

By: Representatives Smith To: Ways and Means
 (39th), Akins, Aldridge,
 Baker (74th), Baker (8th),
 Barnett, Beckett, Bondurant,
 Bounds, Brown, Capps,
 Carlton, Chism, Davis, Denny, Ellington, Fillingane, Flaggs,
 Formby, Frierson, Gregory, Guice, Gunn, Hamilton (109th), Hamilton
 (6th), Howell, Ishee, Janus, Jennings, Lott, Malone, Martinson,
 Masterson, Mayhall, Mims, Moore, Nicholson, Read, Reed, Reeves,
 Robinson (84th), Rogers (14th), Rogers (61st), Shows, Simpson,
 Smith (59th), Snowden, Staples, Stevens, Turner, Upshaw, Wells-
 Smith, Woods, Zuber, Patterson, Fleming

HOUSE BILL NO. 2

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

52 \$1,000,000.00 TO BE ELIGIBLE FOR THE CREDIT; TO PROVIDE THAT THE
53 MAXIMUM CUMULATIVE CREDIT THAT MAY BE CLAIMED BY A TAXPAYER FOR
54 ANY ONE PROJECT IS LIMITED TO \$1,000,000.00; TO PROVIDE FOR
55 RECAPTURE OF THE CREDIT UNDER CERTAIN CIRCUMSTANCES; TO AMEND
56 SECTION 27-31-101, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE
57 BOARD OF SUPERVISORS OF COUNTIES AND THE GOVERNING AUTHORITIES OF
58 MUNICIPALITIES TO GRANT CERTAIN AD VALOREM TAX EXEMPTIONS TO
59 DATA/INFORMATION PROCESSING ENTERPRISES AND TECHNOLOGY INTENSIVE
60 ENTERPRISES MEETING MINIMUM CRITERIA ESTABLISHED BY THE
61 MISSISSIPPI DEVELOPMENT AUTHORITY; TO AMEND SECTION 27-65-17,
62 MISSISSIPPI CODE OF 1972, TO IMPOSE THE SALES TAX AT A REDUCED
63 RATE ON CERTAIN SALES OF MACHINERY AND MACHINE PARTS TO A
64 TECHNOLOGY INTENSIVE BUSINESS FOR PLANT USE; TO AMEND SECTION
65 27-65-19, MISSISSIPPI CODE OF 1972, TO REDUCE THE SALES TAX ON
66 CERTAIN FUELS SOLD TO OR USED BY TECHNOLOGY INTENSIVE ENTERPRISES;
67 TO AMEND SECTION 27-65-101, MISSISSIPPI CODE OF 1972, TO EXEMPT
68 FROM SALES TAXATION SALES OF COMPONENT MATERIALS USED IN THE
69 CONSTRUCTION OF A FACILITY, OR ANY ADDITION OR IMPROVEMENT TO SUCH
70 FACILITY, AND SALES OR LEASES OF MACHINERY AND EQUIPMENT TO BE
71 USED IN SUCH FACILITIES, ADDITIONS OR IMPROVEMENTS, TO PERMANENT
72 BUSINESS ENTERPRISES OPERATING A DATA/INFORMATION ENTERPRISE IN A
73 TIER THREE AREA MEETING MINIMUM CRITERIA ESTABLISHED BY THE
74 MISSISSIPPI DEVELOPMENT AUTHORITY; TO EXEMPT FROM SALES TAXATION
75 SALES OF COMPONENT MATERIALS USED IN THE CONSTRUCTION OF A
76 FACILITY, OR ANY ADDITION OR IMPROVEMENT TO SUCH FACILITY, AND
77 SALES OF MACHINERY AND EQUIPMENT TO BE USED IN SUCH FACILITIES,
78 ADDITIONS OR IMPROVEMENTS, TO TECHNOLOGY INTENSIVE ENTERPRISES FOR
79 INDUSTRIAL PURPOSES IN A TIER THREE AREA; TO REDUCE THE SALES
80 TAXATION ON SALES OF COMPONENT MATERIALS USED IN THE CONSTRUCTION
81 OF A FACILITY, OR ANY ADDITION OR IMPROVEMENT TO SUCH BUILDING,
82 AND SALES OR LEASES OF MACHINERY AND EQUIPMENT TO BE USED IN SUCH
83 BUILDINGS, ADDITIONS OR IMPROVEMENTS, TO PERMANENT BUSINESS
84 ENTERPRISES OPERATING A DATA/INFORMATION ENTERPRISE IN A TIER ONE
85 OR TIER TWO AREA MEETING MINIMUM CRITERIA ESTABLISHED BY THE
86 MISSISSIPPI DEVELOPMENT AUTHORITY; TO REDUCE THE SALES TAXATION ON
87 SALES OF COMPONENT MATERIALS USED IN THE CONSTRUCTION OF A
88 FACILITY, OR ANY ADDITION OR IMPROVEMENT TO SUCH FACILITY, AND
89 SALES OF MACHINERY AND EQUIPMENT, TO TECHNOLOGY INTENSIVE
90 ENTERPRISES FOR INDUSTRIAL PURPOSES IN A TIER ONE OR TIER TWO
91 AREA; TO AMEND SECTION 57-73-21, MISSISSIPPI CODE OF 1972, TO
92 REVISE THE AMOUNT OF THE JOB TAX CREDIT FOR CERTAIN PERMANENT
93 BUSINESS ENTERPRISES TO PROVIDE THAT THE AMOUNT OF THE CREDIT
94 SHALL BE A CERTAIN PERCENTAGE OF SUCH ENTERPRISE'S PAYROLL; TO
95 AMEND SECTION 57-73-25, MISSISSIPPI CODE OF 1972, IN CONFORMITY
96 THERETO; TO AMEND SECTION 57-10-401, MISSISSIPPI CODE OF 1972, TO
97 INCLUDE CERTAIN INFORMATION PROCESSING BUSINESSES, NATIONAL OR
98 REGIONAL HEADQUARTERS, RESEARCH AND DEVELOPMENT FACILITIES AND
99 TECHNOLOGY INTENSIVE ENTERPRISES OR FACILITIES WITHIN THE
100 DEFINITION OF THE TERM "ELIGIBLE COMPANY"; TO AMEND SECTIONS
101 57-62-5 AND 57-62-9, MISSISSIPPI CODE OF 1972, TO REVISE THE
102 DEFINITION OF THE TERM "QUALIFIED BUSINESS OR INDUSTRY" UNDER THE
103 MISSISSIPPI ADVANTAGE JOBS ACT TO ALLOW A BUSINESS TO BE ELIGIBLE
104 FOR THE INCENTIVE PAYMENT UNDER THE ACT IF IT IS A
105 DATA/INFORMATION PROCESSING ENTERPRISE, MANUFACTURING OR
106 DISTRIBUTION ENTERPRISE OR A RESEARCH AND DEVELOPMENT OR
107 TECHNOLOGY INTENSIVE ENTERPRISE THAT MEETS CERTAIN CRITERIA; TO
108 REQUIRE APPLICANTS FOR THE INCENTIVE PAYMENTS UNDER THE ACT TO
109 EXECUTE A PERFORMANCE AGREEMENT WITH THE MISSISSIPPI DEVELOPMENT
110 AUTHORITY THAT SPECIFIES THE MANNER IN WHICH THE APPLICANT WILL
111 UTILIZE THE INCENTIVE PAYMENT; TO AMEND SECTION 57-62-13,
112 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED
113 PURPOSES.

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

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

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

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

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

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

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

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

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

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

139 (ii) The amount of the loan requested;

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

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

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

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

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

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

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

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

156 (d) The amount of a loan under this section shall not
157 exceed fifty percent (50%) of the total cost of the project or
158 Five Hundred Thousand Dollars (\$500,000.00), whichever is less.

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

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

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

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

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

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

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

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

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

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

205 **SECTION 3.** (1) The Mississippi Development Authority, at
206 one time, or from time to time, may declare by resolution the
207 necessity for issuance of general obligation bonds of the State of
208 Mississippi to provide funds for the program authorized in Section
209 1 of House Bill No. ____, 2005 Third Extraordinary Session. Upon
210 the adoption of a resolution by the Mississippi Development
211 Authority, declaring the necessity for the issuance of any part or
212 all of the general obligation bonds authorized by this section,
213 the Mississippi Development Authority shall deliver a certified

214 copy of its resolution or resolutions to the commission. Upon
215 receipt of such resolution, the commission, in its discretion, may
216 act as the issuing agent, prescribe the form of the bonds,
217 advertise for and accept bids, issue and sell the bonds so
218 authorized to be sold and do any and all other things necessary
219 and advisable in connection with the issuance and sale of such
220 bonds. The total amount of bonds issued under this act shall not
221 exceed Six Million Dollars (\$6,000,000.00). No bonds shall be
222 issued under this act after July 1, 2008.

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

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

243 **SECTION 5.** The bonds authorized by this act shall be signed
244 by the chairman of the commission, or by his facsimile signature,
245 and the official seal of the commission shall be affixed thereto,
246 attested by the secretary of the commission. The interest

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

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

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

280 to the date of delivery of the bonds to the purchaser. All
281 interest accruing on such bonds so issued shall be payable
282 semiannually or annually; however, the first interest payment may
283 be for any period of not more than one (1) year.

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

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

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

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

313 contained in the resolution providing for the issuance of the
314 bonds.

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

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

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

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

346 and all municipalities and political subdivisions for the purpose
347 of securing the deposit of public funds.

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

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

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

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

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

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

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

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

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

382 **SECTION 19.** (1) The Mississippi Development Authority, at
383 one time, or from time to time, may declare by resolution the
384 necessity for issuance of general obligation bonds of the State of
385 Mississippi to provide funds for the program authorized in Section
386 57-1-16. Upon the adoption of a resolution by the Mississippi
387 Development Authority, declaring the necessity for the issuance of
388 any part or all of the general obligation bonds authorized by this
389 section, the Mississippi Development Authority shall deliver a
390 certified copy of its resolution or resolutions to the commission.
391 Upon receipt of such resolution, the commission, in its
392 discretion, may act as the issuing agent, prescribe the form of
393 the bonds, advertise for and accept bids, issue and sell the bonds
394 so authorized to be sold and do any and all other things necessary
395 and advisable in connection with the issuance and sale of such
396 bonds. The total amount of bonds issued under this act shall not
397 exceed Five Million Dollars (\$5,000,000.00). No bonds authorized
398 under this act shall be issued after July 1, 2009.

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

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

412 absolutely at such time or times not to exceed twenty-five (25)
413 years from date of issue, be redeemable before maturity at such
414 time or times and upon such terms, with or without premium, shall
415 bear such registration privileges, and shall be substantially in
416 such form, all as shall be determined by resolution of the
417 commission.

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

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

442 **SECTION 23.** The commission shall act as the issuing agent
443 for the bonds authorized under this act, prescribe the form of the
444 bonds, advertise for and accept bids, issue and sell the bonds so

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

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

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

471 **SECTION 24.** The bonds issued under the provisions of this
472 act are general obligations of the State of Mississippi, and for
473 the payment thereof the full faith and credit of the State of
474 Mississippi is irrevocably pledged. If the funds appropriated by
475 the Legislature are insufficient to pay the principal of and the
476 interest on such bonds as they become due, then the deficiency
477 shall be paid by the State Treasurer from any funds in the State

478 Treasury not otherwise appropriated. All such bonds shall contain
479 recitals on their faces substantially covering the provisions of
480 this section.

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

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

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

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

511 performed, in order to provide for the payment of bonds and
512 interest thereon.

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

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

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

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

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

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

544 57-1-16. (1) As used in this section:

545 (a) "Extraordinary economic development opportunity"
546 means a new or expanded business or industry which maintains a
547 strong financial condition and minimal credit risk and creates
548 substantial employment.

549 (b) "Local economic development entities" means public
550 or private nonprofit local economic development entities,
551 including, but not limited to, chambers of commerce, local
552 authorities, commissions or other entities created by local and
553 private legislation or districts created pursuant to Section
554 19-5-99.

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

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

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

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

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

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

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

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

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

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

601 (v) A two-year business plan;

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

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

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

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

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

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

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

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

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

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

641 57-61-25. (1) The seller is authorized to borrow, on the
642 credit of the state upon receipt of a resolution from the

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

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

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

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

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

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

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

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

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

707 Reimbursements under this subsection shall satisfy any applicable
708 federal tax law requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

838 community development block grant funds. The maximum amount of
839 assistance that may be provided to a municipality under this
840 subsection shall not exceed Seventy-five Thousand Dollars
841 (\$75,000.00) in the aggregate.

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

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

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

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

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

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

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

866 (4) The maximum credit that may be claimed by a taxpayer on
867 any project shall be limited to One Million Dollars
868 (\$1,000,000.00).

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

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

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

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

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

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

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

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

931 * * *

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

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

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

949 (a) Warehouse and/or distribution centers;

950 (b) Manufacturing, processors and refineries;

951 (c) Research facilities;

952 (d) Corporate regional and national headquarters

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

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

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

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

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

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

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

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

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

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

993 (c) Retail sales of farm implements sold to farmers and
994 used directly in the production of poultry, ratite, domesticated
995 fish as defined in Section 69-7-501, livestock, livestock
996 products, agricultural crops or ornamental plant crops or used for
997 other agricultural purposes shall be taxed at the rate of three
998 percent (3%) when used on the farm. The three percent (3%) rate
999 shall also apply to all equipment used in logging, pulpwood
1000 operations or tree farming which is either:

1001 (i) Self-propelled, or * * *

1002 (ii) Mounted so that it is * * * permanently
1003 attached to other equipment which is self-propelled or * * *
1004 permanently attached to other equipment drawn by a vehicle which
1005 is self-propelled.

1006 (d) Except as otherwise provided in subsection (3) of
1007 this section, retail sales of aircraft, automobiles, trucks,
1008 truck-tractors, semitrailers and mobile homes shall be taxed at
1009 the rate of three percent (3%).

