

By: Representatives Watson,
Reynolds, Hines, Dedeaux, Franks,
Scott, Clark, Holland

To: Ways and Means

HOUSE BILL NO. 3
(As Passed the House)

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 CREATE THE MISSISSIPPI DEVELOPMENT AUTHORITY LEGISLATIVE OVERSIGHT
42 COMMITTEE TO SERVE IN AN ADVISORY CAPACITY TO THE MISSISSIPPI
43 DEVELOPMENT AUTHORITY REGARDING MATTERS UNDER THE JURISDICTION OF
44 THE MISSISSIPPI DEVELOPMENT AUTHORITY; TO PROVIDE THAT THE
45 OVERSIGHT COMMITTEE WILL CONSIST OF TWO MEMBERS APPOINTED BY THE
46 GOVERNOR, TWO SENATORS APPOINTED BY THE LIEUTENANT GOVERNOR AND
47 TWO REPRESENTATIVES APPOINTED BY THE SPEAKER OF THE HOUSE OF
48 REPRESENTATIVES, AND TWO SENATORS APPOINTED BY THE LIEUTENANT
49 GOVERNOR; TO PROVIDE THAT THE OVERSIGHT COMMITTEE SHALL HAVE NO
50 JURISDICTION OR VOTE ON ANY MATTER WITHIN THE JURISDICTION OF THE
51 MISSISSIPPI DEVELOPMENT AUTHORITY; TO CREATE THE MISSISSIPPI JOB
52 PROTECTION ACT GRANT AND LOAN PROGRAM TO BE ADMINISTERED BY THE

