  
632 thereof designated as an enterprise zone pursuant to Sections  
633 57-51-1 through 57-51-15.

634 (l) Sales of materials used in the construction of a  
635 building, or any addition or improvement thereon, and sales of any  
636 machinery and equipment not later than three (3) months after the  
637 completion of construction of the building, or any addition  
638 thereon, to be used therein, to qualified businesses, as defined  
639 in Section 57-54-5.

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

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

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

649           (p) Sales of materials used in the construction of a  
650 building, or any addition or improvement thereon, and sales of any  
651 machinery and equipment not later than three (3) months after the  
652 completion of construction of the building, or any addition  
653 thereon, to be used therein, to qualified companies, certified as  
654 such by the Mississippi Development Authority under Section  
655 57-53-1.

656           (q) Sales of component materials used in the  
657 construction of a building, or any addition or improvement  
658 thereon, sales of machinery and equipment to be used therein, and  
659 sales of manufacturing or processing machinery and equipment which  
660 is permanently attached to the ground or to a permanent foundation  
661 and which is not by its nature intended to be housed within a  
662 building structure, not later than three (3) months after the  
663 initial start-up date, to permanent business enterprises engaging  
664 in manufacturing or processing in Tier Three areas (as such term  
665 is defined in Section 57-73-21), which businesses are certified by  
666 the State Tax Commission as being eligible for the exemption  
667 granted in this paragraph (q).

668           (r) Sales of component materials used in the  
669 construction of a building, or any addition or improvement  
670 thereon, and sales of any machinery and equipment not later than  
671 three (3) months after the completion of the building, addition or  
672 improvement thereon, to be used therein, for any company  
673 establishing or transferring its national or regional headquarters  
674 from within or outside the State of Mississippi and creating a  
675 minimum of thirty-five (35) jobs at the new headquarters in this  
676 state. The Tax Commission shall establish criteria and prescribe  
677 procedures to determine if a company qualifies as a national or  
678 regional headquarters for the purpose of receiving the exemption  
679 provided in this paragraph.

680           (s) The gross proceeds from the sale of semitrailers,  
681 trailers, boats, travel trailers, motorcycles and all-terrain

682 cycles if exported from this state within forty-eight (48) hours  
683 and registered and first used in another state.

684 (t) Gross income from the storage and handling of  
685 natural gas in underground salt domes and in other underground  
686 reservoirs, caverns, structures and formations suitable for such  
687 storage.

688 (u) Sales of machinery and equipment to nonprofit  
689 organizations if the organization:

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

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

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

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

703 (v) Sales or leases of materials and equipment to  
704 approved business enterprises as provided under the Growth and  
705 Prosperity Act.

706 (w) From and after July 1, 2001, sales of pollution  
707 control equipment to manufacturers or custom processors for  
708 industrial use. For the purposes of this exemption, "pollution  
709 control equipment" means equipment, devices, machinery or systems  
710 used or acquired to prevent, control, monitor or reduce air, water  
711 or groundwater pollution, or solid or hazardous waste as required  
712 by federal or state law or regulation.

713 (x) Sales or leases to a manufacturer of motor vehicles  
714 operating a project that has been certified by the Mississippi

715 Major Economic Impact Authority as a project as defined in Section  
716 57-75-5(f)(iv)1 of machinery and equipment; special tooling such  
717 as dies, molds, jigs and similar items treated as special tooling  
718 for federal income tax purposes; or repair parts therefor or  
719 replacements thereof; repair services thereon; fuel, supplies,  
720 electricity, coal and natural gas used directly in the manufacture  
721 of motor vehicles or motor vehicle parts or used to provide  
722 climate control for manufacturing areas.

723           (y) Sales or leases of component materials, machinery  
724 and equipment used in the construction of a building, or any  
725 addition or improvement thereon to an enterprise operating a  
726 project that has been certified by the Mississippi Major Economic  
727 Impact Authority as a project as defined in Section  
728 57-75-5(f)(iv)1 and any other sales or leases required to  
729 establish or operate such project.

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

732           (aa) The gross income from the stripping and painting  
733 of commercial aircraft engaged in foreign or interstate  
734 transportation business.

735           (bb) Sales of production items used in the production  
736 of motion pictures such as film; videotape; component building  
737 materials used in the construction of a set; makeup; fabric used  
738 as or in the making of costumes; clothing, including, shoes,  
739 accessories and jewelry used as wardrobes; materials used as set  
740 dressing; materials used as props on a set or by an actor;  
741 materials used in the creation of special effects; and expendable  
742 items purchased for limited use by grip, electric and camera  
743 departments such as tape, fasteners and compressed air. For the  
744 purposes of this paragraph (bb), the term "motion picture" means a  
745 nationally distributed feature-length film, video, television  
746 series or commercial made in Mississippi, in whole or in part, for  
747 theatrical or television viewing or as a television pilot. The

748 term "motion picture" shall not include the production of  
749 television coverage of news and athletic events, or a film, video,  
750 television series or commercial that contains any material or  
751 performance defined in Section 97-29-103.

752 (cc) Sales or leases to an enterprise owning or  
753 operating a project that has been designated by the Mississippi  
754 Major Economic Impact Authority as a project as defined in Section  
755 57-75-5(f)(xviii) of machinery and equipment; special tooling such  
756 as dies, molds, jigs and similar items treated as special tooling  
757 for federal income tax purposes; or repair parts therefor or  
758 replacements thereof; repair services thereon; fuel, supplies,  
759 electricity, coal and natural gas used directly in the  
760 manufacturing/production operations of the project or used to  
761 provide climate control for manufacturing/production areas.

762 (dd) Sales or leases of component materials, machinery  
763 and equipment used in the construction of a building, or any  
764 addition or improvement thereon to an enterprise owning or  
765 operating a project that has been designated by the Mississippi  
766 Major Economic Impact Authority as a project as defined in Section  
767 57-75-5(f)(xviii) and any other sales or leases required to  
768 establish or operate such project.

769 (ee) Sales of parts used in the repair and servicing of  
770 aircraft not registered in Mississippi engaged exclusively in the  
771 business of foreign or interstate transportation to businesses  
772 engaged in aircraft repair and maintenance.

773 (ff) Sales of component materials used in the  
774 construction of a facility, or any addition or improvement  
775 thereon, and sales or leases of machinery and equipment not later  
776 than three (3) months after the completion of construction of the  
777 facility, or any addition or improvement thereto, to be used in  
778 the building or any addition or improvement thereto, to a  
779 permanent business enterprise operating a data/information  
780 enterprise in Tier Three areas (as such areas are designated in

781 accordance with Section 57-73-21), meeting minimum criteria  
782 established by the Mississippi Development Authority.

783 (gg) Sales of component materials used in the  
784 construction of a facility, or any addition or improvement  
785 thereto, and sales of machinery and equipment not later than three  
786 (3) months after the completion of construction of the facility,  
787 or any addition or improvement thereto, to be used in the facility  
788 or any addition or improvement thereto, to technology intensive  
789 enterprises for industrial purposes in Tier Three areas (as such  
790 areas are designated in accordance with Section 57-73-21), as  
791 certified by the State Tax Commission. For purposes of this  
792 paragraph, an enterprise must meet the criteria provided for in  
793 Section 27-65-17(1)(f) in order to be considered a technology  
794 intensive enterprise.

795 (2) Sales of component materials used in the construction of  
796 a building, or any addition or improvement thereon, sales of  
797 machinery and equipment to be used therein, and sales of  
798 manufacturing or processing machinery and equipment which is  
799 permanently attached to the ground or to a permanent foundation  
800 and which is not by its nature intended to be housed within a  
801 building structure, not later than three (3) months after the  
802 initial start-up date, to permanent business enterprises engaging  
803 in manufacturing or processing in Tier Two areas and Tier One  
804 areas (as such areas are designated in accordance with Section  
805 57-73-21), which businesses are certified by the State Tax  
806 Commission as being eligible for the exemption granted in this  
807 paragraph, shall be exempt from one-half (1/2) of the taxes  
808 imposed on such transactions under this chapter.

809 (3) Sales of component materials used in the construction of  
810 a facility, or any addition or improvement thereon, and sales or  
811 leases of machinery and equipment not later than three (3) months  
812 after the completion of construction of the facility, or any  
813 addition or improvement thereto, to be used in the building or any

814 addition or improvement thereto, to a permanent business  
815 enterprise operating a data/information enterprise in Tier Two  
816 areas and Tier One areas (as such areas are designated in  
817 accordance with Section 57-73-21), which businesses meet minimum  
818 criteria established by the Mississippi Development Authority,  
819 shall be exempt from one-half (1/2) of the taxes imposed on such  
820 transaction under this chapter.

821 (4) Sales of component materials used in the construction of  
822 a facility, or any addition or improvement thereto, and sales of  
823 machinery and equipment not later than three (3) months after the  
824 completion of construction of the facility, or any addition or  
825 improvement thereto, to be used in the building or any addition or  
826 improvement thereto, to technology intensive enterprises for  
827 industrial purposes in Tier Two areas and Tier One areas (as such  
828 areas are designated in accordance with Section 57-73-21), which  
829 businesses are certified by the State Tax Commission as being  
830 eligible for the exemption granted in this paragraph, shall be  
831 exempt from one-half (1/2) of the taxes imposed on such  
832 transactions under this chapter. For purposes of this subsection,  
833 an enterprise must meet the criteria provided for in Section  
834 27-65-17(1)(f) in order to be considered a technology intensive  
835 enterprise.