1010 (e) Sales of manufacturing machinery or manufacturing
1011 machine parts when made to a manufacturer or custom processor for
1012 plant use only when the machinery and machine parts will be used
1013 exclusively and directly within this state in manufacturing a
1014 commodity for sale, rental or in processing for a fee shall be
1015 taxed at the rate of one and one-half percent (1-1/2%).

1016 (f) Sales of machinery and machine parts when made to a
1017 technology intensive enterprise for plant use only when the
1018 machinery and machine parts will be used exclusively and directly
1019 within this state for industrial purposes, including, but not
1020 limited to, manufacturing or research and development activities,
1021 shall be taxed at the rate of one and one-half percent (1-1/2%).
1022 In order to be considered a technology intensive enterprise for
1023 purposes of this paragraph:

1024 (i) The enterprise shall meet minimum criteria
1025 established by the Mississippi Development Authority;

1026 (ii) The enterprise shall employ at least ten (10)
1027 persons in full-time jobs;

1028 (iii) At least ten percent (10%) of the workforce
1029 in the facility operated by the enterprise shall be scientists,
1030 engineers or computer specialists;

1031 (iv) The enterprise shall manufacture plastics,
1032 chemicals, automobiles, aircraft, computers or electronics; or
1033 shall be a research and development facility, a computer design or
1034 related facility, or a software publishing facility or other

1035 technology intensive facility or enterprise as determined by the
1036 Mississippi Development Authority;

1037 (v) The average wage of all workers employed by
1038 the enterprise at the facility shall be at least one hundred fifty
1039 percent (150%) of the state average annual wage; and

1040 (vi) The enterprise must provide a basic health
1041 care plan to all employees at the facility.

1042 (g) Sales of materials for use in track and track
1043 structures to a railroad whose rates are fixed by the Interstate
1044 Commerce Commission or the Mississippi Public Service Commission
1045 shall be taxed at the rate of three percent (3%).

1046 (h) Sales of tangible personal property to electric
1047 power associations for use in the ordinary and necessary operation
1048 of their generating or distribution systems shall be taxed at the
1049 rate of one percent (1%).

1050 (i) Wholesale sales of beer shall be taxed at the rate
1051 of seven percent (7%), and the retailer shall file a return and
1052 compute the retail tax on retail sales but may take credit for the
1053 amount of the tax paid to the wholesaler on said return covering
1054 the subsequent sales of same property, provided adequate invoices
1055 and records are maintained to substantiate the credit.

1056 (j) Wholesale sales of food and drink for human
1057 consumption to full service vending machine operators to be sold
1058 through vending machines located apart from and not connected with
1059 other taxable businesses shall be taxed at the rate of eight
1060 percent (8%).

1061 * * *

1062 (k) Sales of equipment used or designed for the purpose
1063 of assisting disabled persons, such as wheelchair equipment and
1064 lifts, that is mounted or attached to or installed on a private
1065 carrier of passengers or light carrier of property, as defined in
1066 Section 27-51-101, at the time when the private carrier of

1067 passengers or light carrier of property is sold shall be taxed at
1068 the same rate as the sale of such vehicles under this section.

1069 (2) From and after January 1, 1995, retail sales of private
1070 carriers of passengers and light carriers of property, as defined
1071 in Section 27-51-101, shall be taxed an additional two percent
1072 (2%).

1073 (3) In lieu of the tax levied in subsection (1) of this
1074 section, there is levied on retail sales of truck-tractors and
1075 semitrailers used in interstate commerce and registered under the
1076 International Registration Plan (IRP) or any similar reciprocity
1077 agreement or compact relating to the proportional registration of
1078 commercial vehicles entered into as provided for in Section
1079 27-19-143, a tax at the rate of three percent (3%) of the portion
1080 of the sale that is attributable to the usage of such
1081 truck-tractor or semitrailer in Mississippi. The portion of the
1082 retail sale that is attributable to the usage of such
1083 truck-tractor or semitrailer in Mississippi is the retail sales
1084 price of the truck-tractor or semitrailer multiplied by the
1085 percentage of the total miles traveled by the vehicle that are
1086 traveled in Mississippi. The tax levied pursuant to this
1087 subsection (3) shall be collected by the State Tax Commission from
1088 the purchaser of such truck-tractor or semitrailer at the time of
1089 registration of such truck-tractor or semitrailer.

1090 (4) A manufacturer selling at retail in this state shall be
1091 required to make returns of the gross proceeds of such sales and
1092 pay the tax imposed in this section.

1093 (5) Any person exercising any privilege taxable under
1094 Section 27-65-15 and selling his natural resource products at
1095 wholesale or to exempt persons shall pay the tax levied by said
1096 section in lieu of the tax levied by this section.

1097 **SECTION 41.** Section 27-65-19, Mississippi Code of 1972, is
1098 amended as follows:

1099 27-65-19. (1) (a) Except as otherwise provided in this
1100 subsection, upon every person selling to consumers, electricity,
1101 current, power, potable water, steam, coal, natural gas, liquefied
1102 petroleum gas or other fuel, there is hereby levied, assessed and
1103 shall be collected a tax equal to seven percent (7%) of the gross
1104 income of the business. Provided, gross income from sales to
1105 consumers of electricity, current, power, natural gas, liquefied
1106 petroleum gas or other fuel for residential heating, lighting or
1107 other residential noncommercial or nonagricultural use, and sales
1108 of potable water for residential, noncommercial or nonagricultural
1109 use shall be excluded from taxable gross income of the business.
1110 Provided further, upon every such seller using electricity,
1111 current, power, potable water, steam, coal, natural gas, liquefied
1112 petroleum gas or other fuel for nonindustrial purposes, there is
1113 hereby levied, assessed and shall be collected a tax equal to
1114 seven percent (7%) of the cost or value of the product or service
1115 used.

1116 (b) There is hereby levied, assessed and shall be
1117 collected a tax equal to one and one-half percent (1-1/2%) of the
1118 gross income of the business when the electricity, current, power,
1119 steam, coal, natural gas, liquefied petroleum gas or other fuel is
1120 sold to or used by a manufacturer, custom processor, technology
1121 intensive enterprise meeting the criteria provided for in Section
1122 27-65-17(1)(f), or public service company for industrial purposes,
1123 which shall include that used to generate electricity, to operate
1124 an electrical distribution or transmission system, to operate
1125 pipeline compressor or pumping stations or to operate railroad
1126 locomotives; however, sales of fuel used to produce electric power
1127 by a company primarily engaged in the business of producing,
1128 generating or distributing electric power for sale shall be exempt
1129 from sales tax as provided in Section 27-65-107.

1130 (c) The one and one-half percent (1-1/2%) industrial
1131 rate provided for in this subsection shall also apply when the

1132 electricity, current, power, steam, coal, natural gas, liquefied
1133 petroleum gas or other fuel is sold to a producer or processor for
1134 use directly in the production of poultry or poultry products, the
1135 production of livestock and livestock products, the production of
1136 domesticated fish and domesticated fish products, the production
1137 of marine aquaculture products, the production of plants or food
1138 by commercial horticulturists, the processing of milk and milk
1139 products, the processing of poultry and livestock feed, and the
1140 irrigation of farm crops.

1141 (d) The one and one-half percent (1-1/2%) rate provided
1142 for in this subsection shall not apply to sales of fuel for
1143 automobiles, trucks, truck-tractors, buses, farm tractors or
1144 airplanes.

1145 (e) Upon every person operating a telegraph or
1146 telephone business for the transmission of messages or
1147 conversations between points within this state, there is hereby
1148 levied, assessed and shall be collected a tax equal to seven
1149 percent (7%) of the gross income of such business, with no
1150 deduction or allowance for any part of an intrastate rate charge
1151 because of routing across a state line. Charges by one
1152 telecommunications provider to another telecommunications provider
1153 holding a permit issued under Section 27-65-27 for services that
1154 are resold by such other telecommunications provider, including,
1155 but not limited to, access charges, shall not be subject to the
1156 tax levied pursuant to this paragraph (e). However, any sale of a
1157 prepaid telephone calling card or prepaid authorization number, or
1158 both, shall be deemed to be the sale of tangible personal property
1159 subject only to such taxes imposed by law on the sale of tangible
1160 personal property. If the sale of a prepaid telephone calling
1161 card or prepaid authorization number does not take place at the
1162 vendor's place of business, it shall be conclusively determined to
1163 take place at the customer's shipping address. The
1164 reauthorization of a prepaid telephone calling card or a prepaid

1165 authorization number shall be conclusively determined to take
1166 place at the customer's billing address. Except for the
1167 provisions governing the sale of a prepaid telephone calling card
1168 or prepaid authorization number, this paragraph (e) shall not
1169 apply to persons providing mobile telecommunications services that
1170 are taxed pursuant to paragraph (g) of this section.

1171 (f) Upon every person operating a telegraph or
1172 telecommunications business for the transmission of messages or
1173 conversations originating in this state or terminating in this
1174 state via interstate telecommunications, which are charged to the
1175 customer's service address in this state, regardless of where such
1176 amount is billed or paid, there is hereby levied, assessed and
1177 shall be collected a tax equal to seven percent (7%) of the gross
1178 income received by such business from such interstate
1179 telecommunications. However, a person, upon proof that he has
1180 paid a tax in another state on such event, shall be allowed a
1181 credit against the tax imposed in this paragraph (f) on interstate
1182 telecommunications charges to the extent that the amount of such
1183 tax is properly due and actually paid in such other state and to
1184 the extent that the rate of sales tax imposed by and paid to such
1185 other state does not exceed the rate of sales tax imposed by this
1186 paragraph (f). Charges by one telecommunications provider to
1187 another telecommunications provider holding a permit issued under
1188 Section 27-65-27 for services that are resold by such other
1189 telecommunications provider, including, but not limited to, access
1190 charges, shall not be subject to the tax levied pursuant to this
1191 paragraph (f). This paragraph (f) shall not apply to persons
1192 providing mobile telecommunications services that are taxed
1193 pursuant to paragraph (g) of this subsection.

1194 (g) (i) Upon every person providing mobile
1195 telecommunications services in this state there is hereby levied,
1196 assessed and shall be collected:

1197 1. A tax equal to seven percent (7%) of the
1198 gross income received on such services from all charges for
1199 transmission of messages or conversations between points within
1200 any single state as they shall be construed to be within this
1201 state; and

1202 2. A tax equal to seven percent (7%) on the
1203 gross income received from all charges for services that originate
1204 in one state and terminate in any other state.

1205 Charges by one telecommunications provider to another
1206 telecommunications provider holding a permit issued under Section
1207 27-65-27 for services that are resold by such other
1208 telecommunications provider, including, but not limited to, access
1209 charges, shall not be subject to the tax levied pursuant to this
1210 paragraph (g).

1211 (ii) Subject to the provisions of 4 USCS 116(c),
1212 the tax levied by this paragraph (g) shall apply only to those
1213 charges for mobile telecommunications services subject to tax
1214 which are deemed to be provided to a customer by a home service
1215 provider pursuant to 4 USCS 117(a), if the customer's place of
1216 primary use is located within this state.

1217 (iii) A home service provider shall be responsible
1218 for obtaining and maintaining the customer's place of primary use.
1219 The home service provider shall be entitled to rely on the
1220 applicable residential or business street address supplied by such
1221 customer, if the home service provider's reliance is in good
1222 faith; and the home service provider shall be held harmless from
1223 liability for any additional taxes based on a different
1224 determination of the place of primary use for taxes that are
1225 customarily passed on to the customer as a separate itemized
1226 charge. A home service provider shall be allowed to treat the
1227 address used for purposes of the tax levied by this chapter for
1228 any customer under a service contract in effect on August 1, 2002,
1229 as that customer's place of primary use for the remaining term of

1230 such service contract or agreement, excluding any extension or
1231 renewal of such service contract or agreement. Month-to-month
1232 services provided after the expiration of a contract shall be
1233 treated as an extension or renewal of such contract or agreement.

1234 If the commissioner determines that the address used by a
1235 home service provider as a customer's place of primary use does
1236 not meet the definition of the term "place of primary use" as
1237 defined in this paragraph, the commissioner shall give binding
1238 notice to the home service provider to change the place of primary
1239 use on a prospective basis from the date of notice of
1240 determination; however, the customer shall have the opportunity,
1241 prior to such notice of determination, to demonstrate that such
1242 address satisfies such definition.

1243 The commission has the right to collect any taxes due
1244 directly from the home service provider's customer that has failed
1245 to provide an address that meets the definition of the term "place
1246 of primary use" which resulted in a failure of tax otherwise due
1247 being remitted.

1248 (iv) For purposes of this paragraph (g):

1249 1. "Place of primary use" means the street
1250 address representative of where the customer's use of mobile
1251 telecommunications services primarily occurs, which shall be
1252 either the residential street address of the customer or the
1253 primary business street address of the customer.

1254 2. "Customer" means the person or entity that
1255 contracts with the home service provider for mobile
1256 telecommunications services. For determining the place of primary
1257 use, in those instances in which the end user of mobile
1258 telecommunications services is not the contracting party, the end
1259 user of the mobile telecommunications services shall be deemed the
1260 customer. The term "customer" shall not include a reseller of
1261 mobile telecommunications service, or a serving carrier under an

1262 arrangement to serve the customer outside the home service
1263 provider's licensed service area.

1264 3. "Home service provider" means the
1265 facilities-based carrier or reseller with which the customer
1266 contracts for the provision of mobile telecommunications services.

1267 (h) (i) For purposes of this paragraph (h), "bundled
1268 transaction" means a transaction that consists of distinct and
1269 identifiable properties or services which are sold for a single
1270 nonitemized price but which are treated differently for tax
1271 purposes.