53 MISSISSIPPI DEVELOPMENT AUTHORITY FOR THE PURPOSE OF PROVIDING
54 GRANTS OR LOANS TO CERTAIN INDUSTRIES THAT HAVE BEEN OPERATING IN
55 THIS STATE FOR NOT LESS THAN THREE YEARS; TO PROVIDE THAT THE
56 GRANTS OR LOANS SHALL BE UTILIZED BY INDUSTRIES TO RETAIN JOBS IN
57 THE STATE OF MISSISSIPPI AND IMPROVE PRODUCTIVITY AND
58 COMPETITIVENESS; TO CREATE THE MISSISSIPPI JOB PROTECTION ACT FUND
59 TO BE ADMINISTERED BY THE MISSISSIPPI DEVELOPMENT AUTHORITY; TO
60 AUTHORIZE THE ISSUANCE OF \$12,000,000.00 IN STATE GENERAL
61 OBLIGATION BONDS TO PROVIDE FUNDS FOR THE MISSISSIPPI JOB
62 PROTECTION ACT FUND; TO PROVIDE AN INCOME TAX CREDIT FOR EACH NET
63 NEW FULL-TIME EMPLOYEE JOB CREATED BY AN ALTERNATIVE ENERGY
64 PROJECT THAT USES A MAJORITY OF MISSISSIPPI RESOURCES OR PRODUCTS
65 AND THAT CREATES AT LEAST 25 JOBS; TO AMEND SECTION 27-65-75,
66 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO REQUIRE THE
67 MISSISSIPPI DEVELOPMENT AUTHORITY TO FILE A QUARTERLY REPORT WITH
68 THE SECRETARY OF STATE REGARDING THE ECONOMIC IMPACT OF INCENTIVES
69 OR OTHER FORMS OF ASSISTANCE AUTHORIZED UNDER THIS ACT; TO PROVIDE
70 THAT ANY BUSINESS, ENTERPRISE OR OTHER ENTITY THAT IS CONVICTED OF
71 HIRING ILLEGAL IMMIGRANTS SHALL BE INELIGIBLE TO RECEIVE ANY LOAN,
72 GRANT OR OTHER FORM OF ASSISTANCE MADE AVAILABLE UNDER CERTAIN
73 SECTIONS OF THIS ACT; TO PROVIDE THAT ANY BUSINESS, ENTERPRISE OR
74 OTHER ENTITY THAT RECEIVES ANY LOAN, GRANT OR OTHER FORM OF
75 ASSISTANCE MADE AVAILABLE UNDER CERTAIN SECTIONS OF THIS ACT, AND
76 IS CONVICTED OF HIRING ILLEGAL IMMIGRANTS SHALL REPAY THE FULL
77 AMOUNT OF SUCH LOAN, GRANT OR OTHER FORM OF ASSISTANCE; TO
78 ESTABLISH AN INCOME TAX CREDIT FOR MANUFACTURING ENTERPRISES THAT
79 HAVE OPERATED IN THIS STATE FOR NOT LESS THAN TWO YEARS IN AN
80 AMOUNT EQUAL TO A CERTAIN PERCENTAGE OF THE ENTERPRISE'S
81 INVESTMENT IN BUILDINGS OR EQUIPMENT; TO PROVIDE THAT ANY SUCH TAX
82 CREDIT CLAIMED BUT NOT USED IN ANY TAXABLE YEAR MAY BE CARRIED
83 FORWARD FOR FIVE YEARS FROM THE CLOSE OF THE TAX YEAR IN WHICH THE
84 ELIGIBLE INVESTMENT WAS MADE; TO PROVIDE THAT THE CREDIT TAKEN IN
85 ANY ONE TAX YEAR IS LIMITED TO AN AMOUNT NOT GREATER THAN 50% OF
86 THE TAXPAYER'S STATE INCOME TAX LIABILITY WHICH IS ATTRIBUTABLE TO
87 INCOME DERIVED FROM OPERATIONS IN THE STATE FOR THAT YEAR; TO
88 PROVIDE THAT THE MANUFACTURING ENTERPRISE MUST INVEST AT LEAST
89 \$1,000,000.00 TO BE ELIGIBLE FOR THE CREDIT; TO PROVIDE THAT THE
90 MAXIMUM CUMULATIVE CREDIT THAT MAY BE CLAIMED BY A TAXPAYER FOR
91 ANY ONE PROJECT IS LIMITED TO \$1,000,000.00; TO PROVIDE FOR
92 RECAPTURE OF THE CREDIT UNDER CERTAIN CIRCUMSTANCES; TO AMEND
93 SECTION 27-31-101, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE
94 BOARD OF SUPERVISORS OF COUNTIES AND THE GOVERNING AUTHORITIES OF
95 MUNICIPALITIES TO GRANT CERTAIN AD VALOREM TAX EXEMPTIONS TO
96 DATA/INFORMATION PROCESSING ENTERPRISES AND TECHNOLOGY INTENSIVE
97 ENTERPRISES MEETING MINIMUM CRITERIA ESTABLISHED BY THE
98 MISSISSIPPI DEVELOPMENT AUTHORITY; TO AMEND SECTION 27-65-17,
99 MISSISSIPPI CODE OF 1972, TO IMPOSE THE SALES TAX AT A REDUCED
100 RATE ON CERTAIN SALES OF MACHINERY AND MACHINE PARTS TO A
101 TECHNOLOGY INTENSIVE BUSINESS FOR PLANT USE; TO AMEND SECTION
102 27-65-19, MISSISSIPPI CODE OF 1972, TO REDUCE THE SALES TAX ON
103 CERTAIN FUELS SOLD TO OR USED BY TECHNOLOGY INTENSIVE ENTERPRISES;
104 TO AMEND SECTION 27-65-101, MISSISSIPPI CODE OF 1972, TO EXEMPT
105 FROM SALES TAXATION SALES OF COMPONENT MATERIALS USED IN THE
106 CONSTRUCTION OF A FACILITY, OR ANY ADDITION OR IMPROVEMENT TO SUCH
107 FACILITY, AND SALES OR LEASES OF MACHINERY AND EQUIPMENT TO BE
108 USED IN SUCH FACILITIES, ADDITIONS OR IMPROVEMENTS, TO PERMANENT
109 BUSINESS ENTERPRISES OPERATING A DATA/INFORMATION ENTERPRISE IN A
110 TIER THREE AREA MEETING MINIMUM CRITERIA ESTABLISHED BY THE
111 MISSISSIPPI DEVELOPMENT AUTHORITY; TO EXEMPT FROM SALES TAXATION
112 SALES OF COMPONENT MATERIALS USED IN THE CONSTRUCTION OF A
113 FACILITY, OR ANY ADDITION OR IMPROVEMENT TO SUCH FACILITY, AND
114 SALES OF MACHINERY AND EQUIPMENT TO BE USED IN SUCH FACILITIES,
115 ADDITIONS OR IMPROVEMENTS, TO TECHNOLOGY INTENSIVE ENTERPRISES FOR
116 INDUSTRIAL PURPOSES IN A TIER THREE AREA; TO REDUCE THE SALES
117 TAXATION ON SALES OF COMPONENT MATERIALS USED IN THE CONSTRUCTION
118 OF A FACILITY, OR ANY ADDITION OR IMPROVEMENT TO SUCH BUILDING,