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

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

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

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

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

845 (v) "Equipment used in the deployment of broadband  
846 technologies" means any equipment capable of being used for or in

847 connection with the transmission of information at a rate, prior  
848 to taking into account the effects of any signal degradation, that  
849 is not less than three hundred eighty-four (384) kilobits per  
850 second in at least one direction, including, but not limited to,  
851 asynchronous transfer mode switches, digital subscriber line  
852 access multiplexers, routers, servers, multiplexers, fiber optics  
853 and related equipment.

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

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

864 **SECTION 6.** Section 57-73-21, Mississippi Code of 1972, is  
865 amended as follows:

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

869 57-73-21. (1) Annually by December 31, using the most  
870 current data available from the University Research Center,  
871 Mississippi Department of Employment Security and the United  
872 States Department of Commerce, the State Tax Commission shall rank  
873 and designate the state's counties as provided in this section.  
874 The twenty-eight (28) counties in this state having a combination  
875 of the highest unemployment rate and lowest per capita income for  
876 the most recent thirty-six-month period, with equal weight being  
877 given to each category, are designated Tier Three areas. The  
878 twenty-seven (27) counties in the state with a combination of the  
879 next highest unemployment rate and next lowest per capita income

880 for the most recent thirty-six-month period, with equal weight  
881 being given to each category, are designated Tier Two areas. The  
882 twenty-seven (27) counties in the state with a combination of the  
883 lowest unemployment rate and the highest per capita income for the  
884 most recent thirty-six-month period, with equal weight being given  
885 to each category, are designated Tier One areas. Counties  
886 designated by the Tax Commission qualify for the appropriate tax  
887 credit for jobs as provided in subsections (2), (3) and (4) of  
888 this section. The designation by the Tax Commission is effective  
889 for the tax years of permanent business enterprises which begin  
890 after the date of designation. For companies which plan an  
891 expansion in their labor forces, the Tax Commission shall  
892 prescribe certification procedures to ensure that the companies  
893 can claim credits in future years without regard to whether or not  
894 a particular county is removed from the list of Tier Three or Tier  
895 Two areas.

896 (2) Permanent business enterprises primarily engaged in  
897 manufacturing, processing, warehousing, distribution, wholesaling  
898 and research and development, or permanent business enterprises  
899 designated by rule and regulation of the Mississippi Development  
900 Authority as air transportation and maintenance facilities, final  
901 destination or resort hotels having a minimum of one hundred fifty  
902 (150) guest rooms, recreational facilities that impact tourism,  
903 movie industry studios, telecommunications enterprises, data or  
904 information processing enterprises or computer software  
905 development enterprises or any technology intensive facility or  
906 enterprise, in counties designated by the Tax Commission as Tier  
907 Three areas are allowed a job tax credit for taxes imposed by  
908 Section 27-7-5 equal to Two Thousand Dollars (\$2,000.00) annually  
909 for each net new full-time employee job for five (5) years  
910 beginning with years two (2) through six (6) after the creation of  
911 the job. The number of new full-time jobs must be determined by  
912 comparing the monthly average number of full-time employees

913 subject to the Mississippi income tax withholding for the taxable  
914 year with the corresponding period of the prior taxable year.  
915 Only those permanent businesses that increase employment by ten  
916 (10) or more in a Tier Three area are eligible for the credit.  
917 Credit is not allowed during any of the five (5) years if the net  
918 employment increase falls below ten (10). The Tax Commission  
919 shall adjust the credit allowed each year for the net new  
920 employment fluctuations above the minimum level of ten (10).

921 (3) Permanent business enterprises primarily engaged in  
922 manufacturing, processing, warehousing, distribution, wholesaling  
923 and research and development, or permanent business enterprises  
924 designated by rule and regulation of the Mississippi Development  
925 Authority as air transportation and maintenance facilities, final  
926 destination or resort hotels having a minimum of one hundred fifty  
927 (150) guest rooms, recreational facilities that impact tourism,  
928 movie industry studios, telecommunications enterprises, data or  
929 information processing enterprises or computer software  
930 development enterprises or any technology intensive facility or  
931 enterprise, in counties that have been designated by the Tax  
932 Commission as Tier Two areas are allowed a job tax credit for  
933 taxes imposed by Section 27-7-5 equal to One Thousand Dollars  
934 (\$1,000.00) annually for each net new full-time employee job for  
935 five (5) years beginning with years two (2) through six (6) after  
936 the creation of the job. The number of new full-time jobs must be  
937 determined by comparing the monthly average number of full-time  
938 employees subject to Mississippi income tax withholding for the  
939 taxable year with the corresponding period of the prior taxable  
940 year. Only those permanent businesses that increase employment by  
941 fifteen (15) or more in Tier Two areas are eligible for the  
942 credit. The credit is not allowed during any of the five (5)  
943 years if the net employment increase falls below fifteen (15).  
944 The Tax Commission shall adjust the credit allowed each year for

945 the net new employment fluctuations above the minimum level of  
946 fifteen (15).

947 (4) Permanent business enterprises primarily engaged in  
948 manufacturing, processing, warehousing, distribution, wholesaling  
949 and research and development, or permanent business enterprises  
950 designated by rule and regulation of the Mississippi Development  
951 Authority as air transportation and maintenance facilities, final  
952 destination or resort hotels having a minimum of one hundred fifty  
953 (150) guest rooms, recreational facilities that impact tourism,  
954 movie industry studios, telecommunications enterprises, data or  
955 information processing enterprises or computer software  
956 development enterprises or any technology intensive facility or  
957 enterprise, in counties designated by the Tax Commission as Tier  
958 One areas are allowed a job tax credit for taxes imposed by  
959 Section 27-7-5 equal to Five Hundred Dollars (\$500.00) annually  
960 for each net new full-time employee job for five (5) years  
961 beginning with years two (2) through six (6) after the creation of  
962 the job. The number of new full-time jobs must be determined by  
963 comparing the monthly average number of full-time employees  
964 subject to Mississippi income tax withholding for the taxable year  
965 with the corresponding period of the prior taxable year. Only  
966 those permanent businesses that increase employment by twenty (20)  
967 or more in Tier One areas are eligible for the credit. The credit  
968 is not allowed during any of the five (5) years if the net  
969 employment increase falls below twenty (20). The Tax Commission  
970 shall adjust the credit allowed each year for the net new  
971 employment fluctuations above the minimum level of twenty (20).

972 (5) In addition to the credits authorized in subsections  
973 (2), (3) and (4), an additional Five Hundred Dollars (\$500.00)  
974 credit for each net new full-time employee or an additional One  
975 Thousand Dollars (\$1,000.00) credit for each net new full-time  
976 employee who is paid a salary, excluding benefits which are not  
977 subject to Mississippi income taxation, of at least one hundred

978 twenty-five percent (125%) of the average annual wage of the state  
979 or an additional Two Thousand Dollars (\$2,000.00) credit for each  
980 net new full-time employee who is paid a salary, excluding  
981 benefits which are not subject to Mississippi income taxation, of  
982 at least two hundred percent (200%) of the average annual wage of  
983 the state, shall be allowed for any company establishing or  
984 transferring its national or regional headquarters from within or  
985 outside the State of Mississippi. A minimum of thirty-five (35)  
986 jobs must be created to qualify for the additional credit. The  
987 State Tax Commission shall establish criteria and prescribe  
988 procedures to determine if a company qualifies as a national or  
989 regional headquarters for purposes of receiving the credit awarded  
990 in this subsection. As used in this subsection, the average  
991 annual wage of the state is the most recently published average  
992 annual wage as determined by the Mississippi Department of  
993 Employment Security.

994 (6) In addition to the credits authorized in subsections  
995 (2), (3), (4) and (5), any job requiring research and development  
996 skills (chemist, engineer, etc.) shall qualify for an additional  
997 One Thousand Dollars (\$1,000.00) credit for each net new full-time  
998 employee.

999 (7) In lieu of the tax credits provided in subsections (2)  
1000 through (6), any commercial or industrial property owner which  
1001 remediates contaminated property in accordance with Sections  
1002 49-35-1 through 49-35-25, is allowed a job tax credit for taxes  
1003 imposed by Section 27-7-5 equal to the amounts provided in  
1004 subsection (2), (3) or (4) for each net new full-time employee job  
1005 for five (5) years beginning with years two (2) through six (6)  
1006 after the creation of the job. The number of new full-time jobs  
1007 must be determined by comparing the monthly average number of  
1008 full-time employees subject to Mississippi income tax withholding  
1009 for the taxable year with the corresponding period of the prior  
1010 taxable year. This subsection shall be administered in the same

1011 manner as subsections (2), (3) and (4), except the landowner shall  
1012 not be required to increase employment by the levels provided in  
1013 subsections (2), (3) and (4) to be eligible for the tax credit.

1014 (8) Tax credits for five (5) years for the taxes imposed by  
1015 Section 27-7-5 shall be awarded for additional net new full-time  
1016 jobs created by business enterprises qualified under subsections  
1017 (2), (3), (4), (5), (6) and (7) of this section. Except as  
1018 otherwise provided, the Tax Commission shall adjust the credit  
1019 allowed in the event of employment fluctuations during the  
1020 additional five (5) years of credit.

1021 (9) The sale, merger, acquisition, reorganization,  
1022 bankruptcy or relocation from one county to another county within  
1023 the state of any business enterprise may not create new  
1024 eligibility in any succeeding business entity, but any unused job  
1025 tax credit may be transferred and continued by any transferee of  
1026 the business enterprise. The Tax Commission shall determine  
1027 whether or not qualifying net increases or decreases have occurred  
1028 or proper transfers of credit have been made and may require  
1029 reports, promulgate regulations, and hold hearings as needed for  
1030 substantiation and qualification.