1272 (ii) In the case of a bundled transaction that
1273 includes telecommunications services taxed under this section in
1274 which the price of the bundled transaction is attributable to
1275 properties or services that are taxable and nontaxable, the
1276 portion of the price that is attributable to any nontaxable
1277 property or service shall be subject to the tax unless the
1278 provider can reasonably identify that portion from its books and
1279 records kept in the regular course of business.

1280 (iii) In the case of a bundled transaction that
1281 includes telecommunications services subject to tax under this
1282 section in which the price is attributable to properties or
1283 services that are subject to the tax but the tax revenue from the
1284 different properties or services are dedicated to different funds
1285 or purposes, the provider shall allocate the price among the
1286 properties or services:

1287 1. By reasonably identifying the portion of
1288 the price attributable to each of the properties and services from
1289 its books and records kept in the regular course of business; or

1290 2. Based on a reasonable allocation
1291 methodology approved by the commission.

1292 (iv) This paragraph (h) shall not create a right
1293 of action for a customer to require that the provider or the
1294 commission, for purposes of determining the amount of tax

1295 applicable to a bundled transaction, allocate the price to the
1296 different portions of the transaction in order to minimize the
1297 amount of tax charged to the customer. A customer shall not be
1298 entitled to rely on the fact that a portion of the price is
1299 attributable to properties or services not subject to tax unless
1300 the provider elects, after receiving a written request from the
1301 customer in the form required by the provider, to provide
1302 verifiable data based upon the provider's books and records that
1303 are kept in the regular course of business that reasonably
1304 identifies the portion of the price attributable to the properties
1305 or services not subject to the tax.

1306 (2) Persons making sales to consumers of electricity,
1307 current, power, natural gas, liquefied petroleum gas or other fuel
1308 for residential heating, lighting or other residential
1309 noncommercial or nonagricultural use or sales of potable water for
1310 residential, noncommercial or nonagricultural use shall indicate
1311 on each statement rendered to customers that such charges are
1312 exempt from sales taxes.

1313 (3) There is hereby levied, assessed and shall be paid on
1314 transportation charges on shipments moving between points within
1315 this state when paid directly by the consumer, a tax equal to the
1316 rate applicable to the sale of the property being transported.
1317 Such tax shall be reported and paid directly to the State Tax
1318 Commission by the consumer.

1319 **SECTION 42.** Section 27-65-101, Mississippi Code of 1972, is
1320 amended as follows:

1321 27-65-101. (1) The exemptions from the provisions of this
1322 chapter which are of an industrial nature or which are more
1323 properly classified as industrial exemptions than any other
1324 exemption classification of this chapter shall be confined to
1325 those persons or property exempted by this section or by the
1326 provisions of the Constitution of the United States or the State
1327 of Mississippi. No industrial exemption as now provided by any

1328 other section except Section 57-3-33 shall be valid as against the
1329 tax herein levied. Any subsequent industrial exemption from the
1330 tax levied hereunder shall be provided by amendment to this
1331 section. No exemption provided in this section shall apply to
1332 taxes levied by Section 27-65-15 or 27-65-21.

1333 The tax levied by this chapter shall not apply to the
1334 following:

1335 (a) Sales of boxes, crates, cartons, cans, bottles and
1336 other packaging materials to manufacturers and wholesalers for use
1337 as containers or shipping materials to accompany goods sold by
1338 said manufacturers or wholesalers where possession thereof will
1339 pass to the customer at the time of sale of the goods contained
1340 therein and sales to anyone of containers or shipping materials
1341 for use in ships engaged in international commerce.

1342 (b) Sales of raw materials, catalysts, processing
1343 chemicals, welding gases or other industrial processing gases
1344 (except natural gas) to a manufacturer for use directly in
1345 manufacturing or processing a product for sale or rental or
1346 repairing or reconditioning vessels or barges of fifty (50) tons
1347 load displacement and over. For the purposes of this exemption,
1348 electricity used directly in the electrolysis process in the
1349 production of sodium chlorate shall be considered a raw material.
1350 This exemption shall not apply to any property used as fuel except
1351 to the extent that such fuel comprises by-products which have no
1352 market value.

1353 (c) The gross proceeds of sales of dry docks, offshore
1354 drilling equipment for use in oil exploitation or production,
1355 vessels or barges of fifty (50) tons load displacement and over,
1356 when sold by the manufacturer or builder thereof.

1357 (d) Sales to commercial fishermen of commercial fishing
1358 boats of over five (5) tons load displacement and not more than
1359 fifty (50) tons load displacement as registered with the United

1360 States Coast Guard and licensed by the Mississippi Commission on
1361 Marine Resources.

1362 (e) The gross income from repairs to vessels and barges
1363 engaged in foreign trade or interstate transportation.

1364 (f) Sales of petroleum products to vessels or barges
1365 for consumption in marine international commerce or interstate
1366 transportation businesses.

1367 (g) Sales and rentals of rail rolling stock (and
1368 component parts thereof) for ultimate use in interstate commerce
1369 and gross income from services with respect to manufacturing,
1370 repairing, cleaning, altering, reconditioning or improving such
1371 rail rolling stock (and component parts thereof).

1372 (h) Sales of raw materials, catalysts, processing
1373 chemicals, welding gases or other industrial processing gases
1374 (except natural gas) used or consumed directly in manufacturing,
1375 repairing, cleaning, altering, reconditioning or improving such
1376 rail rolling stock (and component parts thereof). This exemption
1377 shall not apply to any property used as fuel.

1378 (i) Sales of machinery or tools or repair parts
1379 therefor or replacements thereof, fuel or supplies used directly
1380 in manufacturing, converting or repairing ships, vessels or barges
1381 of three thousand (3,000) tons load displacement and over, but not
1382 to include office and plant supplies or other equipment not
1383 directly used on the ship, vessel or barge being built, converted
1384 or repaired. For purposes of this exemption, "ships, vessels or
1385 barges" shall not include floating structures described in Section
1386 27-65-18.

1387 (j) Sales of tangible personal property to persons
1388 operating ships in international commerce for use or consumption
1389 on board such ships. This exemption shall be limited to cases in
1390 which procedures satisfactory to the commissioner, ensuring
1391 against use in this state other than on such ships, are
1392 established.

1393 (k) Sales of materials used in the construction of a
1394 building, or any addition or improvement thereon, and sales of any
1395 machinery and equipment not later than three (3) months after the
1396 completion of construction of the building, or any addition
1397 thereon, to be used therein, to qualified businesses, as defined
1398 in Section 57-51-5, which are located in a county or portion
1399 thereof designated as an enterprise zone pursuant to Sections
1400 57-51-1 through 57-51-15.

1401 (l) Sales of materials used in the construction of a
1402 building, or any addition or improvement thereon, and sales of any
1403 machinery and equipment not later than three (3) months after the
1404 completion of construction of the building, or any addition
1405 thereon, to be used therein, to qualified businesses, as defined
1406 in Section 57-54-5.

1407 (m) Income from storage and handling of perishable
1408 goods by a public storage warehouse.

1409 (n) The value of natural gas lawfully injected into the
1410 earth for cycling, repressuring or lifting of oil, or lawfully
1411 vented or flared in connection with the production of oil;
1412 however, if any gas so injected into the earth is sold for such
1413 purposes, then the gas so sold shall not be exempt.

1414 (o) The gross collections from self-service commercial
1415 laundering, drying, cleaning and pressing equipment.

1416 (p) Sales of materials used in the construction of a
1417 building, or any addition or improvement thereon, and sales of any
1418 machinery and equipment not later than three (3) months after the
1419 completion of construction of the building, or any addition
1420 thereon, to be used therein, to qualified companies, certified as
1421 such by the Mississippi Development Authority under Section
1422 57-53-1.

1423 (q) Sales of component materials used in the
1424 construction of a building, or any addition or improvement
1425 thereon, sales of machinery and equipment to be used therein, and

1426 sales of manufacturing or processing machinery and equipment which
1427 is permanently attached to the ground or to a permanent foundation
1428 and which is not by its nature intended to be housed within a
1429 building structure, not later than three (3) months after the
1430 initial start-up date, to permanent business enterprises engaging
1431 in manufacturing or processing in Tier Three areas (as such term
1432 is defined in Section 57-73-21), which businesses are certified by
1433 the State Tax Commission as being eligible for the exemption
1434 granted in this paragraph (q).

1435 (r) Sales of component materials used in the
1436 construction of a building, or any addition or improvement
1437 thereon, and sales of any machinery and equipment not later than
1438 three (3) months after the completion of the building, addition or
1439 improvement thereon, to be used therein, for any company
1440 establishing or transferring its national or regional headquarters
1441 from within or outside the State of Mississippi and creating a
1442 minimum of thirty-five (35) jobs at the new headquarters in this
1443 state. The Tax Commission shall establish criteria and prescribe
1444 procedures to determine if a company qualifies as a national or
1445 regional headquarters for the purpose of receiving the exemption
1446 provided in this paragraph.

1447 (s) The gross proceeds from the sale of semitrailers,
1448 trailers, boats, travel trailers, motorcycles and all-terrain
1449 cycles if exported from this state within forty-eight (48) hours
1450 and registered and first used in another state.

1451 (t) Gross income from the storage and handling of
1452 natural gas in underground salt domes and in other underground
1453 reservoirs, caverns, structures and formations suitable for such
1454 storage.

1455 (u) Sales of machinery and equipment to nonprofit
1456 organizations if the organization:

1457 (i) Is tax-exempt pursuant to Section 501(c)(4) of
1458 the Internal Revenue Code of 1986, as amended;

1459 (ii) Assists in the implementation of the national
1460 contingency plan or area contingency plan, and which is created in
1461 response to the requirements of Title IV, Subtitle B of the Oil
1462 Pollution Act of 1990, Public Law 101-380; and

1463 (iii) Engages primarily in programs to contain,
1464 clean up and otherwise mitigate spills of oil or other substances
1465 occurring in the United States coastal and tidal waters.

1466 For purposes of this exemption, "machinery and equipment"
1467 means any ocean-going vessels, barges, booms, skimmers and other
1468 capital equipment used primarily in the operations of nonprofit
1469 organizations referred to herein.

1470 (v) Sales or leases of materials and equipment to
1471 approved business enterprises as provided under the Growth and
1472 Prosperity Act.

1473 (w) From and after July 1, 2001, sales of pollution
1474 control equipment to manufacturers or custom processors for
1475 industrial use. For the purposes of this exemption, "pollution
1476 control equipment" means equipment, devices, machinery or systems
1477 used or acquired to prevent, control, monitor or reduce air, water
1478 or groundwater pollution, or solid or hazardous waste as required
1479 by federal or state law or regulation.

1480 (x) Sales or leases to a manufacturer of motor vehicles
1481 operating a project that has been certified by the Mississippi
1482 Major Economic Impact Authority as a project as defined in Section
1483 57-75-5(f)(iv)1 of machinery and equipment; special tooling such
1484 as dies, molds, jigs and similar items treated as special tooling
1485 for federal income tax purposes; or repair parts therefor or
1486 replacements thereof; repair services thereon; fuel, supplies,
1487 electricity, coal and natural gas used directly in the manufacture
1488 of motor vehicles or motor vehicle parts or used to provide
1489 climate control for manufacturing areas.

1490 (y) Sales or leases of component materials, machinery
1491 and equipment used in the construction of a building, or any

1492 addition or improvement thereon to an enterprise operating a
1493 project that has been certified by the Mississippi Major Economic
1494 Impact Authority as a project as defined in Section
1495 57-75-5(f)(iv)1 and any other sales or leases required to
1496 establish or operate such project.

1497 (z) Sales of component materials and equipment to a
1498 business enterprise as provided under Section 57-64-33.

1499 (aa) The gross income from the stripping and painting
1500 of commercial aircraft engaged in foreign or interstate
1501 transportation business.

1502 (bb) Sales of production items used in the production
1503 of motion pictures such as film; videotape; component building
1504 materials used in the construction of a set; makeup; fabric used
1505 as or in the making of costumes; clothing, including, shoes,
1506 accessories and jewelry used as wardrobes; materials used as set
1507 dressing; materials used as props on a set or by an actor;
1508 materials used in the creation of special effects; and expendable
1509 items purchased for limited use by grip, electric and camera
1510 departments such as tape, fasteners and compressed air. For the
1511 purposes of this paragraph (bb), the term "motion picture" means a
1512 nationally distributed feature-length film, video, television
1513 series or commercial made in Mississippi, in whole or in part, for
1514 theatrical or television viewing or as a television pilot. The
1515 term "motion picture" shall not include the production of
1516 television coverage of news and athletic events, or a film, video,
1517 television series or commercial that contains any material or
1518 performance defined in Section 97-29-103.

1519 (cc) Sales or leases to an enterprise owning or
1520 operating a project that has been designated by the Mississippi
1521 Major Economic Impact Authority as a project as defined in Section
1522 57-75-5(f)(xviii) of machinery and equipment; special tooling such
1523 as dies, molds, jigs and similar items treated as special tooling
1524 for federal income tax purposes; or repair parts therefor or

1525 replacements thereof; repair services thereon; fuel, supplies,
1526 electricity, coal and natural gas used directly in the
1527 manufacturing/production operations of the project or used to
1528 provide climate control for manufacturing/production areas.

1529 (dd) Sales or leases of component materials, machinery
1530 and equipment used in the construction of a building, or any
1531 addition or improvement thereon to an enterprise owning or
1532 operating a project that has been designated by the Mississippi
1533 Major Economic Impact Authority as a project as defined in Section
1534 57-75-5(f)(xviii) and any other sales or leases required to
1535 establish or operate such project.

1536 (ee) Sales of parts used in the repair and servicing of
1537 aircraft not registered in Mississippi engaged exclusively in the
1538 business of foreign or interstate transportation to businesses
1539 engaged in aircraft repair and maintenance.