119 AND SALES OR LEASES OF MACHINERY AND EQUIPMENT TO BE USED IN SUCH
120 BUILDINGS, ADDITIONS OR IMPROVEMENTS, TO PERMANENT BUSINESS
121 ENTERPRISES OPERATING A DATA/INFORMATION ENTERPRISE IN A TIER ONE
122 OR TIER TWO AREA MEETING MINIMUM CRITERIA ESTABLISHED BY THE
123 MISSISSIPPI DEVELOPMENT AUTHORITY; TO REDUCE THE SALES TAXATION ON
124 SALES OF COMPONENT MATERIALS USED IN THE CONSTRUCTION OF A
125 FACILITY, OR ANY ADDITION OR IMPROVEMENT TO SUCH FACILITY, AND
126 SALES OF MACHINERY AND EQUIPMENT, TO TECHNOLOGY INTENSIVE
127 ENTERPRISES FOR INDUSTRIAL PURPOSES IN A TIER ONE OR TIER TWO
128 AREA; TO AMEND SECTION 57-73-21, MISSISSIPPI CODE OF 1972, TO
129 REVISE THE AMOUNT OF THE JOB TAX CREDIT FOR CERTAIN PERMANENT
130 BUSINESS ENTERPRISES TO PROVIDE THAT THE AMOUNT OF THE CREDIT
131 SHALL BE A CERTAIN PERCENTAGE OF SUCH ENTERPRISE'S PAYROLL; TO
132 AMEND SECTION 57-73-25, MISSISSIPPI CODE OF 1972, IN CONFORMITY
133 THERE TO; TO AMEND SECTION 57-10-401, MISSISSIPPI CODE OF 1972, TO
134 INCLUDE CERTAIN INFORMATION PROCESSING BUSINESSES, NATIONAL OR
135 REGIONAL HEADQUARTERS, RESEARCH AND DEVELOPMENT FACILITIES AND
136 TECHNOLOGY INTENSIVE ENTERPRISES OR FACILITIES WITHIN THE
137 DEFINITION OF THE TERM "ELIGIBLE COMPANY"; TO AMEND SECTIONS
138 57-62-5 AND 57-62-9, MISSISSIPPI CODE OF 1972, TO REVISE THE
139 DEFINITION OF THE TERM "QUALIFIED BUSINESS OR INDUSTRY" UNDER THE
140 MISSISSIPPI ADVANTAGE JOBS ACT TO ALLOW A BUSINESS TO BE ELIGIBLE
141 FOR THE INCENTIVE PAYMENT UNDER THE ACT IF IT IS A
142 DATA/INFORMATION PROCESSING ENTERPRISE, MANUFACTURING OR
143 DISTRIBUTION ENTERPRISE OR A RESEARCH AND DEVELOPMENT OR
144 TECHNOLOGY INTENSIVE ENTERPRISE THAT MEETS CERTAIN CRITERIA; TO
145 REQUIRE APPLICANTS FOR THE INCENTIVE PAYMENTS UNDER THE ACT TO
146 EXECUTE A PERFORMANCE AGREEMENT WITH THE MISSISSIPPI DEVELOPMENT
147 AUTHORITY THAT SPECIFIES THE MANNER IN WHICH THE APPLICANT WILL
148 UTILIZE THE INCENTIVE PAYMENT; TO AMEND SECTION 57-62-13,
149 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERE TO; AND FOR RELATED
150 PURPOSES.

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

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

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

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

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

160 (ii) Meet criteria established by the Mississippi
161 Development Authority.

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

163 (2) (a) There is established the Mississippi Existing
164 Industry Productivity Loan Program to be administered by the MDA
165 for the purpose of providing loans to existing industries to
166 deploy long-term fixed assets that through new technology will
167 improve productivity and competitiveness. An existing industry

168 that accepts a loan under this program shall not reduce employment
169 by more than twenty percent (20%) through the use of the long-term
170 fixed assets for which the loan is granted.

171 (b) An enterprise desiring a loan under this section
172 must submit an application to the MDA. The application shall
173 include:

174 (i) A description of the purpose for which the
175 loan is requested;

176 (ii) The amount of the loan requested;

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

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

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

181 (vi) Credit reports on all persons or entities
182 with a twenty percent (20%) or greater interest in the enterprise;
183 and

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

185 (c) The MDA shall require that binding commitments be
186 entered into requiring that:

187 (i) The minimum requirements of this section and
188 such other requirements as the MDA considers proper shall be met;
189 and

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

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

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

200 (f) The MDA shall have all powers necessary to
201 implement and administer the program established under this
202 section, and the MDA shall promulgate rules and regulations, in
203 accordance with the Mississippi Administrative Procedures Law,
204 necessary for the implementation of this section. However, in
205 making loans under this section, the MDA shall attempt to provide
206 for an equitable distribution of such loans among each of the
207 congressional districts of this state in order to promote economic
208 development across the entire state.