1031 (10) Any tax credit claimed under this section but not used  
1032 in any taxable year may be carried forward for five (5) years from  
1033 the close of the tax year in which the qualified jobs were  
1034 established but the credit established by this section taken in  
1035 any one (1) tax year must be limited to an amount not greater than  
1036 fifty percent (50%) of the taxpayer's state income tax liability  
1037 which is attributable to income derived from operations in the  
1038 state for that year.

1039 (11) No business enterprise for the transportation,  
1040 handling, storage, processing or disposal of hazardous waste is  
1041 eligible to receive the tax credits provided in this section.

1042           (12) The credits allowed under this section shall not be  
1043 used by any business enterprise or corporation other than the  
1044 business enterprise actually qualifying for the credits.

1045           (13) The tax credits provided for in this section shall be  
1046 in addition to any tax credits described in Sections 57-51-13(b),  
1047 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official  
1048 action by the Department of Economic Development prior to July 1,  
1049 1989, to any business enterprise determined prior to July 1, 1989,  
1050 by the Department of Economic Development to be a qualified  
1051 business as defined in Section 57-51-5(f) or Section 57-54-5(d) or  
1052 a qualified company as described in Section 57-53-1, as the case  
1053 may be; however, from and after July 1, 1989, tax credits shall be  
1054 allowed only under either this section or Sections 57-51-13(b),  
1055 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time  
1056 employee.

1057           (14) As used in this section, the term "telecommunications  
1058 enterprises" means entities engaged in the creation, display,  
1059 management, storage, processing, transmission or distribution for  
1060 compensation of images, text, voice, video or data by wire or by  
1061 wireless means, or entities engaged in the construction, design,  
1062 development, manufacture, maintenance or distribution for  
1063 compensation of devices, products, software or structures used in  
1064 the above activities. Companies organized to do business as  
1065 commercial broadcast radio stations, television stations or news  
1066 organizations primarily serving in-state markets shall not be  
1067 included within the definition of the term "telecommunications  
1068 enterprises."

1069           [In cases involving business enterprises that apply for the  
1070 job tax credit authorized by this section from and after January  
1071 1, 2005, this section shall read as follows:]

1072           57-73-21. (1) Annually by December 31, using the most  
1073 current data available from the University Research Center,  
1074 Mississippi Department of Employment Security and the United

1075 States Department of Commerce, the State Tax Commission shall rank  
1076 and designate the state's counties as provided in this section.  
1077 The twenty-eight (28) counties in this state having a combination  
1078 of the highest unemployment rate and lowest per capita income for  
1079 the most recent thirty-six-month period, with equal weight being  
1080 given to each category, are designated Tier Three areas. The  
1081 twenty-seven (27) counties in the state with a combination of the  
1082 next highest unemployment rate and next lowest per capita income  
1083 for the most recent thirty-six-month period, with equal weight  
1084 being given to each category, are designated Tier Two areas. The  
1085 twenty-seven (27) counties in the state with a combination of the  
1086 lowest unemployment rate and the highest per capita income for the  
1087 most recent thirty-six-month period, with equal weight being given  
1088 to each category, are designated Tier One areas. Counties  
1089 designated by the Tax Commission qualify for the appropriate tax  
1090 credit for jobs as provided in \* \* \* this section. The  
1091 designation by the Tax Commission is effective for the tax years  
1092 of permanent business enterprises which begin after the date of  
1093 designation. For companies which plan an expansion in their labor  
1094 forces, the Tax Commission shall prescribe certification  
1095 procedures to ensure that the companies can claim credits in  
1096 future years without regard to whether or not a particular county  
1097 is removed from the list of Tier Three or Tier Two areas.

1098 (2) Permanent business enterprises \* \* \* in counties  
1099 designated by the Tax Commission as Tier Three areas are allowed a  
1100 job tax credit for taxes imposed by Section 27-7-5 equal to ten  
1101 percent (10%) of the payroll of the enterprise for net new  
1102 full-time employee jobs for five (5) years beginning with years  
1103 two (2) through six (6) after the creation of the minimum number  
1104 of jobs required by this subsection. The number of new full-time  
1105 jobs must be determined by comparing the monthly average number of  
1106 full-time employees subject to the Mississippi income tax  
1107 withholding for the taxable year with the corresponding period of

1108 the prior taxable year. Only those permanent business enterprises  
1109 that increase employment by ten (10) or more in a Tier Three area  
1110 are eligible for the credit. Credit is not allowed during any of  
1111 the five (5) years if the net employment increase falls below ten  
1112 (10). The Tax Commission shall adjust the credit allowed each  
1113 year for the net new employment fluctuations above the minimum  
1114 level of ten (10).

1115 (3) Permanent business enterprises \* \* \* in counties that  
1116 have been designated by the Tax Commission as Tier Two areas are  
1117 allowed a job tax credit for taxes imposed by Section 27-7-5 equal  
1118 to five percent (5%) of the payroll of the enterprise for net new  
1119 full-time employee jobs for five (5) years beginning with years  
1120 two (2) through six (6) after the creation of the minimum number  
1121 of jobs required by this subsection. The number of new full-time  
1122 jobs must be determined by comparing the monthly average number of  
1123 full-time employees subject to Mississippi income tax withholding  
1124 for the taxable year with the corresponding period of the prior  
1125 taxable year. Only those permanent business enterprises that  
1126 increase employment by fifteen (15) or more in Tier Two areas are  
1127 eligible for the credit. The credit is not allowed during any of  
1128 the five (5) years if the net employment increase falls below  
1129 fifteen (15). The Tax Commission shall adjust the credit allowed  
1130 each year for the net new employment fluctuations above the  
1131 minimum level of fifteen (15).

1132 (4) Permanent business enterprises \* \* \* in counties  
1133 designated by the Tax Commission as Tier One areas are allowed a  
1134 job tax credit for taxes imposed by Section 27-7-5 equal to two  
1135 and one-half percent (2.5%) of the payroll of the enterprise for  
1136 net new full-time employee jobs for five (5) years beginning with  
1137 years two (2) through six (6) after the creation of the minimum  
1138 number of jobs required by this subsection. The number of new  
1139 full-time jobs must be determined by comparing the monthly average  
1140 number of full-time employees subject to Mississippi income tax

1141 withholding for the taxable year with the corresponding period of  
1142 the prior taxable year. Only those permanent business enterprises  
1143 that increase employment by twenty (20) or more in Tier One areas  
1144 are eligible for the credit. The credit is not allowed during any  
1145 of the five (5) years if the net employment increase falls below  
1146 twenty (20). The Tax Commission shall adjust the credit allowed  
1147 each year for the net new employment fluctuations above the  
1148 minimum level of twenty (20).

1149 (5) In addition to the other credits authorized in this  
1150 section, an additional Five Hundred Dollars (\$500.00) credit for  
1151 each net new full-time employee or an additional One Thousand  
1152 Dollars (\$1,000.00) credit for each net new full-time employee who  
1153 is paid a salary, excluding benefits which are not subject to  
1154 Mississippi income taxation, of at least one hundred twenty-five  
1155 percent (125%) of the average annual wage of the state or an  
1156 additional Two Thousand Dollars (\$2,000.00) credit for each net  
1157 new full-time employee who is paid a salary, excluding benefits  
1158 which are not subject to Mississippi income taxation, of at least  
1159 two hundred percent (200%) of the average annual wage of the  
1160 state, shall be allowed for any company establishing or  
1161 transferring its national or regional headquarters from within or  
1162 outside the State of Mississippi. A minimum of thirty-five (35)  
1163 jobs must be created to qualify for the additional credit. The  
1164 State Tax Commission shall establish criteria and prescribe  
1165 procedures to determine if a company qualifies as a national or  
1166 regional headquarters for purposes of receiving the credit awarded  
1167 in this subsection. As used in this subsection, the average  
1168 annual wage of the state is the most recently published average  
1169 annual wage as determined by the Mississippi Department of  
1170 Employment Security.

1171 (6) In addition to the other credits authorized in this  
1172 section, any job requiring research and development skills  
1173 (chemist, engineer, etc.) shall qualify for an additional One

1174 Thousand Dollars (\$1,000.00) credit for each net new full-time  
1175 employee.

1176 (7) In lieu of the other tax credits provided in this  
1177 section, any commercial or industrial property owner which  
1178 remediates contaminated property in accordance with Sections  
1179 49-35-1 through 49-35-25, is allowed a job tax credit for taxes  
1180 imposed by Section 27-7-5 equal to the percentage of payroll  
1181 provided in subsection (2), (3) or (4) of this section for \* \* \*  
1182 net new full-time employee jobs for five (5) years beginning with  
1183 years two (2) through six (6) after the creation of the jobs. The  
1184 number of new full-time jobs must be determined by comparing the  
1185 monthly average number of full-time employees subject to  
1186 Mississippi income tax withholding for the taxable year with the  
1187 corresponding period of the prior taxable year. This subsection  
1188 shall be administered in the same manner as subsections (2), (3)  
1189 and (4), except the landowner shall not be required to increase  
1190 employment by the levels provided in subsections (2), (3) and (4)  
1191 to be eligible for the tax credit.

1192 (8) (a) Tax credits for five (5) years for the taxes  
1193 imposed by Section 27-7-5 shall be awarded for increases in the  
1194 annual payroll for net new full-time jobs created by business  
1195 enterprises qualified under this section. The Tax Commission  
1196 shall adjust the credit allowed in the event of payroll  
1197 fluctuations during the additional five (5) years of credit.

1198 (b) Tax credits for five (5) years for the taxes  
1199 imposed by Section 27-7-5 shall be awarded for additional net new  
1200 full-time jobs created by business enterprises qualified under  
1201 subsections \* \* \* (5) and (6) \* \* \* of this section. \* \* \* The  
1202 Tax Commission shall adjust the credit allowed in the event of  
1203 employment fluctuations during the additional five (5) years of  
1204 credit.