1540 (ff) Sales of component materials used in the
1541 construction of a facility, or any addition or improvement
1542 thereon, and sales or leases of machinery and equipment not later
1543 than three (3) months after the completion of construction of the
1544 facility, or any addition or improvement thereto, to be used in
1545 the building or any addition or improvement thereto, to a
1546 permanent business enterprise operating a data/information
1547 enterprise in Tier Three areas (as such areas are designated in
1548 accordance with Section 57-73-21), meeting minimum criteria
1549 established by the Mississippi Development Authority.

1550 (gg) Sales of component materials used in the
1551 construction of a facility, or any addition or improvement
1552 thereto, and sales of machinery and equipment not later than three
1553 (3) months after the completion of construction of the facility,
1554 or any addition or improvement thereto, to be used in the facility
1555 or any addition or improvement thereto, to technology intensive
1556 enterprises for industrial purposes in Tier Three areas (as such
1557 areas are designated in accordance with Section 57-73-21), as

1558 certified by the State Tax Commission. For purposes of this
1559 paragraph, an enterprise must meet the criteria provided for in
1560 Section 27-65-17(1)(f) in order to be considered a technology
1561 intensive enterprise.

1562 (2) Sales of component materials used in the construction of
1563 a building, or any addition or improvement thereon, sales of
1564 machinery and equipment to be used therein, and sales of
1565 manufacturing or processing machinery and equipment which is
1566 permanently attached to the ground or to a permanent foundation
1567 and which is not by its nature intended to be housed within a
1568 building structure, not later than three (3) months after the
1569 initial start-up date, to permanent business enterprises engaging
1570 in manufacturing or processing in Tier Two areas and Tier One
1571 areas (as such areas are designated in accordance with Section
1572 57-73-21), which businesses are certified by the State Tax
1573 Commission as being eligible for the exemption granted in this
1574 paragraph, shall be exempt from one-half (1/2) of the taxes
1575 imposed on such transactions under this chapter.

1576 (3) Sales of component materials used in the construction of
1577 a facility, or any addition or improvement thereon, and sales or
1578 leases of machinery and equipment not later than three (3) months
1579 after the completion of construction of the facility, or any
1580 addition or improvement thereto, to be used in the building or any
1581 addition or improvement thereto, to a permanent business
1582 enterprise operating a data/information enterprise in Tier Two
1583 areas and Tier One areas (as such areas are designated in
1584 accordance with Section 57-73-21), which businesses meet minimum
1585 criteria established by the Mississippi Development Authority,
1586 shall be exempt from one-half (1/2) of the taxes imposed on such
1587 transaction under this chapter.

1588 (4) Sales of component materials used in the construction of
1589 a facility, or any addition or improvement thereto, and sales of
1590 machinery and equipment not later than three (3) months after the

1591 completion of construction of the facility, or any addition or
1592 improvement thereto, to be used in the building or any addition or
1593 improvement thereto, to technology intensive enterprises for
1594 industrial purposes in Tier Two areas and Tier One areas (as such
1595 areas are designated in accordance with Section 57-73-21), which
1596 businesses are certified by the State Tax Commission as being
1597 eligible for the exemption granted in this paragraph, shall be
1598 exempt from one-half (1/2) of the taxes imposed on such
1599 transactions under this chapter. For purposes of this subsection,
1600 an enterprise must meet the criteria provided for in Section
1601 27-65-17(1)(f) in order to be considered a technology intensive
1602 enterprise.

1603 (5) (a) For purposes of this subsection:

1604 (i) "Telecommunications enterprises" shall have
1605 the meaning ascribed to such term in Section 57-73-21 * * *;

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

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

1610 (iv) "Tier Three areas" mean counties designated
1611 as Tier Three areas pursuant to Section 57-73-21 * * *; and

1612 (v) "Equipment used in the deployment of broadband
1613 technologies" means any equipment capable of being used for or in
1614 connection with the transmission of information at a rate, prior
1615 to taking into account the effects of any signal degradation, that
1616 is not less than three hundred eighty-four (384) kilobits per
1617 second in at least one direction, including, but not limited to,
1618 asynchronous transfer mode switches, digital subscriber line
1619 access multiplexers, routers, servers, multiplexers, fiber optics
1620 and related equipment.

1621 (b) Sales of equipment to telecommunications
1622 enterprises after June 30, 2003, and before July 1, 2013, that is
1623 installed in Tier One areas and used in the deployment of

1624 broadband technologies shall be exempt from one-half (1/2) of the
1625 taxes imposed on such transactions under this chapter.

1626 (c) Sales of equipment to telecommunications
1627 enterprises after June 30, 2003, and before July 1, 2013, that is
1628 installed in Tier Two and Tier Three areas and used in the
1629 deployment of broadband technologies shall be exempt from the
1630 taxes imposed on such transactions under this chapter.

1631 **SECTION 43.** Section 57-73-21, Mississippi Code of 1972, is
1632 amended as follows:

1633 **[In cases involving business enterprises that received or**
1634 **applied for the job tax credit authorized by this section prior to**
1635 **January 1, 2005, this section shall read as follows:]**

1636 57-73-21. (1) Annually by December 31, using the most
1637 current data available from the University Research Center,
1638 Mississippi Department of Employment Security and the United
1639 States Department of Commerce, the State Tax Commission shall rank
1640 and designate the state's counties as provided in this section.
1641 The twenty-eight (28) counties in this state having a combination
1642 of the highest unemployment rate and lowest per capita income for
1643 the most recent thirty-six-month period, with equal weight being
1644 given to each category, are designated Tier Three areas. The
1645 twenty-seven (27) counties in the state with a combination of the
1646 next highest unemployment rate and next lowest per capita income
1647 for the most recent thirty-six-month period, with equal weight
1648 being given to each category, are designated Tier Two areas. The
1649 twenty-seven (27) counties in the state with a combination of the
1650 lowest unemployment rate and the highest per capita income for the
1651 most recent thirty-six-month period, with equal weight being given
1652 to each category, are designated Tier One areas. Counties
1653 designated by the Tax Commission qualify for the appropriate tax
1654 credit for jobs as provided in subsections (2), (3) and (4) of
1655 this section. The designation by the Tax Commission is effective
1656 for the tax years of permanent business enterprises which begin

1657 after the date of designation. For companies which plan an
1658 expansion in their labor forces, the Tax Commission shall
1659 prescribe certification procedures to ensure that the companies
1660 can claim credits in future years without regard to whether or not
1661 a particular county is removed from the list of Tier Three or Tier
1662 Two areas.

1663 (2) Permanent business enterprises primarily engaged in
1664 manufacturing, processing, warehousing, distribution, wholesaling
1665 and research and development, or permanent business enterprises
1666 designated by rule and regulation of the Mississippi Development
1667 Authority as air transportation and maintenance facilities, final
1668 destination or resort hotels having a minimum of one hundred fifty
1669 (150) guest rooms, recreational facilities that impact tourism,
1670 movie industry studios, telecommunications enterprises, data or
1671 information processing enterprises or computer software
1672 development enterprises or any technology intensive facility or
1673 enterprise, in counties designated by the Tax Commission as Tier
1674 Three areas are allowed a job tax credit for taxes imposed by
1675 Section 27-7-5 equal to Two Thousand Dollars (\$2,000.00) annually
1676 for each net new full-time employee job for five (5) years
1677 beginning with years two (2) through six (6) after the creation of
1678 the job. The number of new full-time jobs must be determined by
1679 comparing the monthly average number of full-time employees
1680 subject to the Mississippi income tax withholding for the taxable
1681 year with the corresponding period of the prior taxable year.
1682 Only those permanent businesses that increase employment by ten
1683 (10) or more in a Tier Three area are eligible for the credit.
1684 Credit is not allowed during any of the five (5) years if the net
1685 employment increase falls below ten (10). The Tax Commission
1686 shall adjust the credit allowed each year for the net new
1687 employment fluctuations above the minimum level of ten (10).

1688 (3) Permanent business enterprises primarily engaged in
1689 manufacturing, processing, warehousing, distribution, wholesaling

1690 and research and development, or permanent business enterprises
1691 designated by rule and regulation of the Mississippi Development
1692 Authority as air transportation and maintenance facilities, final
1693 destination or resort hotels having a minimum of one hundred fifty
1694 (150) guest rooms, recreational facilities that impact tourism,
1695 movie industry studios, telecommunications enterprises, data or
1696 information processing enterprises or computer software
1697 development enterprises or any technology intensive facility or
1698 enterprise, in counties that have been designated by the Tax
1699 Commission as Tier Two areas are allowed a job tax credit for
1700 taxes imposed by Section 27-7-5 equal to One Thousand Dollars
1701 (\$1,000.00) annually for each net new full-time employee job for
1702 five (5) years beginning with years two (2) through six (6) after
1703 the creation of the job. The number of new full-time jobs must be
1704 determined by comparing the monthly average number of full-time
1705 employees subject to Mississippi income tax withholding for the
1706 taxable year with the corresponding period of the prior taxable
1707 year. Only those permanent businesses that increase employment by
1708 fifteen (15) or more in Tier Two areas are eligible for the
1709 credit. The credit is not allowed during any of the five (5)
1710 years if the net employment increase falls below fifteen (15).
1711 The Tax Commission shall adjust the credit allowed each year for
1712 the net new employment fluctuations above the minimum level of
1713 fifteen (15).

1714 (4) Permanent business enterprises primarily engaged in
1715 manufacturing, processing, warehousing, distribution, wholesaling
1716 and research and development, or permanent business enterprises
1717 designated by rule and regulation of the Mississippi Development
1718 Authority as air transportation and maintenance facilities, final
1719 destination or resort hotels having a minimum of one hundred fifty
1720 (150) guest rooms, recreational facilities that impact tourism,
1721 movie industry studios, telecommunications enterprises, data or
1722 information processing enterprises or computer software

1723 development enterprises or any technology intensive facility or
1724 enterprise, in counties designated by the Tax Commission as Tier
1725 One areas are allowed a job tax credit for taxes imposed by
1726 Section 27-7-5 equal to Five Hundred Dollars (\$500.00) annually
1727 for each net new full-time employee job for five (5) years
1728 beginning with years two (2) through six (6) after the creation of
1729 the job. The number of new full-time jobs must be determined by
1730 comparing the monthly average number of full-time employees
1731 subject to Mississippi income tax withholding for the taxable year
1732 with the corresponding period of the prior taxable year. Only
1733 those permanent businesses that increase employment by twenty (20)
1734 or more in Tier One areas are eligible for the credit. The credit
1735 is not allowed during any of the five (5) years if the net
1736 employment increase falls below twenty (20). The Tax Commission
1737 shall adjust the credit allowed each year for the net new
1738 employment fluctuations above the minimum level of twenty (20).

1739 (5) In addition to the credits authorized in subsections
1740 (2), (3) and (4), an additional Five Hundred Dollars (\$500.00)
1741 credit for each net new full-time employee or an additional One
1742 Thousand Dollars (\$1,000.00) credit for each net new full-time
1743 employee who is paid a salary, excluding benefits which are not
1744 subject to Mississippi income taxation, of at least one hundred
1745 twenty-five percent (125%) of the average annual wage of the state
1746 or an additional Two Thousand Dollars (\$2,000.00) credit for each
1747 net new full-time employee who is paid a salary, excluding
1748 benefits which are not subject to Mississippi income taxation, of
1749 at least two hundred percent (200%) of the average annual wage of
1750 the state, shall be allowed for any company establishing or
1751 transferring its national or regional headquarters from within or
1752 outside the State of Mississippi. A minimum of thirty-five (35)
1753 jobs must be created to qualify for the additional credit. The
1754 State Tax Commission shall establish criteria and prescribe
1755 procedures to determine if a company qualifies as a national or

1756 regional headquarters for purposes of receiving the credit awarded
1757 in this subsection. As used in this subsection, the average
1758 annual wage of the state is the most recently published average
1759 annual wage as determined by the Mississippi Department of
1760 Employment Security.

1761 (6) In addition to the credits authorized in subsections
1762 (2), (3), (4) and (5), any job requiring research and development
1763 skills (chemist, engineer, etc.) shall qualify for an additional
1764 One Thousand Dollars (\$1,000.00) credit for each net new full-time
1765 employee.

1766 (7) In lieu of the tax credits provided in subsections (2)
1767 through (6), any commercial or industrial property owner which
1768 remediates contaminated property in accordance with Sections
1769 49-35-1 through 49-35-25, is allowed a job tax credit for taxes
1770 imposed by Section 27-7-5 equal to the amounts provided in
1771 subsection (2), (3) or (4) for each net new full-time employee job
1772 for five (5) years beginning with years two (2) through six (6)
1773 after the creation of the job. The number of new full-time jobs
1774 must be determined by comparing the monthly average number of
1775 full-time employees subject to Mississippi income tax withholding
1776 for the taxable year with the corresponding period of the prior
1777 taxable year. This subsection shall be administered in the same
1778 manner as subsections (2), (3) and (4), except the landowner shall
1779 not be required to increase employment by the levels provided in
1780 subsections (2), (3) and (4) to be eligible for the tax credit.

1781 (8) Tax credits for five (5) years for the taxes imposed by
1782 Section 27-7-5 shall be awarded for additional net new full-time
1783 jobs created by business enterprises qualified under subsections
1784 (2), (3), (4), (5), (6) and (7) of this section. Except as
1785 otherwise provided, the Tax Commission shall adjust the credit
1786 allowed in the event of employment fluctuations during the
1787 additional five (5) years of credit.

1788 (9) The sale, merger, acquisition, reorganization,
1789 bankruptcy or relocation from one county to another county within
1790 the state of any business enterprise may not create new
1791 eligibility in any succeeding business entity, but any unused job
1792 tax credit may be transferred and continued by any transferee of
1793 the business enterprise. The Tax Commission shall determine
1794 whether or not qualifying net increases or decreases have occurred
1795 or proper transfers of credit have been made and may require
1796 reports, promulgate regulations, and hold hearings as needed for
1797 substantiation and qualification.