209 (2) (a) There is created in the State Treasury a special
210 fund to be designated as the "Mississippi Existing Industry
211 Productivity Loan Fund," which shall consist of funds appropriated
212 or otherwise made available by the Legislature in any manner and
213 funds from any other source designated for deposit into such fund.
214 Unexpended amounts remaining in the fund at the end of a fiscal
215 year shall not lapse into the State General Fund, and any
216 investment earnings or interest earned on amounts in the fund
217 shall be deposited to the credit of the fund. Monies in the fund
218 shall be used by the MDA for the purposes described in this
219 section.

220 (b) Monies in the fund which are derived from the
221 proceeds of general obligation bonds may be used to reimburse
222 reasonable actual and necessary costs incurred by the MDA in
223 providing loans under this section through the use of general
224 obligation bonds. An accounting of actual costs incurred for
225 which reimbursement is sought shall be maintained for each loan by
226 the MDA. Reimbursement of reasonable actual and necessary costs
227 shall not exceed three percent (3%) of the proceeds of bonds
228 issued under Sections 2 through 17 of this act. Monies authorized
229 for a particular loan may not be used to reimburse administrative
230 costs for unrelated loans. Reimbursements made under this
231 subsection shall satisfy any applicable federal tax law
232 requirements.

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

236 (a) "Accreted value" of any bonds means, as of any date
237 of computation, an amount equal to the sum of (i) the stated
238 initial value of such bond, plus (ii) the interest accrued thereon
239 from the issue date to the date of computation at the rate,
240 compounded semiannually, that is necessary to produce the
241 approximate yield to maturity shown for bonds of the same
242 maturity.

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

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

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

246 **SECTION 3.** (1) The Mississippi Development Authority, at
247 one time, or from time to time, may declare by resolution the
248 necessity for issuance of general obligation bonds of the State of
249 Mississippi to provide funds for the program authorized in Section
250 1 of House Bill No. __, 2005 Third Extraordinary Session. Upon
251 the adoption of a resolution by the Mississippi Development
252 Authority, declaring the necessity for the issuance of any part or
253 all of the general obligation bonds authorized by this section,
254 the Mississippi Development Authority shall deliver a certified
255 copy of its resolution or resolutions to the commission. Upon
256 receipt of such resolution, the commission, in its discretion, may
257 act as the issuing agent, prescribe the form of the bonds,
258 advertise for and accept bids, issue and sell the bonds so
259 authorized to be sold and do any and all other things necessary
260 and advisable in connection with the issuance and sale of such
261 bonds. The total amount of bonds issued under this act shall not
262 exceed Six Million Dollars (\$6,000,000.00). No bonds shall be
263 issued under this act after July 1, 2008.

264 (2) The proceeds of bonds issued pursuant to this act shall
265 be deposited into the Mississippi Existing Industry Productivity

266 Loan Fund created pursuant to Section 1 of House Bill No. __, 2005
267 Third Extraordinary Session. Any investment earnings on bonds
268 issued pursuant to this act shall be used to pay debt service on
269 bonds issued under this act, in accordance with the proceedings
270 authorizing issuance of such bonds.

271 **SECTION 4.** The principal of and interest on the bonds
272 authorized under this act shall be payable in the manner provided
273 in this section. Such bonds shall bear such date or dates, be in
274 such denomination or denominations, bear interest at such rate or
275 rates (not to exceed the limits set forth in Section 75-17-101,
276 Mississippi Code of 1972), be payable at such place or places
277 within or without the State of Mississippi, shall mature
278 absolutely at such time or times not to exceed twenty-five (25)
279 years from date of issue, be redeemable before maturity at such
280 time or times and upon such terms, with or without premium, shall
281 bear such registration privileges, and shall be substantially in
282 such form, all as shall be determined by resolution of the
283 commission.

284 **SECTION 5.** The bonds authorized by this act shall be signed
285 by the chairman of the commission, or by his facsimile signature,
286 and the official seal of the commission shall be affixed thereto,
287 attested by the secretary of the commission. The interest
288 coupons, if any, to be attached to such bonds may be executed by
289 the facsimile signatures of such officers. Whenever any such
290 bonds shall have been signed by the officials designated to sign
291 the bonds who were in office at the time of such signing but who
292 may have ceased to be such officers before the sale and delivery
293 of such bonds, or who may not have been in office on the date such
294 bonds may bear, the signatures of such officers upon such bonds
295 and coupons shall nevertheless be valid and sufficient for all
296 purposes and have the same effect as if the person so officially
297 signing such bonds had remained in office until their delivery to
298 the purchaser, or had been in office on the date such bonds may

299 bear. However, notwithstanding anything herein to the contrary,
300 such bonds may be issued as provided in the Registered Bond Act of
301 the State of Mississippi.