1205 (9) The sale, merger, acquisition, reorganization,  
1206 bankruptcy or relocation from one county to another county within

1207 the state of any business enterprise may not create new  
1208 eligibility in any succeeding business entity, but any unused job  
1209 tax credit may be transferred and continued by any transferee of  
1210 the business enterprise. The Tax Commission shall determine  
1211 whether or not qualifying net increases or decreases have occurred  
1212 or proper transfers of credit have been made and may require  
1213 reports, promulgate regulations, and hold hearings as needed for  
1214 substantiation and qualification.

1215 (10) Any tax credit claimed under this section but not used  
1216 in any taxable year may be carried forward for five (5) years from  
1217 the close of the tax year in which the qualified jobs were  
1218 established but the credit established by this section taken in  
1219 any one tax year must be limited to an amount not greater than  
1220 fifty percent (50%) of the taxpayer's state income tax liability  
1221 which is attributable to income derived from operations in the  
1222 state for that year.

1223 (11) No business enterprise for the transportation,  
1224 handling, storage, processing or disposal of hazardous waste is  
1225 eligible to receive the tax credits provided in this section.

1226 (12) The credits allowed under this section shall not be  
1227 used by any business enterprise or corporation other than the  
1228 business enterprise actually qualifying for the credits.

1229 (13) As used in this section:

1230 (a) "Business enterprises" means entities primarily  
1231 engaged in:

1232 (i) Manufacturing, processing, warehousing,  
1233 distribution, wholesaling and research and development, or

1234 (ii) Permanent business enterprises designated by  
1235 rule and regulation of the Mississippi Development Authority as  
1236 air transportation and maintenance facilities, final destination  
1237 or resort hotels having a minimum of one hundred fifty (150) guest  
1238 rooms, recreational facilities that impact tourism, movie industry  
1239 studios, telecommunications enterprises, data or information

1240 processing enterprises or computer software development  
1241 enterprises or any technology intensive facility or enterprise.

1242 (b) "Telecommunications enterprises" means entities  
1243 engaged in the creation, display, management, storage, processing,  
1244 transmission or distribution for compensation of images, text,  
1245 voice, video or data by wire or by wireless means, or entities  
1246 engaged in the construction, design, development, manufacture,  
1247 maintenance or distribution for compensation of devices, products,  
1248 software or structures used in the above activities. Companies  
1249 organized to do business as commercial broadcast radio stations,  
1250 television stations or news organizations primarily serving  
1251 in-state markets shall not be included within the definition of  
1252 the term "telecommunications enterprises."

1253 (14) The tax credits provided for in this section shall be  
1254 in addition to any tax credits described in Sections 57-51-13(b),  
1255 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official  
1256 action by the Department of Economic Development prior to July 1,  
1257 1989, to any business enterprise determined prior to July 1, 1989,  
1258 by the Department of Economic Development to be a qualified  
1259 business as defined in Section 57-51-5(f) or Section 57-54-5(d) or  
1260 a qualified company as described in Section 57-53-1, as the case  
1261 may be; however, from and after July 1, 1989, tax credits shall be  
1262 allowed only under either this section or Sections 57-51-13(b),  
1263 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time  
1264 employee.

1265 \* \* \*

1266 **SECTION 7.** Section 57-73-25, Mississippi Code of 1972, is  
1267 amended as follows:

1268 57-73-25. (1) A fifty percent (50%) income tax credit shall  
1269 be granted to any employer (as defined in subsection (4) of this  
1270 section) sponsoring skills training. The fifty percent (50%)  
1271 credit shall be granted to employers that participate in  
1272 employer-sponsored training programs through any community/junior

1273 college in the district within which the employer is located or  
1274 training approved by such community/junior college. The credit is  
1275 applied to qualified training expenses, which are expenses related  
1276 to instructors, instructional materials and equipment, and the  
1277 construction and maintenance of facilities by such employer  
1278 designated for training purposes which is attributable to training  
1279 provided through such community/junior college or training  
1280 approved by such community/junior college. The credits allowed  
1281 under this section shall only be used by the actual employer  
1282 qualifying for the credits. The credit shall not exceed fifty  
1283 percent (50%) of the income tax liability in a tax year and may be  
1284 carried forward for the five (5) successive years if the amount  
1285 allowable as credit exceeds the income tax liability in a tax  
1286 year; however, thereafter, if the amount allowable as a credit  
1287 exceeds the tax liability, the amount of excess shall not be  
1288 refundable or carried forward to any other taxable year. The  
1289 credit authorized under this section shall not exceed Two Thousand  
1290 Five Hundred Dollars (\$2,500.00) per employee during any one (1)  
1291 year. Nothing in this section shall be interpreted in any manner  
1292 as to prevent the continuing operation of state-supported  
1293 university programs.

1294 (2) Employer-sponsored training shall include an evaluation  
1295 by the local community or junior college that serves the employer  
1296 to ensure that the training provided is job related and conforms  
1297 to the definition of "skills training" as hereinafter defined.

1298 (3) Employers shall be certified as eligible for the tax  
1299 credit by the local community or junior college that serves the  
1300 employer and the State Tax Commission.

1301 (4) For the purposes of this section:

1302 (a) "Skills training" means any employer-sponsored  
1303 training by an appropriate community/junior college or training  
1304 approved by such community/junior college that enhances skills  
1305 that improve job performance. If the employer provides

1306 pre-employment training, the portion of the pre-employment  
1307 training that involves skills training shall be eligible for the  
1308 credit.

1309 (b) "Employer-sponsored training" means training  
1310 provided by the appropriate community/junior college in the  
1311 district within which the employer is located or training approved  
1312 by such community/junior college.

1313 (c) "Employer" means those permanent business  
1314 enterprises as defined and set out in Section 57-73-21 \* \* \*.

1315 (5) The tax credits provided for in this section shall be in  
1316 addition to all other tax credits heretofore granted by the laws  
1317 of the state.

1318 (6) A community/junior college may commit to provide  
1319 employer-sponsored skills training programs for an employer for a  
1320 multiple number of years, not to exceed five (5) years.

1321 (7) The State Board for Community and Junior Colleges shall  
1322 make a report to the Legislature by January 30 of each year  
1323 summarizing the number of participants, the junior or community  
1324 college through which the training was offered and the type  
1325 training offered.

1326 (8) This section shall stand repealed from and after July 1,  
1327 2006.

1328 **SECTION 8.** Section 57-10-401, Mississippi Code of 1972, is  
1329 amended as follows:

1330 **[In cases involving an economic development project for which**  
1331 **the Mississippi Business Finance Corporation has issued bonds for**  
1332 **the purpose of financing the approved costs of such project prior**  
1333 **to July 1, 1994, this section shall read as follows:]**

1334 57-10-401. As used in Sections 57-10-401 through 57-10-445  
1335 the following terms shall have the meanings ascribed to them  
1336 herein unless the context clearly indicates otherwise:

1337           (a) "Approved company" means any eligible company  
1338 seeking to locate an economic development project in a county,  
1339 which eligible company is approved by the corporation.

1340           (b) "Approved costs" means:

1341               (i) Obligations incurred for equipment and labor  
1342 and to contractors, subcontractors, builders and materialmen in  
1343 connection with the acquisition, construction and installation of  
1344 an economic development project;

1345               (ii) The cost of acquiring land or rights in land  
1346 and any cost incidental thereto, including recording fees;

1347               (iii) The cost of contract bonds and of insurance  
1348 of all kinds that may be required or necessary during the course  
1349 of acquisition, construction and installation of an economic  
1350 development project which is not paid by the contractor or  
1351 contractors or otherwise provided for;

1352               (iv) All costs of architectural and engineering  
1353 services, including test borings, surveys, estimates, plans and  
1354 specifications, preliminary investigations, and supervision of  
1355 construction, as well as for the performance of all the duties  
1356 required by or consequent upon the acquisition, construction and  
1357 installation of an economic development project;

1358               (v) All costs which shall be required to be paid  
1359 under the terms of any contract or contracts for the acquisition,  
1360 construction and installation of an economic development project;

1361               (vi) All costs, expenses and fees incurred in  
1362 connection with the issuance of bonds pursuant to Sections  
1363 57-10-401 through 57-10-445;

1364               (vii) All costs funded by a loan made under the  
1365 Mississippi Small Enterprise Development Finance Act; and

1366               (viii) All costs of professionals permitted to be  
1367 engaged under the Mississippi Small Enterprise Development Finance  
1368 Act for a loan made under such act.

1369           (c) "Assessment" means the job development assessment  
1370 fee authorized in Section 57-10-413.

1371           (d) "Bonds" means the revenue bonds, notes or other  
1372 debt obligations of the corporation authorized to be issued by the  
1373 corporation on behalf of an eligible company or other state  
1374 agency.

1375           (e) "Corporation" means the Mississippi Business  
1376 Finance Corporation created under Section 57-10-167, Mississippi  
1377 Code of 1972.

1378           (f) "Economic development project" means and includes  
1379 the acquisition of any equipment or real estate in a county and  
1380 the construction and installation thereon, and with respect  
1381 thereto, of improvements and facilities necessary or desirable for  
1382 improvement of the real estate, including surveys, site tests and  
1383 inspections, subsurface site work, excavation, removal of  
1384 structures, roadways, cemeteries and other surface obstructions,  
1385 filling, grading and provision of drainage, storm water detention,  
1386 installation of utilities such as water, sewer, sewage treatment,  
1387 gas, electricity, communications and similar facilities, off-site  
1388 construction of utility extensions to the boundaries of the real  
1389 estate, and the acquisition, construction and installation of  
1390 manufacturing, telecommunications, data processing, distribution  
1391 or warehouse facilities on the real estate, for lease or financial  
1392 arrangement by the corporation to an approved company for use and  
1393 occupancy by the approved company or its affiliates for  
1394 manufacturing, telecommunications, data processing, distribution  
1395 or warehouse purposes. Such term also includes, without  
1396 limitation, any project the financing of which has been approved  
1397 under the Mississippi Small Enterprise Development Finance Act.