1798 (10) Any tax credit claimed under this section but not used
1799 in any taxable year may be carried forward for five (5) years from
1800 the close of the tax year in which the qualified jobs were
1801 established but the credit established by this section taken in
1802 any one (1) tax year must be limited to an amount not greater than
1803 fifty percent (50%) of the taxpayer's state income tax liability
1804 which is attributable to income derived from operations in the
1805 state for that year.

1806 (11) No business enterprise for the transportation,
1807 handling, storage, processing or disposal of hazardous waste is
1808 eligible to receive the tax credits provided in this section.

1809 (12) The credits allowed under this section shall not be
1810 used by any business enterprise or corporation other than the
1811 business enterprise actually qualifying for the credits.

1812 (13) The tax credits provided for in this section shall be
1813 in addition to any tax credits described in Sections 57-51-13(b),
1814 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official
1815 action by the Department of Economic Development prior to July 1,
1816 1989, to any business enterprise determined prior to July 1, 1989,
1817 by the Department of Economic Development to be a qualified
1818 business as defined in Section 57-51-5(f) or Section 57-54-5(d) or
1819 a qualified company as described in Section 57-53-1, as the case
1820 may be; however, from and after July 1, 1989, tax credits shall be

1821 allowed only under either this section or Sections 57-51-13(b),
1822 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time
1823 employee.

1824 (14) As used in this section, the term "telecommunications
1825 enterprises" means entities engaged in the creation, display,
1826 management, storage, processing, transmission or distribution for
1827 compensation of images, text, voice, video or data by wire or by
1828 wireless means, or entities engaged in the construction, design,
1829 development, manufacture, maintenance or distribution for
1830 compensation of devices, products, software or structures used in
1831 the above activities. Companies organized to do business as
1832 commercial broadcast radio stations, television stations or news
1833 organizations primarily serving in-state markets shall not be
1834 included within the definition of the term "telecommunications
1835 enterprises."

1836 **[In cases involving business enterprises that apply for the**
1837 **job tax credit authorized by this section from and after January**
1838 **1, 2005, this section shall read as follows:]**

1839 57-73-21. (1) Annually by December 31, using the most
1840 current data available from the University Research Center,
1841 Mississippi Department of Employment Security and the United
1842 States Department of Commerce, the State Tax Commission shall rank
1843 and designate the state's counties as provided in this section.
1844 The twenty-eight (28) counties in this state having a combination
1845 of the highest unemployment rate and lowest per capita income for
1846 the most recent thirty-six-month period, with equal weight being
1847 given to each category, are designated Tier Three areas. The
1848 twenty-seven (27) counties in the state with a combination of the
1849 next highest unemployment rate and next lowest per capita income
1850 for the most recent thirty-six-month period, with equal weight
1851 being given to each category, are designated Tier Two areas. The
1852 twenty-seven (27) counties in the state with a combination of the
1853 lowest unemployment rate and the highest per capita income for the

1854 most recent thirty-six-month period, with equal weight being given
1855 to each category, are designated Tier One areas. Counties
1856 designated by the Tax Commission qualify for the appropriate tax
1857 credit for jobs as provided in * * * this section. The
1858 designation by the Tax Commission is effective for the tax years
1859 of permanent business enterprises which begin after the date of
1860 designation. For companies which plan an expansion in their labor
1861 forces, the Tax Commission shall prescribe certification
1862 procedures to ensure that the companies can claim credits in
1863 future years without regard to whether or not a particular county
1864 is removed from the list of Tier Three or Tier Two areas.

1865 (2) Permanent business enterprises * * * in counties
1866 designated by the Tax Commission as Tier Three areas are allowed a
1867 job tax credit for taxes imposed by Section 27-7-5 equal to ten
1868 percent (10%) of the payroll of the enterprise for net new
1869 full-time employee jobs for five (5) years beginning with years
1870 two (2) through six (6) after the creation of the minimum number
1871 of jobs required by this subsection. The number of new full-time
1872 jobs must be determined by comparing the monthly average number of
1873 full-time employees subject to the Mississippi income tax
1874 withholding for the taxable year with the corresponding period of
1875 the prior taxable year. Only those permanent business enterprises
1876 that increase employment by ten (10) or more in a Tier Three area
1877 are eligible for the credit. Credit is not allowed during any of
1878 the five (5) years if the net employment increase falls below ten
1879 (10). The Tax Commission shall adjust the credit allowed each
1880 year for the net new employment fluctuations above the minimum
1881 level of ten (10).

1882 (3) Permanent business enterprises * * * in counties that
1883 have been designated by the Tax Commission as Tier Two areas are
1884 allowed a job tax credit for taxes imposed by Section 27-7-5 equal
1885 to five percent (5%) of the payroll of the enterprise for net new
1886 full-time employee jobs for five (5) years beginning with years

1887 two (2) through six (6) after the creation of the minimum number
1888 of jobs required by this subsection. The number of new full-time
1889 jobs must be determined by comparing the monthly average number of
1890 full-time employees subject to Mississippi income tax withholding
1891 for the taxable year with the corresponding period of the prior
1892 taxable year. Only those permanent business enterprises that
1893 increase employment by fifteen (15) or more in Tier Two areas are
1894 eligible for the credit. The credit is not allowed during any of
1895 the five (5) years if the net employment increase falls below
1896 fifteen (15). The Tax Commission shall adjust the credit allowed
1897 each year for the net new employment fluctuations above the
1898 minimum level of fifteen (15).

1899 (4) Permanent business enterprises * * * in counties
1900 designated by the Tax Commission as Tier One areas are allowed a
1901 job tax credit for taxes imposed by Section 27-7-5 equal to two
1902 and one-half percent (2.5%) of the payroll of the enterprise for
1903 net new full-time employee jobs for five (5) years beginning with
1904 years two (2) through six (6) after the creation of the minimum
1905 number of jobs required by this subsection. The number of new
1906 full-time jobs must be determined by comparing the monthly average
1907 number of full-time employees subject to Mississippi income tax
1908 withholding for the taxable year with the corresponding period of
1909 the prior taxable year. Only those permanent business enterprises
1910 that increase employment by twenty (20) or more in Tier One areas
1911 are eligible for the credit. The credit is not allowed during any
1912 of the five (5) years if the net employment increase falls below
1913 twenty (20). The Tax Commission shall adjust the credit allowed
1914 each year for the net new employment fluctuations above the
1915 minimum level of twenty (20).

1916 (5) In addition to the other credits authorized in this
1917 section, an additional Five Hundred Dollars (\$500.00) credit for
1918 each net new full-time employee or an additional One Thousand
1919 Dollars (\$1,000.00) credit for each net new full-time employee who

1920 is paid a salary, excluding benefits which are not subject to
1921 Mississippi income taxation, of at least one hundred twenty-five
1922 percent (125%) of the average annual wage of the state or an
1923 additional Two Thousand Dollars (\$2,000.00) credit for each net
1924 new full-time employee who is paid a salary, excluding benefits
1925 which are not subject to Mississippi income taxation, of at least
1926 two hundred percent (200%) of the average annual wage of the
1927 state, shall be allowed for any company establishing or
1928 transferring its national or regional headquarters from within or
1929 outside the State of Mississippi. A minimum of thirty-five (35)
1930 jobs must be created to qualify for the additional credit. The
1931 State Tax Commission shall establish criteria and prescribe
1932 procedures to determine if a company qualifies as a national or
1933 regional headquarters for purposes of receiving the credit awarded
1934 in this subsection. As used in this subsection, the average
1935 annual wage of the state is the most recently published average
1936 annual wage as determined by the Mississippi Department of
1937 Employment Security.

1938 (6) In addition to the other credits authorized in this
1939 section, any job requiring research and development skills
1940 (chemist, engineer, etc.) shall qualify for an additional One
1941 Thousand Dollars (\$1,000.00) credit for each net new full-time
1942 employee.

1943 (7) In lieu of the other tax credits provided in this
1944 section, any commercial or industrial property owner which
1945 remediates contaminated property in accordance with Sections
1946 49-35-1 through 49-35-25, is allowed a job tax credit for taxes
1947 imposed by Section 27-7-5 equal to the percentage of payroll
1948 provided in subsection (2), (3) or (4) of this section for * * *
1949 net new full-time employee jobs for five (5) years beginning with
1950 years two (2) through six (6) after the creation of the jobs. The
1951 number of new full-time jobs must be determined by comparing the
1952 monthly average number of full-time employees subject to

1953 Mississippi income tax withholding for the taxable year with the
1954 corresponding period of the prior taxable year. This subsection
1955 shall be administered in the same manner as subsections (2), (3)
1956 and (4), except the landowner shall not be required to increase
1957 employment by the levels provided in subsections (2), (3) and (4)
1958 to be eligible for the tax credit.

1959 (8) (a) Tax credits for five (5) years for the taxes
1960 imposed by Section 27-7-5 shall be awarded for increases in the
1961 annual payroll for net new full-time jobs created by business
1962 enterprises qualified under this section. The Tax Commission
1963 shall adjust the credit allowed in the event of payroll
1964 fluctuations during the additional five (5) years of credit.

1965 (b) Tax credits for five (5) years for the taxes
1966 imposed by Section 27-7-5 shall be awarded for additional net new
1967 full-time jobs created by business enterprises qualified under
1968 subsections * * * (5) and (6) * * * of this section. * * * The
1969 Tax Commission shall adjust the credit allowed in the event of
1970 employment fluctuations during the additional five (5) years of
1971 credit.

1972 (9) The sale, merger, acquisition, reorganization,
1973 bankruptcy or relocation from one county to another county within
1974 the state of any business enterprise may not create new
1975 eligibility in any succeeding business entity, but any unused job
1976 tax credit may be transferred and continued by any transferee of
1977 the business enterprise. The Tax Commission shall determine
1978 whether or not qualifying net increases or decreases have occurred
1979 or proper transfers of credit have been made and may require
1980 reports, promulgate regulations, and hold hearings as needed for
1981 substantiation and qualification.

1982 (10) Any tax credit claimed under this section but not used
1983 in any taxable year may be carried forward for five (5) years from
1984 the close of the tax year in which the qualified jobs were
1985 established but the credit established by this section taken in

1986 any one tax year must be limited to an amount not greater than
1987 fifty percent (50%) of the taxpayer's state income tax liability
1988 which is attributable to income derived from operations in the
1989 state for that year.

1990 (11) No business enterprise for the transportation,
1991 handling, storage, processing or disposal of hazardous waste is
1992 eligible to receive the tax credits provided in this section.

1993 (12) The credits allowed under this section shall not be
1994 used by any business enterprise or corporation other than the
1995 business enterprise actually qualifying for the credits.

1996 (13) As used in this section:

1997 (a) "Business enterprises" means entities primarily
1998 engaged in:

1999 (i) Manufacturing, processing, warehousing,
2000 distribution, wholesaling and research and development, or

2001 (ii) Permanent business enterprises designated by
2002 rule and regulation of the Mississippi Development Authority as
2003 air transportation and maintenance facilities, final destination
2004 or resort hotels having a minimum of one hundred fifty (150) guest
2005 rooms, recreational facilities that impact tourism, movie industry
2006 studios, telecommunications enterprises, data or information
2007 processing enterprises or computer software development
2008 enterprises or any technology intensive facility or enterprise.

2009 (b) "Telecommunications enterprises" means entities
2010 engaged in the creation, display, management, storage, processing,
2011 transmission or distribution for compensation of images, text,
2012 voice, video or data by wire or by wireless means, or entities
2013 engaged in the construction, design, development, manufacture,
2014 maintenance or distribution for compensation of devices, products,
2015 software or structures used in the above activities. Companies
2016 organized to do business as commercial broadcast radio stations,
2017 television stations or news organizations primarily serving

2018 in-state markets shall not be included within the definition of
2019 the term "telecommunications enterprises."

2020 (14) The tax credits provided for in this section shall be
2021 in addition to any tax credits described in Sections 57-51-13(b),
2022 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official
2023 action by the Department of Economic Development prior to July 1,
2024 1989, to any business enterprise determined prior to July 1, 1989,
2025 by the Department of Economic Development to be a qualified
2026 business as defined in Section 57-51-5(f) or Section 57-54-5(d) or
2027 a qualified company as described in Section 57-53-1, as the case
2028 may be; however, from and after July 1, 1989, tax credits shall be
2029 allowed only under either this section or Sections 57-51-13(b),
2030 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time
2031 employee.

2032 * * *

2033 **SECTION 44.** Section 57-73-25, Mississippi Code of 1972, is
2034 amended as follows:

2035 57-73-25. (1) A fifty percent (50%) income tax credit shall
2036 be granted to any employer (as defined in subsection (4) of this
2037 section) sponsoring skills training. The fifty percent (50%)
2038 credit shall be granted to employers that participate in
2039 employer-sponsored training programs through any community/junior
2040 college in the district within which the employer is located or
2041 training approved by such community/junior college. The credit is
2042 applied to qualified training expenses, which are expenses related
2043 to instructors, instructional materials and equipment, and the
2044 construction and maintenance of facilities by such employer
2045 designated for training purposes which is attributable to training
2046 provided through such community/junior college or training
2047 approved by such community/junior college. The credits allowed
2048 under this section shall only be used by the actual employer
2049 qualifying for the credits. The credit shall not exceed fifty
2050 percent (50%) of the income tax liability in a tax year and may be

2051 carried forward for the five (5) successive years if the amount
2052 allowable as credit exceeds the income tax liability in a tax
2053 year; however, thereafter, if the amount allowable as a credit
2054 exceeds the tax liability, the amount of excess shall not be
2055 refundable or carried forward to any other taxable year. The
2056 credit authorized under this section shall not exceed Two Thousand
2057 Five Hundred Dollars (\$2,500.00) per employee during any one (1)
2058 year. Nothing in this section shall be interpreted in any manner
2059 as to prevent the continuing operation of state-supported
2060 university programs.