1398           (g) "Eligible company" means any corporation,  
1399 partnership, sole proprietorship, business trust, or other entity  
1400 which is:

1401 (i) Engaged in manufacturing which meets the  
1402 standards promulgated by the corporation under Sections 57-10-401  
1403 through 57-10-445;

1404 (ii) A private company approved by the corporation  
1405 for a loan under the Mississippi Small Enterprise Development  
1406 Finance Act;

1407 (iii) A distribution or warehouse facility  
1408 employing a minimum of fifty (50) people or employing a minimum of  
1409 twenty (20) people and having a capital investment in such  
1410 facility of at least Five Million Dollars (\$5,000,000.00); or

1411 (iv) A telecommunications or data processing  
1412 business.

1413 (h) "Executive director" means the Executive Director  
1414 of the Mississippi Business Finance Corporation.

1415 (i) "Financing agreement" means any financing documents  
1416 and agreements, indentures, loan agreements, lease agreements,  
1417 security agreements and the like, entered into by and among the  
1418 corporation, private lenders and an approved company with respect  
1419 to an economic development project.

1420 (j) "Manufacturing" means any activity involving the  
1421 manufacturing, processing, assembling or production of any  
1422 property, including the processing resulting in a change in the  
1423 conditions of the property and any activity functionally related  
1424 thereto, together with the storage, warehousing, distribution and  
1425 related office facilities in respect thereof as determined by the  
1426 Mississippi Business Finance Corporation; however, in no event  
1427 shall "manufacturing" include mining, coal or mineral processing,  
1428 or extraction of Mississippi minerals.

1429 (k) "State agency" means any state board, commission,  
1430 committee, council, university, department or unit thereof created  
1431 by the Constitution or laws of this state.

1432 (l) "Revenues" shall not be considered state funds.

1433 (m) "State" means the State of Mississippi.

1434           (n) "Mississippi Small Enterprise Development Finance  
1435 Act" means the provisions of law contained in Section 57-71-1 et  
1436 seq.

1437           **[In cases involving an economic development project for which**  
1438 **the Mississippi Business Finance Corporation has not issued bonds**  
1439 **for the purpose of financing the approved costs of such project**  
1440 **prior to July 1, 1994, this section shall read as follows:]**

1441           57-10-401. As used in Sections 57-10-401 through 57-10-445  
1442 the following terms shall have the meanings ascribed to them  
1443 herein unless the context clearly indicates otherwise:

1444           (a) "Approved company" means any eligible company  
1445 seeking to locate an economic development project in a county,  
1446 which eligible company is approved by the corporation.

1447           (b) "Approved costs" means:

1448           (i) Obligations incurred for equipment and labor  
1449 and to contractors, subcontractors, builders and materialmen in  
1450 connection with the acquisition, construction and installation of  
1451 an economic development project;

1452           (ii) The cost of acquiring land or rights in land  
1453 and any cost incidental thereto, including recording fees;

1454           (iii) The cost of contract bonds and of insurance  
1455 of all kinds that may be required or necessary during the course  
1456 of acquisition, construction and installation of an economic  
1457 development project which is not paid by the contractor or  
1458 contractors or otherwise provided for;

1459           (iv) All costs of architectural and engineering  
1460 services, including test borings, surveys, estimates, plans and  
1461 specifications, preliminary investigations, and supervision of  
1462 construction, as well as for the performance of all the duties  
1463 required by or consequent upon the acquisition, construction and  
1464 installation of an economic development project;

1465 (v) All costs which shall be required to be paid  
1466 under the terms of any contract or contracts for the acquisition,  
1467 construction and installation of an economic development project;

1468 (vi) All costs, expenses and fees incurred in  
1469 connection with the issuance of bonds pursuant to Sections  
1470 57-10-401 through 57-10-445;

1471 (vii) All costs funded by a loan made under the  
1472 Mississippi Small Enterprise Development Finance Act; and

1473 (viii) All costs of professionals permitted to be  
1474 engaged under the Mississippi Small Enterprise Development Finance  
1475 Act for a loan made under such act.

1476 (c) "Assessment" means the job development assessment  
1477 fee authorized in Section 57-10-413.

1478 (d) "Bonds" means the revenue bonds, notes or other  
1479 debt obligations of the corporation authorized to be issued by the  
1480 corporation on behalf of an eligible company or other state  
1481 agency.

1482 (e) "Corporation" means the Mississippi Business  
1483 Finance Corporation created under Section 57-10-167, Mississippi  
1484 Code of 1972.

1485 (f) "Economic development project" means and includes  
1486 the acquisition of any equipment or real estate in a county and  
1487 the construction and installation thereon, and with respect  
1488 thereto, of improvements and facilities necessary or desirable for  
1489 improvement of the real estate, including surveys, site tests and  
1490 inspections, subsurface site work, excavation, removal of  
1491 structures, roadways, cemeteries and other surface obstructions,  
1492 filling, grading and provision of drainage, storm water detention,  
1493 installation of utilities such as water, sewer, sewage treatment,  
1494 gas, electricity, communications and similar facilities, off-site  
1495 construction of utility extensions to the boundaries of the real  
1496 estate, and the acquisition, construction and installation of  
1497 manufacturing, telecommunications, data processing, distribution

1498 or warehouse facilities on the real estate, for lease or financial  
1499 arrangement by the corporation to an approved company for use and  
1500 occupancy by the approved company or its affiliates for  
1501 manufacturing, telecommunications, data processing, distribution  
1502 or warehouse purposes. Such term also includes, without  
1503 limitation, any project the financing of which has been approved  
1504 under the Mississippi Small Enterprise Development Finance Act.

1505 If an eligible company closes a facility in this state and  
1506 becomes an approved company under the provisions of Sections  
1507 57-10-401 through 57-10-449, only that portion of the project for  
1508 which such company is attempting to obtain financing that is in  
1509 excess of the value of the closed facility shall be included  
1510 within the definition of the term "economic development project."  
1511 The Mississippi Business Finance Corporation shall promulgate  
1512 rules and regulations to govern the determination of the  
1513 difference between the value of the closed facility and the new  
1514 facility.

1515 (g) "Eligible company" means any corporation,  
1516 partnership, sole proprietorship, business trust, or other entity  
1517 which:

1518 (i) Engaged in manufacturing which meets the  
1519 standards promulgated by the corporation under Sections 57-10-401  
1520 through 57-10-445;

1521 (ii) A private company approved by the corporation  
1522 for a loan under the Mississippi Small Enterprise Development  
1523 Finance Act;

1524 (iii) A distribution or warehouse facility  
1525 employing a minimum of fifty (50) people or employing a minimum of  
1526 twenty (20) people and having a capital investment in such  
1527 facility of at least Five Million Dollars (\$5,000,000.00); \* \* \*

1528 (iv) A telecommunications or data/information  
1529 processing business meeting criteria established by the  
1530 Mississippi Business Finance Corporation;

1531                   (v) National or regional headquarters meeting  
1532 criteria established by the Mississippi Business Finance  
1533 Corporation;

1534                   (vi) Research and development facilities meeting  
1535 criteria established by the Mississippi Business Finance  
1536 Corporation; or

1537                   (vii) Technology intensive enterprises or  
1538 facilities meeting criteria established by the Mississippi  
1539 Business Finance Corporation.

1540                   (h) "Executive director" means the Executive Director  
1541 of the Mississippi Business Finance Corporation.

1542                   (i) "Financing agreement" means any financing documents  
1543 and agreements, indentures, loan agreements, lease agreements,  
1544 security agreements and the like, entered into by and among the  
1545 corporation, private lenders and an approved company with respect  
1546 to an economic development project.

1547                   (j) "Manufacturing" means any activity involving the  
1548 manufacturing, processing, assembling or production of any  
1549 property, including the processing resulting in a change in the  
1550 conditions of the property and any activity functionally related  
1551 thereto, together with the storage, warehousing, distribution and  
1552 related office facilities in respect thereof as determined by the  
1553 Mississippi Business Finance Corporation; however, in no event  
1554 shall "manufacturing" include mining, coal or mineral processing,  
1555 or extraction of Mississippi minerals.

1556                   (k) "State agency" means any state board, commission,  
1557 committee, council, university, department or unit thereof created  
1558 by the Constitution or laws of this state.

1559                   (l) "Revenues" shall not be considered state funds.

1560                   (m) "State" means the State of Mississippi.

1561                   (n) "Mississippi Small Enterprise Development Finance  
1562 Act" means the provisions of law contained in Section 57-71-1 et  
1563 seq.

1564           **SECTION 9.** Section 57-62-5, Mississippi Code of 1972, is  
1565 amended as follows:

1566           [For businesses or industries that received or applied for  
1567 incentive payments prior to July 1, 2005, this section shall read  
1568 as follows:]

1569           57-62-5. As used in this chapter, the following words and  
1570 phrases shall have the meanings ascribed in this section unless  
1571 the context clearly indicates otherwise:

1572           (a) "Qualified business or industry" means any  
1573 corporation, limited liability company, partnership, sole  
1574 proprietorship, business trust or other legal entity and subunits  
1575 or affiliates thereof, pursuant to rules and regulations of the  
1576 MDA, which provides an average annual salary, excluding benefits  
1577 which are not subject to Mississippi income taxes, of at least one  
1578 hundred twenty-five percent (125%) of the most recently published  
1579 state average annual wage or the most recently published average  
1580 annual wage of the county in which the qualified business or  
1581 industry is located as determined by the Mississippi Department of  
1582 Employment Security, whichever is the lesser. An establishment  
1583 shall not be considered to be a qualified business or industry  
1584 unless it offers, or will offer within one hundred eighty (180)  
1585 days of the date it receives the first incentive payment pursuant  
1586 to the provisions of this chapter, a basic health benefits plan to  
1587 the individuals it employs in new direct jobs in this state which  
1588 is approved by the MDA. Qualified business or industry does not  
1589 include retail business or gaming business;

1590           (b) "New direct job" means full-time employment in this  
1591 state in a qualified business or industry that has qualified to  
1592 receive an incentive payment pursuant to this chapter, which  
1593 employment did not exist in this state before the date of approval  
1594 by the MDA of the application of the qualified business or  
1595 industry pursuant to the provisions of this chapter. "New direct  
1596 job" shall include full-time employment in this state of employees

1597 who are employed by an entity other than the establishment that  
1598 has qualified to receive an incentive payment and who are leased  
1599 to the qualified business or industry, if such employment did not  
1600 exist in this state before the date of approval by the MDA of the  
1601 application of the establishment;

1602 (c) "Full-time job" means a job of at least thirty-five  
1603 (35) hours per week;

1604 (d) "Estimated direct state benefits" means the tax  
1605 revenues projected by the MDA to accrue to the state as a result  
1606 of the qualified business or industry;

1607 (e) "Estimated direct state costs" means the costs  
1608 projected by the MDA to accrue to the state as a result of the  
1609 qualified business or industry;

1610 (f) "Estimated net direct state benefits" means the  
1611 estimated direct state benefits less the estimated direct state  
1612 costs;

1613 (g) "Net benefit rate" means the estimated net direct  
1614 state benefits computed as a percentage of gross payroll, provided  
1615 that:

1616 (i) Except as otherwise provided in this paragraph  
1617 (g), the net benefit rate may be variable and shall not exceed  
1618 four percent (4%) of the gross payroll; and shall be set in the  
1619 sole discretion of the MDA;

1620 (ii) In no event shall incentive payments,  
1621 cumulatively, exceed the estimated net direct state benefits;

1622 (h) "Gross payroll" means wages for new direct jobs of  
1623 the qualified business or industry; and

1624 (i) "MDA" means the Mississippi Development Authority.

1625 **[For businesses or industries that apply for incentive**  
1626 **payments from and after July 1, 2005, this section shall read as**  
1627 **follows:]**

1628           57-62-5. As used in this chapter, the following words and  
1629 phrases shall have the meanings ascribed in this section unless  
1630 the context clearly indicates otherwise:

1631           (a) "Qualified business or industry" means any  
1632 corporation, limited liability company, partnership, sole  
1633 proprietorship, business trust or other legal entity and subunits  
1634 or affiliates thereof, pursuant to rules and regulations of the  
1635 MDA, which:

1636                   (i) Is a data/information processing enterprise  
1637 meeting minimum criteria established by the MDA that provides an  
1638 average annual salary, excluding benefits which are not subject to  
1639 Mississippi income taxes, of at least one hundred percent (100%)  
1640 of the most recently published state average annual wage or the  
1641 most recently published average annual wage of the county in which  
1642 the qualified business or industry is located as determined by the  
1643 Mississippi Department of Employment Security, whichever is the  
1644 lesser, and creates not less than two hundred (200) new direct  
1645 jobs if the enterprise is located in a Tier One or Tier Two area  
1646 (as such areas are designated in accordance with Section  
1647 57-73-21), or which creates not less than one hundred (100) new  
1648 jobs if the enterprise is located in a Tier Three area (as such  
1649 areas are designated in accordance with Section 57-73-21);

1650                   (ii) Is a manufacturing or distribution enterprise  
1651 meeting minimum criteria established by the MDA that provides an  
1652 average annual salary, excluding benefits which are not subject to  
1653 Mississippi income taxes, of at least one hundred ten percent  
1654 (110%) of the most recently published state average annual wage or  
1655 the most recently published average annual wage of the county in  
1656 which the qualified business or industry is located as determined  
1657 by the Mississippi Department of Employment Security, whichever is  
1658 the lesser, invests not less than Twenty Million Dollars  
1659 (\$20,000,000.00) in land, buildings and equipment, and creates not  
1660 less than fifty (50) new direct jobs if the enterprise is located

1661 in a Tier One or Tier Two area (as such areas are designated in  
1662 accordance with Section 57-73-21), or which creates not less than  
1663 twenty (20) new jobs if the enterprise is located in a Tier Three  
1664 area (as such areas are designated in accordance with Section  
1665 57-73-21);

1666 (iii) Is a corporation, limited liability company,  
1667 partnership, sole proprietorship, business trust or other legal  
1668 entity and subunits or affiliates thereof, pursuant to rules and  
1669 regulations of the MDA, which provides an average annual salary,  
1670 excluding benefits which are not subject to Mississippi income  
1671 taxes, of at least one hundred twenty-five percent (125%) of the  
1672 most recently published state average annual wage or the most  
1673 recently published average annual wage of the county in which the  
1674 qualified business or industry is located as determined by the  
1675 Mississippi Department of Employment Security, whichever is the  
1676 lesser. An establishment shall not be considered to be a  
1677 qualified business or industry unless it offers, or will offer  
1678 within one hundred eighty (180) days of the date it receives the  
1679 first incentive payment pursuant to the provisions of this  
1680 chapter, a basic health benefits plan to the individuals it  
1681 employs in new direct jobs in this state which is approved by the  
1682 MDA. Qualified business or industry does not include retail  
1683 business or gaming business; or

1684 (iv) Is a research and development or a technology  
1685 intensive enterprise meeting minimum criteria established by the  
1686 MDA that provides an average annual salary, excluding benefits  
1687 which are not subject to Mississippi income taxes, of at least one  
1688 hundred fifty percent (150%) of the most recently published state  
1689 average annual wage or the most recently published average annual  
1690 wage of the county in which the qualified business or industry is  
1691 located as determined by the Mississippi Department of Employment  
1692 Security, whichever is the lesser, and creates not less than ten  
1693 (10) new direct jobs.

1694           An establishment shall not be considered to be a qualified  
1695 business or industry unless it offers, or will offer within one  
1696 hundred eighty (180) days of the date it receives the first  
1697 incentive payment pursuant to the provisions of this chapter, a  
1698 basic health benefits plan to the individuals it employs in new  
1699 direct jobs in this state which is approved by the MDA. Qualified  
1700 business or industry does not include retail business or gaming  
1701 business.

1702           (b) "New direct job" means full-time employment in this  
1703 state in a qualified business or industry that has qualified to  
1704 receive an incentive payment pursuant to this chapter, which  
1705 employment did not exist in this state before the date of approval  
1706 by the MDA of the application of the qualified business or  
1707 industry pursuant to the provisions of this chapter. "New direct  
1708 job" shall include full-time employment in this state of employees  
1709 who are employed by an entity other than the establishment that  
1710 has qualified to receive an incentive payment and who are leased  
1711 to the qualified business or industry, if such employment did not  
1712 exist in this state before the date of approval by the MDA of the  
1713 application of the establishment.

1714           (c) "Full-time job" or "full-time employment" means a  
1715 job of at least thirty-five (35) hours per week.

1716           (d) "Estimated direct state benefits" means the tax  
1717 revenues projected by the MDA to accrue to the state as a result  
1718 of the qualified business or industry.

1719           (e) "Estimated direct state costs" means the costs  
1720 projected by the MDA to accrue to the state as a result of the  
1721 qualified business or industry.

1722           (f) "Estimated net direct state benefits" means the  
1723 estimated direct state benefits less the estimated direct state  
1724 costs.

1725 (g) "Net benefit rate" means the estimated net direct  
1726 state benefits computed as a percentage of gross payroll, provided  
1727 that:

1728 (i) Except as otherwise provided in this paragraph  
1729 (g), the net benefit rate may be variable and shall not exceed  
1730 four percent (4%) of the gross payroll; and shall be set in the  
1731 sole discretion of the MDA;

1732 (ii) In no event shall incentive payments,  
1733 cumulatively, exceed the estimated net direct state benefits.

1734 (h) "Gross payroll" means wages for new direct jobs of  
1735 the qualified business or industry.

1736 (i) "MDA" means the Mississippi Development Authority.

1737 **SECTION 10.** Section 57-62-9, Mississippi Code of 1972, is  
1738 amended as follows:

1739 **[For businesses or industries that received or applied for**  
1740 **incentive payments prior to July 1, 2005, this section shall read**  
1741 **as follows:]**

1742 57-62-9. (1) Except as otherwise provided in this section,  
1743 a qualified business or industry that meets the qualifications  
1744 specified in the Mississippi Advantage Jobs Act may receive  
1745 quarterly incentive payments for a period not to exceed ten (10)  
1746 years from the State Tax Commission pursuant to the provisions of  
1747 the Mississippi Advantage Jobs Act in an amount which shall be  
1748 equal to the net benefit rate multiplied by the actual gross  
1749 payroll of new direct jobs for a calendar quarter as verified by  
1750 the Mississippi Department of Employment Security, but not to  
1751 exceed the amount of money previously paid into the fund by the  
1752 employer. A qualified business or industry that is a project as  
1753 defined in Section 57-75-5(f)(iv)1 may elect the date upon which  
1754 the ten-year period will begin. Such date may not be later than  
1755 sixty (60) months after the date the business or industry applied  
1756 for incentive payments.