2061 (2) Employer-sponsored training shall include an evaluation
2062 by the local community or junior college that serves the employer
2063 to ensure that the training provided is job related and conforms
2064 to the definition of "skills training" as hereinafter defined.

2065 (3) Employers shall be certified as eligible for the tax
2066 credit by the local community or junior college that serves the
2067 employer and the State Tax Commission.

2068 (4) For the purposes of this section:

2069 (a) "Skills training" means any employer-sponsored
2070 training by an appropriate community/junior college or training
2071 approved by such community/junior college that enhances skills
2072 that improve job performance. If the employer provides
2073 pre-employment training, the portion of the pre-employment
2074 training that involves skills training shall be eligible for the
2075 credit.

2076 (b) "Employer-sponsored training" means training
2077 provided by the appropriate community/junior college in the
2078 district within which the employer is located or training approved
2079 by such community/junior college.

2080 (c) "Employer" means those permanent business
2081 enterprises as defined and set out in Section 57-73-21 * * *.

2082 (5) The tax credits provided for in this section shall be in
2083 addition to all other tax credits heretofore granted by the laws
2084 of the state.

2085 (6) A community/junior college may commit to provide
2086 employer-sponsored skills training programs for an employer for a
2087 multiple number of years, not to exceed five (5) years.

2088 (7) The State Board for Community and Junior Colleges shall
2089 make a report to the Legislature by January 30 of each year
2090 summarizing the number of participants, the junior or community
2091 college through which the training was offered and the type
2092 training offered.

2093 (8) This section shall stand repealed from and after July 1,
2094 2006.

2095 **SECTION 45.** Section 57-10-401, Mississippi Code of 1972, is
2096 amended as follows:

2097 **[In cases involving an economic development project for which**
2098 **the Mississippi Business Finance Corporation has issued bonds for**
2099 **the purpose of financing the approved costs of such project prior**
2100 **to July 1, 1994, this section shall read as follows:]**

2101 57-10-401. As used in Sections 57-10-401 through 57-10-445
2102 the following terms shall have the meanings ascribed to them
2103 herein unless the context clearly indicates otherwise:

2104 (a) "Approved company" means any eligible company
2105 seeking to locate an economic development project in a county,
2106 which eligible company is approved by the corporation.

2107 (b) "Approved costs" means:

2108 (i) Obligations incurred for equipment and labor
2109 and to contractors, subcontractors, builders and materialmen in
2110 connection with the acquisition, construction and installation of
2111 an economic development project;

2112 (ii) The cost of acquiring land or rights in land
2113 and any cost incidental thereto, including recording fees;

2114 (iii) The cost of contract bonds and of insurance
2115 of all kinds that may be required or necessary during the course
2116 of acquisition, construction and installation of an economic
2117 development project which is not paid by the contractor or
2118 contractors or otherwise provided for;

2119 (iv) All costs of architectural and engineering
2120 services, including test borings, surveys, estimates, plans and
2121 specifications, preliminary investigations, and supervision of
2122 construction, as well as for the performance of all the duties
2123 required by or consequent upon the acquisition, construction and
2124 installation of an economic development project;

2125 (v) All costs which shall be required to be paid
2126 under the terms of any contract or contracts for the acquisition,
2127 construction and installation of an economic development project;

2128 (vi) All costs, expenses and fees incurred in
2129 connection with the issuance of bonds pursuant to Sections
2130 57-10-401 through 57-10-445;

2131 (vii) All costs funded by a loan made under the
2132 Mississippi Small Enterprise Development Finance Act; and

2133 (viii) All costs of professionals permitted to be
2134 engaged under the Mississippi Small Enterprise Development Finance
2135 Act for a loan made under such act.

2136 (c) "Assessment" means the job development assessment
2137 fee authorized in Section 57-10-413.

2138 (d) "Bonds" means the revenue bonds, notes or other
2139 debt obligations of the corporation authorized to be issued by the
2140 corporation on behalf of an eligible company or other state
2141 agency.

2142 (e) "Corporation" means the Mississippi Business
2143 Finance Corporation created under Section 57-10-167, Mississippi
2144 Code of 1972.

2145 (f) "Economic development project" means and includes
2146 the acquisition of any equipment or real estate in a county and

2147 the construction and installation thereon, and with respect
2148 thereto, of improvements and facilities necessary or desirable for
2149 improvement of the real estate, including surveys, site tests and
2150 inspections, subsurface site work, excavation, removal of
2151 structures, roadways, cemeteries and other surface obstructions,
2152 filling, grading and provision of drainage, storm water detention,
2153 installation of utilities such as water, sewer, sewage treatment,
2154 gas, electricity, communications and similar facilities, off-site
2155 construction of utility extensions to the boundaries of the real
2156 estate, and the acquisition, construction and installation of
2157 manufacturing, telecommunications, data processing, distribution
2158 or warehouse facilities on the real estate, for lease or financial
2159 arrangement by the corporation to an approved company for use and
2160 occupancy by the approved company or its affiliates for
2161 manufacturing, telecommunications, data processing, distribution
2162 or warehouse purposes. Such term also includes, without
2163 limitation, any project the financing of which has been approved
2164 under the Mississippi Small Enterprise Development Finance Act.

2165 (g) "Eligible company" means any corporation,
2166 partnership, sole proprietorship, business trust, or other entity
2167 which is:

2168 (i) Engaged in manufacturing which meets the
2169 standards promulgated by the corporation under Sections 57-10-401
2170 through 57-10-445;

2171 (ii) A private company approved by the corporation
2172 for a loan under the Mississippi Small Enterprise Development
2173 Finance Act;

2174 (iii) A distribution or warehouse facility
2175 employing a minimum of fifty (50) people or employing a minimum of
2176 twenty (20) people and having a capital investment in such
2177 facility of at least Five Million Dollars (\$5,000,000.00); or

2178 (iv) A telecommunications or data processing
2179 business.

2180 (h) "Executive director" means the Executive Director
2181 of the Mississippi Business Finance Corporation.

2182 (i) "Financing agreement" means any financing documents
2183 and agreements, indentures, loan agreements, lease agreements,
2184 security agreements and the like, entered into by and among the
2185 corporation, private lenders and an approved company with respect
2186 to an economic development project.

2187 (j) "Manufacturing" means any activity involving the
2188 manufacturing, processing, assembling or production of any
2189 property, including the processing resulting in a change in the
2190 conditions of the property and any activity functionally related
2191 thereto, together with the storage, warehousing, distribution and
2192 related office facilities in respect thereof as determined by the
2193 Mississippi Business Finance Corporation; however, in no event
2194 shall "manufacturing" include mining, coal or mineral processing,
2195 or extraction of Mississippi minerals.

2196 (k) "State agency" means any state board, commission,
2197 committee, council, university, department or unit thereof created
2198 by the Constitution or laws of this state.

2199 (l) "Revenues" shall not be considered state funds.

2200 (m) "State" means the State of Mississippi.

2201 (n) "Mississippi Small Enterprise Development Finance
2202 Act" means the provisions of law contained in Section 57-71-1 et
2203 seq.

2204 **[In cases involving an economic development project for which**
2205 **the Mississippi Business Finance Corporation has not issued bonds**
2206 **for the purpose of financing the approved costs of such project**
2207 **prior to July 1, 1994, this section shall read as follows:]**

2208 57-10-401. As used in Sections 57-10-401 through 57-10-445
2209 the following terms shall have the meanings ascribed to them
2210 herein unless the context clearly indicates otherwise:

2211 (a) "Approved company" means any eligible company
2212 seeking to locate an economic development project in a county,
2213 which eligible company is approved by the corporation.

2214 (b) "Approved costs" means:

2215 (i) Obligations incurred for equipment and labor
2216 and to contractors, subcontractors, builders and materialmen in
2217 connection with the acquisition, construction and installation of
2218 an economic development project;

2219 (ii) The cost of acquiring land or rights in land
2220 and any cost incidental thereto, including recording fees;

2221 (iii) The cost of contract bonds and of insurance
2222 of all kinds that may be required or necessary during the course
2223 of acquisition, construction and installation of an economic
2224 development project which is not paid by the contractor or
2225 contractors or otherwise provided for;

2226 (iv) All costs of architectural and engineering
2227 services, including test borings, surveys, estimates, plans and
2228 specifications, preliminary investigations, and supervision of
2229 construction, as well as for the performance of all the duties
2230 required by or consequent upon the acquisition, construction and
2231 installation of an economic development project;

2232 (v) All costs which shall be required to be paid
2233 under the terms of any contract or contracts for the acquisition,
2234 construction and installation of an economic development project;

2235 (vi) All costs, expenses and fees incurred in
2236 connection with the issuance of bonds pursuant to Sections
2237 57-10-401 through 57-10-445;

2238 (vii) All costs funded by a loan made under the
2239 Mississippi Small Enterprise Development Finance Act; and

2240 (viii) All costs of professionals permitted to be
2241 engaged under the Mississippi Small Enterprise Development Finance
2242 Act for a loan made under such act.

2243 (c) "Assessment" means the job development assessment
2244 fee authorized in Section 57-10-413.

2245 (d) "Bonds" means the revenue bonds, notes or other
2246 debt obligations of the corporation authorized to be issued by the
2247 corporation on behalf of an eligible company or other state
2248 agency.

2249 (e) "Corporation" means the Mississippi Business
2250 Finance Corporation created under Section 57-10-167, Mississippi
2251 Code of 1972.

2252 (f) "Economic development project" means and includes
2253 the acquisition of any equipment or real estate in a county and
2254 the construction and installation thereon, and with respect
2255 thereto, of improvements and facilities necessary or desirable for
2256 improvement of the real estate, including surveys, site tests and
2257 inspections, subsurface site work, excavation, removal of
2258 structures, roadways, cemeteries and other surface obstructions,
2259 filling, grading and provision of drainage, storm water detention,
2260 installation of utilities such as water, sewer, sewage treatment,
2261 gas, electricity, communications and similar facilities, off-site
2262 construction of utility extensions to the boundaries of the real
2263 estate, and the acquisition, construction and installation of
2264 manufacturing, telecommunications, data processing, distribution
2265 or warehouse facilities on the real estate, for lease or financial
2266 arrangement by the corporation to an approved company for use and
2267 occupancy by the approved company or its affiliates for
2268 manufacturing, telecommunications, data processing, distribution
2269 or warehouse purposes. Such term also includes, without
2270 limitation, any project the financing of which has been approved
2271 under the Mississippi Small Enterprise Development Finance Act.

2272 If an eligible company closes a facility in this state and
2273 becomes an approved company under the provisions of Sections
2274 57-10-401 through 57-10-449, only that portion of the project for
2275 which such company is attempting to obtain financing that is in

2276 excess of the value of the closed facility shall be included
2277 within the definition of the term "economic development project."
2278 The Mississippi Business Finance Corporation shall promulgate
2279 rules and regulations to govern the determination of the
2280 difference between the value of the closed facility and the new
2281 facility.

2282 (g) "Eligible company" means any corporation,
2283 partnership, sole proprietorship, business trust, or other entity
2284 which:

2285 (i) Engaged in manufacturing which meets the
2286 standards promulgated by the corporation under Sections 57-10-401
2287 through 57-10-445;

2288 (ii) A private company approved by the corporation
2289 for a loan under the Mississippi Small Enterprise Development
2290 Finance Act;

2291 (iii) A distribution or warehouse facility
2292 employing a minimum of fifty (50) people or employing a minimum of
2293 twenty (20) people and having a capital investment in such
2294 facility of at least Five Million Dollars (\$5,000,000.00); * * *

2295 (iv) A telecommunications or data/information
2296 processing business meeting criteria established by the
2297 Mississippi Business Finance Corporation;

2298 (v) National or regional headquarters meeting
2299 criteria established by the Mississippi Business Finance
2300 Corporation;

2301 (vi) Research and development facilities meeting
2302 criteria established by the Mississippi Business Finance
2303 Corporation; or

2304 (vii) Technology intensive enterprises or
2305 facilities meeting criteria established by the Mississippi
2306 Business Finance Corporation.

2307 (h) "Executive director" means the Executive Director
2308 of the Mississippi Business Finance Corporation.

2309 (i) "Financing agreement" means any financing documents
2310 and agreements, indentures, loan agreements, lease agreements,
2311 security agreements and the like, entered into by and among the
2312 corporation, private lenders and an approved company with respect
2313 to an economic development project.

2314 (j) "Manufacturing" means any activity involving the
2315 manufacturing, processing, assembling or production of any
2316 property, including the processing resulting in a change in the
2317 conditions of the property and any activity functionally related
2318 thereto, together with the storage, warehousing, distribution and
2319 related office facilities in respect thereof as determined by the
2320 Mississippi Business Finance Corporation; however, in no event
2321 shall "manufacturing" include mining, coal or mineral processing,
2322 or extraction of Mississippi minerals.

2323 (k) "State agency" means any state board, commission,
2324 committee, council, university, department or unit thereof created
2325 by the Constitution or laws of this state.

2326 (l) "Revenues" shall not be considered state funds.

2327 (m) "State" means the State of Mississippi.

2328 (n) "Mississippi Small Enterprise Development Finance
2329 Act" means the provisions of law contained in Section 57-71-1 et
2330 seq.