1757           (2) (a) A qualified business or industry that is a project  
1758 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to  
1759 receive incentive payments for an additional period not to exceed  
1760 five (5) years beyond the expiration date of the initial ten-year  
1761 period if:

1762                       (i) The qualified business or industry creates at  
1763 least three thousand (3,000) new direct jobs within five (5) years  
1764 after the date the business or industry commences commercial  
1765 production;

1766                       (ii) Within five (5) years after the date the  
1767 business or industry commences commercial production, the average  
1768 annual wage of the jobs is at least one hundred fifty percent  
1769 (150%) of the most recently published state average annual wage or  
1770 the most recently published average annual wage of the county in  
1771 which the qualified business or industry is located as determined  
1772 by the Mississippi Department of Employment Security, whichever is  
1773 the lesser. The criteria for the average annual wage requirement  
1774 shall be based upon the state average annual wage or the average  
1775 annual wage of the county whichever is appropriate, at the time of  
1776 creation of the minimum number of jobs, and the threshold  
1777 established at that time will remain constant for the duration of  
1778 the additional period; and

1779                       (iii) The qualified business or industry meets and  
1780 maintains the job and wage requirements of subparagraphs (i) and  
1781 (ii) of this paragraph (a) for four (4) consecutive calendar  
1782 quarters.

1783           (b) A qualified business or industry that is a project  
1784 as defined in Section 57-75-5(f)(iv)1 and qualified to receive  
1785 incentive payments for the additional period provided in paragraph  
1786 (a) of this subsection (2) may apply to the MDA to receive  
1787 incentive payments for an additional period not to exceed ten (10)  
1788 years beyond the expiration date of the additional period provided  
1789 in paragraph (a) of this subsection (2) if:

1790                   (i) The qualified business or industry creates at  
1791 least four thousand (4,000) new direct jobs after qualifying for  
1792 the additional incentive period provided in paragraph (a) of this  
1793 subsection (2) but before the expiration of the additional period.  
1794 For purposes of determining whether the business or industry meets  
1795 the minimum jobs requirement of this subparagraph (i), the number  
1796 of jobs the business or industry created in order to meet the  
1797 minimum jobs requirement of paragraph (a) of this subsection (2)  
1798 shall be subtracted from the minimum jobs requirement of this  
1799 subparagraph (i);

1800                   (ii) The average annual wage of the jobs is at  
1801 least one hundred fifty percent (150%) of the most recently  
1802 published state average annual wage or the most recently published  
1803 average annual wage of the county in which the qualified business  
1804 or industry is located as determined by the Mississippi Department  
1805 of Employment Security, whichever is the lesser. The criteria for  
1806 the average annual wage requirement shall be based upon the state  
1807 average annual wage or the average annual wage of the county  
1808 whichever is appropriate, at the time of creation of the minimum  
1809 number of jobs, and the threshold established at that time will  
1810 remain constant for the duration of the additional period; and

1811                   (iii) The qualified business or industry meets and  
1812 maintains the job and wage requirements of subparagraphs (i) and  
1813 (ii) of this paragraph (b) for four (4) consecutive calendar  
1814 quarters.

1815           (3) In order to receive incentive payments, an establishment  
1816 shall apply to the MDA. The application shall be on a form  
1817 prescribed by the MDA and shall contain such information as may be  
1818 required by the MDA to determine if the applicant is qualified.

1819           (4) In order to qualify to receive such payments, the  
1820 establishment applying shall be required to:

1821                   (a) Be engaged in a qualified business or industry;

1822           (b) Provide an average salary, excluding benefits which  
1823 are not subject to Mississippi income taxes, of at least one  
1824 hundred twenty-five percent (125%) of the most recently published  
1825 state average annual wage or the most recently published average  
1826 annual wage of the county in which the qualified business or  
1827 industry is located as determined by the Mississippi Department of  
1828 Employment Security, whichever is the lesser. The criteria for  
1829 this requirement shall be based upon the state average annual wage  
1830 or the average annual wage of the county whichever is appropriate,  
1831 at the time of application, and the threshold established upon  
1832 application will remain constant for the duration of the project;

1833           (c) The business or industry must create and maintain a  
1834 minimum of ten (10) full-time jobs in counties that have an  
1835 average unemployment rate over the previous twelve-month period  
1836 which is at least one hundred fifty percent (150%) of the most  
1837 recently published state unemployment rate, as determined by the  
1838 Mississippi Department of Employment Security or in Tier Three  
1839 counties as determined under Section 57-73-21. In all other  
1840 counties, the business or industry must create and maintain a  
1841 minimum of twenty-five (25) full-time jobs. The criteria for this  
1842 requirement shall be based on the designation of the county at the  
1843 time of the application. The threshold established upon the  
1844 application will remain constant for the duration of the project.  
1845 The business or industry must meet its job creation commitment  
1846 within twenty-four (24) months of the application approval.  
1847 However, if the qualified business or industry is applying for  
1848 incentive payments for an additional period under subsection (2)  
1849 of this section, the business or industry must comply with the  
1850 applicable job and wage requirements of subsection (2) of this  
1851 section.

1852           (5) The MDA shall determine if the applicant is qualified to  
1853 receive incentive payments. If the applicant is determined to be  
1854 qualified by the MDA, the MDA shall conduct a cost/benefit

1855 analysis to determine the estimated net direct state benefits and  
1856 the net benefit rate applicable for a period not to exceed ten  
1857 (10) years and to estimate the amount of gross payroll for the  
1858 period. If the applicant is determined to be qualified to receive  
1859 incentive payments for an additional period under subsection (2)  
1860 of this section, the MDA shall conduct a cost/benefit analysis to  
1861 determine the estimated net direct state benefits and the net  
1862 benefit rate applicable for the appropriate additional period and  
1863 to estimate the amount of gross payroll for the additional period.  
1864 In conducting such cost/benefit analysis, the MDA shall consider  
1865 quantitative factors, such as the anticipated level of new tax  
1866 revenues to the state along with the cost to the state of the  
1867 qualified business or industry, and such other criteria as deemed  
1868 appropriate by the MDA, including the adequacy of retirement  
1869 benefits that the business or industry provides to individuals it  
1870 employs in new direct jobs in this state. In no event shall  
1871 incentive payments, cumulatively, exceed the estimated net direct  
1872 state benefits. Once the qualified business or industry is  
1873 approved by the MDA, an agreement shall be deemed to exist between  
1874 the qualified business or industry and the State of Mississippi,  
1875 requiring the continued incentive payment to be made as long as  
1876 the qualified business or industry retains its eligibility.

1877 (6) Upon approval of such an application, the MDA shall  
1878 notify the State Tax Commission and shall provide it with a copy  
1879 of the approved application and the estimated net direct state  
1880 benefits. The State Tax Commission may require the qualified  
1881 business or industry to submit such additional information as may  
1882 be necessary to administer the provisions of this chapter. The  
1883 qualified business or industry shall report to the State Tax  
1884 Commission periodically to show its continued eligibility for  
1885 incentive payments. The qualified business or industry may be  
1886 audited by the State Tax Commission to verify such eligibility.

1887           [For businesses or industries that apply for incentive  
1888 payments from and after July 1, 2005, this section shall read as  
1889 follows:]

1890           57-62-9. (1) (a) Except as otherwise provided in this  
1891 section, a qualified business or industry that meets the  
1892 qualifications specified in the Mississippi Advantage Jobs Act may  
1893 receive quarterly incentive payments for a period not to exceed  
1894 ten (10) years from the State Tax Commission pursuant to the  
1895 provisions of the Mississippi Advantage Jobs Act in an amount  
1896 which shall be equal to the net benefit rate multiplied by the  
1897 actual gross payroll of new direct jobs for a calendar quarter as  
1898 verified by the Mississippi Department of Employment Security, but  
1899 not to exceed:

1900                   (i) Ninety percent (90%) of the amount of money  
1901 previously paid into the fund by the employer if the employer  
1902 provides an average annual salary, excluding benefits which are  
1903 not subject to Mississippi income taxes, of at least one hundred  
1904 seventy-five percent (175%) of the most recently published state  
1905 average annual wage or the most recently published average annual  
1906 wage of the county in which the qualified business or industry is  
1907 located as determined by the Mississippi Department of Employment  
1908 Security, whichever is the lesser;

1909                   (ii) Eighty percent (80%) of the amount of money  
1910 previously paid into the fund by the employer if the employer  
1911 provides an average annual salary, excluding benefits which are  
1912 not subject to Mississippi income taxes, of at least one hundred  
1913 twenty-five percent (125%) but less than one hundred seventy-five  
1914 percent (175%) of the most recently published state average annual  
1915 wage or the most recently published average annual wage of the  
1916 county in which the qualified business or industry is located as  
1917 determined by the Mississippi Department of Employment Security,  
1918 whichever is the lesser; or

1919                    (iii) Seventy percent (70%) of the amount of money  
1920 previously paid into the fund by the employer if the employer  
1921 provides an average annual salary, excluding benefits which are  
1922 not subject to Mississippi income taxes, of less than one hundred  
1923 twenty-five percent (125%) of the most recently published state  
1924 average annual wage or the most recently published average annual  
1925 wage of the county in which the qualified business or industry is  
1926 located as determined by the Mississippi Department of Employment  
1927 Security, whichever is the lesser.

1928                    (b) A qualified business or industry that is a project  
1929 as defined in Section 57-75-5(f)(iv)1 may elect the date upon  
1930 which the ten-year period will begin. Such date may not be later  
1931 than sixty (60) months after the date the business or industry  
1932 applied for incentive payments.