2331 **SECTION 46.** Section 57-62-5, Mississippi Code of 1972, is
2332 amended as follows:

2333 **[For businesses or industries that received or applied for**
2334 **incentive payments prior to July 1, 2005, this section shall read**
2335 **as follows:]**

2336 57-62-5. As used in this chapter, the following words and
2337 phrases shall have the meanings ascribed in this section unless
2338 the context clearly indicates otherwise:

2339 (a) "Qualified business or industry" means any
2340 corporation, limited liability company, partnership, sole
2341 proprietorship, business trust or other legal entity and subunits

2342 or affiliates thereof, pursuant to rules and regulations of the
2343 MDA, which provides an average annual salary, excluding benefits
2344 which are not subject to Mississippi income taxes, of at least one
2345 hundred twenty-five percent (125%) of the most recently published
2346 state average annual wage or the most recently published average
2347 annual wage of the county in which the qualified business or
2348 industry is located as determined by the Mississippi Department of
2349 Employment Security, whichever is the lesser. An establishment
2350 shall not be considered to be a qualified business or industry
2351 unless it offers, or will offer within one hundred eighty (180)
2352 days of the date it receives the first incentive payment pursuant
2353 to the provisions of this chapter, a basic health benefits plan to
2354 the individuals it employs in new direct jobs in this state which
2355 is approved by the MDA. Qualified business or industry does not
2356 include retail business or gaming business;

2357 (b) "New direct job" means full-time employment in this
2358 state in a qualified business or industry that has qualified to
2359 receive an incentive payment pursuant to this chapter, which
2360 employment did not exist in this state before the date of approval
2361 by the MDA of the application of the qualified business or
2362 industry pursuant to the provisions of this chapter. "New direct
2363 job" shall include full-time employment in this state of employees
2364 who are employed by an entity other than the establishment that
2365 has qualified to receive an incentive payment and who are leased
2366 to the qualified business or industry, if such employment did not
2367 exist in this state before the date of approval by the MDA of the
2368 application of the establishment;

2369 (c) "Full-time job" means a job of at least thirty-five
2370 (35) hours per week;

2371 (d) "Estimated direct state benefits" means the tax
2372 revenues projected by the MDA to accrue to the state as a result
2373 of the qualified business or industry;

2374 (e) "Estimated direct state costs" means the costs
2375 projected by the MDA to accrue to the state as a result of the
2376 qualified business or industry;

2377 (f) "Estimated net direct state benefits" means the
2378 estimated direct state benefits less the estimated direct state
2379 costs;

2380 (g) "Net benefit rate" means the estimated net direct
2381 state benefits computed as a percentage of gross payroll, provided
2382 that:

2383 (i) Except as otherwise provided in this paragraph
2384 (g), the net benefit rate may be variable and shall not exceed
2385 four percent (4%) of the gross payroll; and shall be set in the
2386 sole discretion of the MDA;

2387 (ii) In no event shall incentive payments,
2388 cumulatively, exceed the estimated net direct state benefits;

2389 (h) "Gross payroll" means wages for new direct jobs of
2390 the qualified business or industry; and

2391 (i) "MDA" means the Mississippi Development Authority.

2392 **[For businesses or industries that apply for incentive**
2393 **payments from and after July 1, 2005, this section shall read as**
2394 **follows:]**

2395 57-62-5. As used in this chapter, the following words and
2396 phrases shall have the meanings ascribed in this section unless
2397 the context clearly indicates otherwise:

2398 (a) "Qualified business or industry" means any
2399 corporation, limited liability company, partnership, sole
2400 proprietorship, business trust or other legal entity and subunits
2401 or affiliates thereof, pursuant to rules and regulations of the
2402 MDA, which:

2403 (i) Is a data/information processing enterprise
2404 meeting minimum criteria established by the MDA that provides an
2405 average annual salary, excluding benefits which are not subject to
2406 Mississippi income taxes, of at least one hundred percent (100%)

2407 of the most recently published state average annual wage or the
2408 most recently published average annual wage of the county in which
2409 the qualified business or industry is located as determined by the
2410 Mississippi Department of Employment Security, whichever is the
2411 lesser, and creates not less than two hundred (200) new direct
2412 jobs if the enterprise is located in a Tier One or Tier Two area
2413 (as such areas are designated in accordance with Section
2414 57-73-21), or which creates not less than one hundred (100) new
2415 jobs if the enterprise is located in a Tier Three area (as such
2416 areas are designated in accordance with Section 57-73-21);

2417 (ii)_ Is a manufacturing or distribution enterprise
2418 meeting minimum criteria established by the MDA that provides an
2419 average annual salary, excluding benefits which are not subject to
2420 Mississippi income taxes, of at least one hundred ten percent
2421 (110%) of the most recently published state average annual wage or
2422 the most recently published average annual wage of the county in
2423 which the qualified business or industry is located as determined
2424 by the Mississippi Department of Employment Security, whichever is
2425 the lesser, invests not less than Twenty Million Dollars
2426 (\$20,000,000.00) in land, buildings and equipment, and creates not
2427 less than fifty (50) new direct jobs if the enterprise is located
2428 in a Tier One or Tier Two area (as such areas are designated in
2429 accordance with Section 57-73-21), or which creates not less than
2430 twenty (20) new jobs if the enterprise is located in a Tier Three
2431 area (as such areas are designated in accordance with Section
2432 57-73-21);

2433 (iii)_ Is a corporation, limited liability company,
2434 partnership, sole proprietorship, business trust or other legal
2435 entity and subunits or affiliates thereof, pursuant to rules and
2436 regulations of the MDA, which provides an average annual salary,
2437 excluding benefits which are not subject to Mississippi income
2438 taxes, of at least one hundred twenty-five percent (125%) of the
2439 most recently published state average annual wage or the most

2440 recently published average annual wage of the county in which the
2441 qualified business or industry is located as determined by the
2442 Mississippi Department of Employment Security, whichever is the
2443 lesser. An establishment shall not be considered to be a
2444 qualified business or industry unless it offers, or will offer
2445 within one hundred eighty (180) days of the date it receives the
2446 first incentive payment pursuant to the provisions of this
2447 chapter, a basic health benefits plan to the individuals it
2448 employs in new direct jobs in this state which is approved by the
2449 MDA. Qualified business or industry does not include retail
2450 business or gaming business; or

2451 (iv) Is a research and development or a technology
2452 intensive enterprise meeting minimum criteria established by the
2453 MDA that provides an average annual salary, excluding benefits
2454 which are not subject to Mississippi income taxes, of at least one
2455 hundred fifty percent (150%) of the most recently published state
2456 average annual wage or the most recently published average annual
2457 wage of the county in which the qualified business or industry is
2458 located as determined by the Mississippi Department of Employment
2459 Security, whichever is the lesser, and creates not less than ten
2460 (10) new direct jobs.

2461 An establishment shall not be considered to be a qualified
2462 business or industry unless it offers, or will offer within one
2463 hundred eighty (180) days of the date it receives the first
2464 incentive payment pursuant to the provisions of this chapter, a
2465 basic health benefits plan to the individuals it employs in new
2466 direct jobs in this state which is approved by the MDA. Qualified
2467 business or industry does not include retail business or gaming
2468 business.

2469 (b) "New direct job" means full-time employment in this
2470 state in a qualified business or industry that has qualified to
2471 receive an incentive payment pursuant to this chapter, which
2472 employment did not exist in this state before the date of approval

2473 by the MDA of the application of the qualified business or
2474 industry pursuant to the provisions of this chapter. "New direct
2475 job" shall include full-time employment in this state of employees
2476 who are employed by an entity other than the establishment that
2477 has qualified to receive an incentive payment and who are leased
2478 to the qualified business or industry, if such employment did not
2479 exist in this state before the date of approval by the MDA of the
2480 application of the establishment.

2481 (c) "Full-time job" or "full-time employment" means a
2482 job of at least thirty-five (35) hours per week.

2483 (d) "Estimated direct state benefits" means the tax
2484 revenues projected by the MDA to accrue to the state as a result
2485 of the qualified business or industry.

2486 (e) "Estimated direct state costs" means the costs
2487 projected by the MDA to accrue to the state as a result of the
2488 qualified business or industry.

2489 (f) "Estimated net direct state benefits" means the
2490 estimated direct state benefits less the estimated direct state
2491 costs.

2492 (g) "Net benefit rate" means the estimated net direct
2493 state benefits computed as a percentage of gross payroll, provided
2494 that:

2495 (i) Except as otherwise provided in this paragraph
2496 (g), the net benefit rate may be variable and shall not exceed
2497 four percent (4%) of the gross payroll; and shall be set in the
2498 sole discretion of the MDA;

2499 (ii) In no event shall incentive payments,
2500 cumulatively, exceed the estimated net direct state benefits.

2501 (h) "Gross payroll" means wages for new direct jobs of
2502 the qualified business or industry.

2503 (i) "MDA" means the Mississippi Development Authority.

2504 **SECTION 47.** Section 57-62-9, Mississippi Code of 1972, is
2505 amended as follows:

2506 [For businesses or industries that received or applied for
2507 incentive payments prior to July 1, 2005, this section shall read
2508 as follows:]

2509 57-62-9. (1) Except as otherwise provided in this section,
2510 a qualified business or industry that meets the qualifications
2511 specified in the Mississippi Advantage Jobs Act may receive
2512 quarterly incentive payments for a period not to exceed ten (10)
2513 years from the State Tax Commission pursuant to the provisions of
2514 the Mississippi Advantage Jobs Act in an amount which shall be
2515 equal to the net benefit rate multiplied by the actual gross
2516 payroll of new direct jobs for a calendar quarter as verified by
2517 the Mississippi Department of Employment Security, but not to
2518 exceed the amount of money previously paid into the fund by the
2519 employer. A qualified business or industry that is a project as
2520 defined in Section 57-75-5(f)(iv)1 may elect the date upon which
2521 the ten-year period will begin. Such date may not be later than
2522 sixty (60) months after the date the business or industry applied
2523 for incentive payments.

2524 (2) (a) A qualified business or industry that is a project
2525 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to
2526 receive incentive payments for an additional period not to exceed
2527 five (5) years beyond the expiration date of the initial ten-year
2528 period if:

2529 (i) The qualified business or industry creates at
2530 least three thousand (3,000) new direct jobs within five (5) years
2531 after the date the business or industry commences commercial
2532 production;

2533 (ii) Within five (5) years after the date the
2534 business or industry commences commercial production, the average
2535 annual wage of the jobs is at least one hundred fifty percent
2536 (150%) of the most recently published state average annual wage or
2537 the most recently published average annual wage of the county in
2538 which the qualified business or industry is located as determined

2539 by the Mississippi Department of Employment Security, whichever is
2540 the lesser. The criteria for the average annual wage requirement
2541 shall be based upon the state average annual wage or the average
2542 annual wage of the county whichever is appropriate, at the time of
2543 creation of the minimum number of jobs, and the threshold
2544 established at that time will remain constant for the duration of
2545 the additional period; and

2546 (iii) The qualified business or industry meets and
2547 maintains the job and wage requirements of subparagraphs (i) and
2548 (ii) of this paragraph (a) for four (4) consecutive calendar
2549 quarters.

2550 (b) A qualified business or industry that is a project
2551 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
2552 incentive payments for the additional period provided in paragraph
2553 (a) of this subsection (2) may apply to the MDA to receive
2554 incentive payments for an additional period not to exceed ten (10)
2555 years beyond the expiration date of the additional period provided
2556 in paragraph (a) of this subsection (2) if:

2557 (i) The qualified business or industry creates at
2558 least four thousand (4,000) new direct jobs after qualifying for
2559 the additional incentive period provided in paragraph (a) of this
2560 subsection (2) but before the expiration of the additional period.
2561 For purposes of determining whether the business or industry meets
2562 the minimum jobs requirement of this subparagraph (i), the number
2563 of jobs the business or industry created in order to meet the
2564 minimum jobs requirement of paragraph (a) of this subsection (2)
2565 shall be subtracted from the minimum jobs requirement of this
2566 subparagraph (i);

2567 (ii) The average annual wage of the jobs is at
2568 least one hundred fifty percent (150%) of the most recently
2569 published state average annual wage or the most recently published
2570 average annual wage of the county in which the qualified business
2571 or industry is located as determined by the Mississippi Department

2572 of Employment Security, whichever is the lesser. The criteria for
2573 the average annual wage requirement shall be based upon the state
2574 average annual wage or the average annual wage of the county
2575 whichever is appropriate, at the time of creation of the minimum
2576 number of jobs, and the threshold established at that time will
2577 remain constant for the duration of the additional period; and

2578 (iii) The qualified business or industry meets and
2579 maintains the job and wage requirements of subparagraphs (i) and
2580 (ii) of this paragraph (b) for four (4) consecutive calendar
2581 quarters.

2582 (3) In order to receive incentive payments, an establishment
2583 shall apply to the MDA. The application shall be on a form
2584 prescribed by the MDA and shall contain such information as may be
2585 required by the MDA to determine if the applicant is qualified.

2586 (4) In order to qualify to receive such payments, the
2587 establishment applying shall be required to:

2588 (a) Be engaged in a qualified business or industry;

2589 (b) Provide an average salary, excluding benefits which
2590 are not subject to Mississippi income taxes, of at least one
2591 hundred twenty-five percent (125%) of the most recently published
2592 state average annual wage or the most recently published average
2593 annual wage of the county in which the qualified business or
2594 industry is located as determined by the Mississippi Department of
2595 Employment Security, whichever is the lesser. The criteria for
2596 this requirement shall be based upon the state average annual wage
2597 or the average annual wage of the county whichever is appropriate,
2598 at the time of application, and the threshold established upon
2599 application will remain constant for the duration of the project;

2600 (c) The business or industry must create and maintain a
2601 minimum of ten (10) full-time jobs in counties that have an
2602 average unemployment rate over the previous twelve-month period
2603 which is at least one hundred fifty percent (150%) of the most
2604 recently published state unemployment rate, as determined by the

2605 Mississippi Department of Employment Security or in Tier Three
2606 counties as determined under Section 57-73-21. In all other
2607 counties, the business or industry must create and maintain a
2608 minimum of twenty-five (25) full-time jobs. The criteria for this
2609 requirement shall be based on the designation of the county at the
2610 time of the application. The threshold established upon the
2611 application will remain constant for the duration of the project.
2612 The business or industry must meet its job creation commitment
2613 within twenty-four (24) months of the application approval.
2614 However, if the qualified business or industry is applying for
2615 incentive payments for an additional period under subsection (2)
2616 of this section, the business or industry must comply with the
2617 applicable job and wage requirements of subsection (2) of this
2618 section.