1933                    (2) (a) A qualified business or industry that is a project  
1934 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to  
1935 receive incentive payments for an additional period not to exceed  
1936 five (5) years beyond the expiration date of the initial ten-year  
1937 period if:

1938                    (i) The qualified business or industry creates at  
1939 least three thousand (3,000) new direct jobs within five (5) years  
1940 after the date the business or industry commences commercial  
1941 production;

1942                    (ii) Within five (5) years after the date the  
1943 business or industry commences commercial production, the average  
1944 annual wage of the jobs is at least one hundred fifty percent  
1945 (150%) of the most recently published state average annual wage or  
1946 the most recently published average annual wage of the county in  
1947 which the qualified business or industry is located as determined  
1948 by the Mississippi Department of Employment Security, whichever is  
1949 the lesser. The criteria for the average annual wage requirement  
1950 shall be based upon the state average annual wage or the average  
1951 annual wage of the county whichever is appropriate, at the time of

1952 creation of the minimum number of jobs, and the threshold  
1953 established at that time will remain constant for the duration of  
1954 the additional period; and

1955 (iii) The qualified business or industry meets and  
1956 maintains the job and wage requirements of subparagraphs (i) and  
1957 (ii) of this paragraph (a) for four (4) consecutive calendar  
1958 quarters.

1959 (b) A qualified business or industry that is a project  
1960 as defined in Section 57-75-5(f)(iv)1 and qualified to receive  
1961 incentive payments for the additional period provided in paragraph  
1962 (a) of this subsection (2) may apply to the MDA to receive  
1963 incentive payments for an additional period not to exceed ten (10)  
1964 years beyond the expiration date of the additional period provided  
1965 in paragraph (a) of this subsection (2) if:

1966 (i) The qualified business or industry creates at  
1967 least four thousand (4,000) new direct jobs after qualifying for  
1968 the additional incentive period provided in paragraph (a) of this  
1969 subsection (2) but before the expiration of the additional period.  
1970 For purposes of determining whether the business or industry meets  
1971 the minimum jobs requirement of this subparagraph (i), the number  
1972 of jobs the business or industry created in order to meet the  
1973 minimum jobs requirement of paragraph (a) of this subsection (2)  
1974 shall be subtracted from the minimum jobs requirement of this  
1975 subparagraph (i);

1976 (ii) The average annual wage of the jobs is at  
1977 least one hundred fifty percent (150%) of the most recently  
1978 published state average annual wage or the most recently published  
1979 average annual wage of the county in which the qualified business  
1980 or industry is located as determined by the Mississippi Department  
1981 of Employment Security, whichever is the lesser. The criteria for  
1982 the average annual wage requirement shall be based upon the state  
1983 average annual wage or the average annual wage of the county  
1984 whichever is appropriate, at the time of creation of the minimum

1985 number of jobs, and the threshold established at that time will  
1986 remain constant for the duration of the additional period; and

1987 (iii) The qualified business or industry meets and  
1988 maintains the job and wage requirements of subparagraphs (i) and  
1989 (ii) of this paragraph (b) for four (4) consecutive calendar  
1990 quarters.

1991 (3) In order to receive incentive payments, an establishment  
1992 shall apply to the MDA. The application shall be on a form  
1993 prescribed by the MDA and shall contain such information as may be  
1994 required by the MDA to determine if the applicant is qualified.

1995 (4) (a) In order to qualify to receive such payments, the  
1996 establishment applying shall be required to meet the definition of  
1997 the term "qualified business or industry";

1998 (b) \* \* \* The criteria for the average annual salary  
1999 requirement shall be based upon the state average annual wage or  
2000 the average annual wage of the county whichever is appropriate, at  
2001 the time of application, and the threshold established upon  
2002 application will remain constant for the duration of the project;

2003 (c) \* \* \* The business or industry must meet its job  
2004 creation commitment within twenty-four (24) months of the  
2005 application approval. However, if the qualified business or  
2006 industry is applying for incentive payments for an additional  
2007 period under subsection (2) of this section, the business or  
2008 industry must comply with the applicable job and wage requirements  
2009 of subsection (2) of this section.

2010 (5) (a) The MDA shall determine if the applicant is  
2011 qualified to receive incentive payments. If the applicant is  
2012 determined to be qualified by the MDA, the MDA shall:

2013 (i) Conduct a cost/benefit analysis to determine  
2014 the estimated net direct state benefits and the net benefit rate  
2015 applicable for a period not to exceed ten (10) years and to  
2016 estimate the amount of gross payroll for the period; and

2017                    (ii) Require the applicant to execute a  
2018 performance agreement with the MDA that specifies the manner in  
2019 which the applicant will utilize the incentive payments made to it  
2020 under this chapter.

2021                    (b) If the applicant is determined to be qualified to  
2022 receive incentive payments for an additional period under  
2023 subsection (2) of this section, the MDA shall conduct a  
2024 cost/benefit analysis to determine the estimated net direct state  
2025 benefits and the net benefit rate applicable for the appropriate  
2026 additional period and to estimate the amount of gross payroll for  
2027 the additional period. In conducting such cost/benefit analysis,  
2028 the MDA shall consider quantitative factors, such as the  
2029 anticipated level of new tax revenues to the state along with the  
2030 cost to the state of the qualified business or industry, and such  
2031 other criteria as deemed appropriate by the MDA, including the  
2032 adequacy of retirement benefits that the business or industry  
2033 provides to individuals it employs in new direct jobs in this  
2034 state. In no event shall incentive payments, cumulatively, exceed  
2035 the estimated net direct state benefits. Once the qualified  
2036 business or industry is approved by the MDA, an agreement shall be  
2037 deemed to exist between the qualified business or industry and the  
2038 State of Mississippi, requiring the continued incentive payment to  
2039 be made as long as the qualified business or industry retains its  
2040 eligibility.

2041                    (6) Upon approval of such an application, the MDA shall  
2042 notify the State Tax Commission and shall provide it with a copy  
2043 of the approved application and the estimated net direct state  
2044 benefits. The State Tax Commission may require the qualified  
2045 business or industry to submit such additional information as may  
2046 be necessary to administer the provisions of this chapter. The  
2047 qualified business or industry shall report to the State Tax  
2048 Commission periodically to show its continued eligibility for

2049 incentive payments. The qualified business or industry may be  
2050 audited by the State Tax Commission to verify such eligibility.

2051 **SECTION 11.** Section 57-62-13, Mississippi Code of 1972, is  
2052 amended as follows:

2053 57-62-13. (1) As soon as practicable after the end of a  
2054 calendar quarter for which a qualified business or industry has  
2055 qualified to receive an incentive payment, the qualified business  
2056 or industry shall file a claim for the payment with the State Tax  
2057 Commission and shall specify the actual number of new direct jobs  
2058 created and maintained by the business or industry for the  
2059 calendar quarter and the gross payroll thereof. The State Tax  
2060 Commission shall verify the actual number of new direct jobs  
2061 created and maintained by the business or industry and compliance  
2062 with the average annual wage requirements for such business or  
2063 industry under this chapter. If the qualified business or  
2064 industry files a claim for an incentive payment during an  
2065 additional incentive period provided under Section 57-62-9(2), the  
2066 State Tax Commission shall verify the actual number of new direct  
2067 jobs created and maintained by the business or industry and  
2068 compliance with the average annual wage requirements for such  
2069 business or industry under this chapter. If the State Tax  
2070 Commission is not able to provide such verification utilizing all  
2071 available resources, the State Tax Commission may request such  
2072 additional information from the business or industry as may be  
2073 necessary.

2074 (2) (a) The business or industry must meet the salary and  
2075 job requirements of this chapter for four (4) consecutive calendar  
2076 quarters prior to payment of the first incentive payment. If the  
2077 business or industry does not maintain the salary or job  
2078 requirements of this chapter at any other time during the ten-year  
2079 period after the date the first payment was made, the incentive  
2080 payments shall not be made and shall not be resumed until such  
2081 time as the actual verified number of new direct jobs created and

2082 maintained by the business or industry equals or exceeds the  
2083 requirements of this chapter for one (1) calendar quarter.

2084           (b) If the business or industry is qualified to receive  
2085 incentive payments for an additional period provided under Section  
2086 57-62-9(2), the business or industry must meet the wage and job  
2087 requirements of Section 57-62-9(2), for four (4) consecutive  
2088 calendar quarters prior to payment of the first incentive payment.  
2089 If the business or industry does not maintain the wage or job  
2090 requirements of Section 57-62-9(2), at any other time during the  
2091 appropriate additional period after the date the first payment was  
2092 made, the incentive payments shall not be made and shall not be  
2093 resumed until such time as the actual verified number of new  
2094 direct jobs created and maintained by the business or industry  
2095 equals or exceeds the amounts specified in Section 57-62-9(2), for  
2096 one (1) calendar quarter.

2097           (3) An establishment that has qualified pursuant to this  
2098 chapter may receive payments only in accordance with the provision  
2099 under which it initially applied and was approved. If an  
2100 establishment that is receiving incentive payments expands, it may  
2101 apply for additional incentive payments based on the new gross  
2102 payroll for new direct jobs anticipated from the expansion only,  
2103 pursuant to this chapter.

2104           (4) As soon as practicable after verification of the  
2105 qualified business or industry meeting the requirements of this  
2106 chapter and all rules and regulations, the Department of Finance  
2107 and Administration, upon requisition of the State Tax Commission,  
2108 shall issue a warrant drawn on the Mississippi Advantage Jobs  
2109 Incentive Payment Fund to the establishment in the amount of the  
2110 net benefit rate multiplied by the actual gross payroll as  
2111 determined pursuant to subsection (1) of this section for the  
2112 calendar quarter.

2113           **SECTION 12.** Section 1 of this act shall take effect and be  
2114 in force from and after January 1, 2005, and the remainder of this  
2115 act shall take effect and be in force from and after July 1, 2005.