2619 (5) The MDA shall determine if the applicant is qualified to
2620 receive incentive payments. If the applicant is determined to be
2621 qualified by the MDA, the MDA shall conduct a cost/benefit
2622 analysis to determine the estimated net direct state benefits and
2623 the net benefit rate applicable for a period not to exceed ten
2624 (10) years and to estimate the amount of gross payroll for the
2625 period. If the applicant is determined to be qualified to receive
2626 incentive payments for an additional period under subsection (2)
2627 of this section, the MDA shall conduct a cost/benefit analysis to
2628 determine the estimated net direct state benefits and the net
2629 benefit rate applicable for the appropriate additional period and
2630 to estimate the amount of gross payroll for the additional period.
2631 In conducting such cost/benefit analysis, the MDA shall consider
2632 quantitative factors, such as the anticipated level of new tax
2633 revenues to the state along with the cost to the state of the
2634 qualified business or industry, and such other criteria as deemed
2635 appropriate by the MDA, including the adequacy of retirement
2636 benefits that the business or industry provides to individuals it
2637 employs in new direct jobs in this state. In no event shall

2638 incentive payments, cumulatively, exceed the estimated net direct
2639 state benefits. Once the qualified business or industry is
2640 approved by the MDA, an agreement shall be deemed to exist between
2641 the qualified business or industry and the State of Mississippi,
2642 requiring the continued incentive payment to be made as long as
2643 the qualified business or industry retains its eligibility.

2644 (6) Upon approval of such an application, the MDA shall
2645 notify the State Tax Commission and shall provide it with a copy
2646 of the approved application and the estimated net direct state
2647 benefits. The State Tax Commission may require the qualified
2648 business or industry to submit such additional information as may
2649 be necessary to administer the provisions of this chapter. The
2650 qualified business or industry shall report to the State Tax
2651 Commission periodically to show its continued eligibility for
2652 incentive payments. The qualified business or industry may be
2653 audited by the State Tax Commission to verify such eligibility.

2654 **[For businesses or industries that apply for incentive**
2655 **payments from and after July 1, 2005, this section shall read as**
2656 **follows:]**

2657 57-62-9. (1) (a) Except as otherwise provided in this
2658 section, a qualified business or industry that meets the
2659 qualifications specified in the Mississippi Advantage Jobs Act may
2660 receive quarterly incentive payments for a period not to exceed
2661 ten (10) years from the State Tax Commission pursuant to the
2662 provisions of the Mississippi Advantage Jobs Act in an amount
2663 which shall be equal to the net benefit rate multiplied by the
2664 actual gross payroll of new direct jobs for a calendar quarter as
2665 verified by the Mississippi Department of Employment Security, but
2666 not to exceed:

2667 (i) Ninety percent (90%) of the amount of money
2668 previously paid into the fund by the employer if the employer
2669 provides an average annual salary, excluding benefits which are
2670 not subject to Mississippi income taxes, of at least one hundred

2671 seventy-five percent (175%) of the most recently published state
2672 average annual wage or the most recently published average annual
2673 wage of the county in which the qualified business or industry is
2674 located as determined by the Mississippi Department of Employment
2675 Security, whichever is the lesser;

2676 (ii) Eighty percent (80%) of the amount of money
2677 previously paid into the fund by the employer if the employer
2678 provides an average annual salary, excluding benefits which are
2679 not subject to Mississippi income taxes, of at least one hundred
2680 twenty-five percent (125%) but less than one hundred seventy-five
2681 percent (175%) of the most recently published state average annual
2682 wage or the most recently published average annual wage of the
2683 county in which the qualified business or industry is located as
2684 determined by the Mississippi Department of Employment Security,
2685 whichever is the lesser; or

2686 (iii) Seventy percent (70%) of the amount of money
2687 previously paid into the fund by the employer if the employer
2688 provides an average annual salary, excluding benefits which are
2689 not subject to Mississippi income taxes, of less than one hundred
2690 twenty-five percent (125%) of the most recently published state
2691 average annual wage or the most recently published average annual
2692 wage of the county in which the qualified business or industry is
2693 located as determined by the Mississippi Department of Employment
2694 Security, whichever is the lesser.

2695 (b) A qualified business or industry that is a project
2696 as defined in Section 57-75-5(f)(iv)1 may elect the date upon
2697 which the ten-year period will begin. Such date may not be later
2698 than sixty (60) months after the date the business or industry
2699 applied for incentive payments.

2700 (2) (a) A qualified business or industry that is a project
2701 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to
2702 receive incentive payments for an additional period not to exceed

2703 five (5) years beyond the expiration date of the initial ten-year
2704 period if:

2705 (i) The qualified business or industry creates at
2706 least three thousand (3,000) new direct jobs within five (5) years
2707 after the date the business or industry commences commercial
2708 production;

2709 (ii) Within five (5) years after the date the
2710 business or industry commences commercial production, the average
2711 annual wage of the jobs is at least one hundred fifty percent
2712 (150%) of the most recently published state average annual wage or
2713 the most recently published average annual wage of the county in
2714 which the qualified business or industry is located as determined
2715 by the Mississippi Department of Employment Security, whichever is
2716 the lesser. The criteria for the average annual wage requirement
2717 shall be based upon the state average annual wage or the average
2718 annual wage of the county whichever is appropriate, at the time of
2719 creation of the minimum number of jobs, and the threshold
2720 established at that time will remain constant for the duration of
2721 the additional period; and

2722 (iii) The qualified business or industry meets and
2723 maintains the job and wage requirements of subparagraphs (i) and
2724 (ii) of this paragraph (a) for four (4) consecutive calendar
2725 quarters.

2726 (b) A qualified business or industry that is a project
2727 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
2728 incentive payments for the additional period provided in paragraph
2729 (a) of this subsection (2) may apply to the MDA to receive
2730 incentive payments for an additional period not to exceed ten (10)
2731 years beyond the expiration date of the additional period provided
2732 in paragraph (a) of this subsection (2) if:

2733 (i) The qualified business or industry creates at
2734 least four thousand (4,000) new direct jobs after qualifying for
2735 the additional incentive period provided in paragraph (a) of this

2736 subsection (2) but before the expiration of the additional period.
2737 For purposes of determining whether the business or industry meets
2738 the minimum jobs requirement of this subparagraph (i), the number
2739 of jobs the business or industry created in order to meet the
2740 minimum jobs requirement of paragraph (a) of this subsection (2)
2741 shall be subtracted from the minimum jobs requirement of this
2742 subparagraph (i);

2743 (ii) The average annual wage of the jobs is at
2744 least one hundred fifty percent (150%) of the most recently
2745 published state average annual wage or the most recently published
2746 average annual wage of the county in which the qualified business
2747 or industry is located as determined by the Mississippi Department
2748 of Employment Security, whichever is the lesser. The criteria for
2749 the average annual wage requirement shall be based upon the state
2750 average annual wage or the average annual wage of the county
2751 whichever is appropriate, at the time of creation of the minimum
2752 number of jobs, and the threshold established at that time will
2753 remain constant for the duration of the additional period; and

2754 (iii) The qualified business or industry meets and
2755 maintains the job and wage requirements of subparagraphs (i) and
2756 (ii) of this paragraph (b) for four (4) consecutive calendar
2757 quarters.

2758 (3) In order to receive incentive payments, an establishment
2759 shall apply to the MDA. The application shall be on a form
2760 prescribed by the MDA and shall contain such information as may be
2761 required by the MDA to determine if the applicant is qualified.

2762 (4) (a) In order to qualify to receive such payments, the
2763 establishment applying shall be required to meet the definition of
2764 the term "qualified business or industry";

2765 (b) * * * The criteria for the average annual salary
2766 requirement shall be based upon the state average annual wage or
2767 the average annual wage of the county whichever is appropriate, at

2768 the time of application, and the threshold established upon
2769 application will remain constant for the duration of the project;

2770 (c) * * * The business or industry must meet its job
2771 creation commitment within twenty-four (24) months of the
2772 application approval. However, if the qualified business or
2773 industry is applying for incentive payments for an additional
2774 period under subsection (2) of this section, the business or
2775 industry must comply with the applicable job and wage requirements
2776 of subsection (2) of this section.

2777 (5) (a) The MDA shall determine if the applicant is
2778 qualified to receive incentive payments. If the applicant is
2779 determined to be qualified by the MDA, the MDA shall:

2780 (i) Conduct a cost/benefit analysis to determine
2781 the estimated net direct state benefits and the net benefit rate
2782 applicable for a period not to exceed ten (10) years and to
2783 estimate the amount of gross payroll for the period; and

2784 (ii) Require the applicant to execute a
2785 performance agreement with the MDA that specifies the manner in
2786 which the applicant will utilize the incentive payments made to it
2787 under this chapter.

2788 (b) If the applicant is determined to be qualified to
2789 receive incentive payments for an additional period under
2790 subsection (2) of this section, the MDA shall conduct a
2791 cost/benefit analysis to determine the estimated net direct state
2792 benefits and the net benefit rate applicable for the appropriate
2793 additional period and to estimate the amount of gross payroll for
2794 the additional period. In conducting such cost/benefit analysis,
2795 the MDA shall consider quantitative factors, such as the
2796 anticipated level of new tax revenues to the state along with the
2797 cost to the state of the qualified business or industry, and such
2798 other criteria as deemed appropriate by the MDA, including the
2799 adequacy of retirement benefits that the business or industry
2800 provides to individuals it employs in new direct jobs in this

2801 state. In no event shall incentive payments, cumulatively, exceed
2802 the estimated net direct state benefits. Once the qualified
2803 business or industry is approved by the MDA, an agreement shall be
2804 deemed to exist between the qualified business or industry and the
2805 State of Mississippi, requiring the continued incentive payment to
2806 be made as long as the qualified business or industry retains its
2807 eligibility.

2808 (6) Upon approval of such an application, the MDA shall
2809 notify the State Tax Commission and shall provide it with a copy
2810 of the approved application and the estimated net direct state
2811 benefits. The State Tax Commission may require the qualified
2812 business or industry to submit such additional information as may
2813 be necessary to administer the provisions of this chapter. The
2814 qualified business or industry shall report to the State Tax
2815 Commission periodically to show its continued eligibility for
2816 incentive payments. The qualified business or industry may be
2817 audited by the State Tax Commission to verify such eligibility.

2818 **SECTION 48.** Section 57-62-13, Mississippi Code of 1972, is
2819 amended as follows:

2820 57-62-13. (1) As soon as practicable after the end of a
2821 calendar quarter for which a qualified business or industry has
2822 qualified to receive an incentive payment, the qualified business
2823 or industry shall file a claim for the payment with the State Tax
2824 Commission and shall specify the actual number of new direct jobs
2825 created and maintained by the business or industry for the
2826 calendar quarter and the gross payroll thereof. The State Tax
2827 Commission shall verify the actual number of new direct jobs
2828 created and maintained by the business or industry and compliance
2829 with the average annual wage requirements for such business or
2830 industry under this chapter. If the qualified business or
2831 industry files a claim for an incentive payment during an
2832 additional incentive period provided under Section 57-62-9(2), the
2833 State Tax Commission shall verify the actual number of new direct

2834 jobs created and maintained by the business or industry and
2835 compliance with the average annual wage requirements for such
2836 business or industry under this chapter. If the State Tax
2837 Commission is not able to provide such verification utilizing all
2838 available resources, the State Tax Commission may request such
2839 additional information from the business or industry as may be
2840 necessary.

2841 (2) (a) The business or industry must meet the salary and
2842 job requirements of this chapter for four (4) consecutive calendar
2843 quarters prior to payment of the first incentive payment. If the
2844 business or industry does not maintain the salary or job
2845 requirements of this chapter at any other time during the ten-year
2846 period after the date the first payment was made, the incentive
2847 payments shall not be made and shall not be resumed until such
2848 time as the actual verified number of new direct jobs created and
2849 maintained by the business or industry equals or exceeds the
2850 requirements of this chapter for one (1) calendar quarter.

2851 (b) If the business or industry is qualified to receive
2852 incentive payments for an additional period provided under Section
2853 57-62-9(2), the business or industry must meet the wage and job
2854 requirements of Section 57-62-9(2), for four (4) consecutive
2855 calendar quarters prior to payment of the first incentive payment.
2856 If the business or industry does not maintain the wage or job
2857 requirements of Section 57-62-9(2), at any other time during the
2858 appropriate additional period after the date the first payment was
2859 made, the incentive payments shall not be made and shall not be
2860 resumed until such time as the actual verified number of new
2861 direct jobs created and maintained by the business or industry
2862 equals or exceeds the amounts specified in Section 57-62-9(2), for
2863 one (1) calendar quarter.

2864 (3) An establishment that has qualified pursuant to this
2865 chapter may receive payments only in accordance with the provision
2866 under which it initially applied and was approved. If an

2867 establishment that is receiving incentive payments expands, it may
2868 apply for additional incentive payments based on the new gross
2869 payroll for new direct jobs anticipated from the expansion only,
2870 pursuant to this chapter.

2871 (4) As soon as practicable after verification of the
2872 qualified business or industry meeting the requirements of this
2873 chapter and all rules and regulations, the Department of Finance
2874 and Administration, upon requisition of the State Tax Commission,
2875 shall issue a warrant drawn on the Mississippi Advantage Jobs
2876 Incentive Payment Fund to the establishment in the amount of the
2877 net benefit rate multiplied by the actual gross payroll as
2878 determined pursuant to subsection (1) of this section for the
2879 calendar quarter.

2880 **SECTION 49.** Section 38 of this act shall take effect and be
2881 in force from and after January 1, 2005, and the remainder of this
2882 act shall take effect and be in force from and after July 1, 2005.