302 **SECTION 6.** All bonds and interest coupons issued under the
303 provisions of this act have all the qualities and incidents of
304 negotiable instruments under the provisions of the Uniform
305 Commercial Code, and in exercising the powers granted by this act,
306 the commission shall not be required to and need not comply with
307 the provisions of the Uniform Commercial Code.

308 **SECTION 7.** The commission shall act as the issuing agent for
309 the bonds authorized under this act, prescribe the form of the
310 bonds, advertise for and accept bids, issue and sell the bonds so
311 authorized to be sold, pay all fees and costs incurred in such
312 issuance and sale, and do any and all other things necessary and
313 advisable in connection with the issuance and sale of such bonds.
314 The commission is authorized and empowered to pay the costs that
315 are incident to the sale, issuance and delivery of the bonds
316 authorized under this act from the proceeds derived from the sale
317 of such bonds. The commission shall sell such bonds on sealed
318 bids at public sale, and for such price as it may determine to be
319 for the best interest of the State of Mississippi, but no such
320 sale shall be made at a price less than par plus accrued interest
321 to the date of delivery of the bonds to the purchaser. All
322 interest accruing on such bonds so issued shall be payable
323 semiannually or annually; however, the first interest payment may
324 be for any period of not more than one (1) year.

325 Notice of the sale of any such bonds shall be published at
326 least one time, not less than ten (10) days before the date of
327 sale, and shall be so published in one or more newspapers
328 published or having a general circulation in the City of Jackson,
329 Mississippi, and in one or more other newspapers or financial
330 journals with a national circulation, to be selected by the
331 commission.

332 The commission, when issuing any bonds under the authority of
333 this act, may provide that bonds, at the option of the State of
334 Mississippi, may be called in for payment and redemption at the
335 call price named therein and accrued interest on such date or
336 dates named therein.

337 **SECTION 8.** The bonds issued under the provisions of this act
338 are general obligations of the State of Mississippi, and for the
339 payment thereof the full faith and credit of the State of
340 Mississippi is irrevocably pledged. If the funds appropriated by
341 the Legislature are insufficient to pay the principal of and the
342 interest on such bonds as they become due, then the deficiency
343 shall be paid by the State Treasurer from any funds in the State
344 Treasury not otherwise appropriated. All such bonds shall contain
345 recitals on their faces substantially covering the provisions of
346 this section.

347 **SECTION 9.** Upon the issuance and sale of bonds under the
348 provisions of this act, the commission shall transfer the proceeds
349 of any such sale or sales to the Mississippi Existing Industry
350 Productivity Loan Fund created in Section 1 of House Bill No. __,
351 2005 Third Extraordinary Session. The proceeds of such bonds
352 shall be disbursed solely upon the order of the Mississippi
353 Development Authority under such restrictions, if any, as may be
354 contained in the resolution providing for the issuance of the
355 bonds.

356 **SECTION 10.** The bonds authorized under this act may be
357 issued without any other proceedings or the happening of any other
358 conditions or things other than those proceedings, conditions and
359 things which are specified or required by this act. Any
360 resolution providing for the issuance of bonds under the
361 provisions of this act shall become effective immediately upon its
362 adoption by the commission, and any such resolution may be adopted
363 at any regular or special meeting of the commission by a majority
364 of its members.

365 **SECTION 11.** The bonds authorized under the authority of this
366 act may be validated in the Chancery Court of the First Judicial
367 District of Hinds County, Mississippi, in the manner and with the
368 force and effect provided by Chapter 13, Title 31, Mississippi
369 Code of 1972, for the validation of county, municipal, school
370 district and other bonds. The notice to taxpayers required by
371 such statutes shall be published in a newspaper published or
372 having a general circulation in the City of Jackson, Mississippi.

373 **SECTION 12.** Any holder of bonds issued under the provisions
374 of this act or of any of the interest coupons pertaining thereto
375 may, either at law or in equity, by suit, action, mandamus or
376 other proceeding, protect and enforce any and all rights granted
377 under this act, or under such resolution, and may enforce and
378 compel performance of all duties required by this act to be
379 performed, in order to provide for the payment of bonds and
380 interest thereon.

381 **SECTION 13.** All bonds issued under the provisions of this
382 act shall be legal investments for trustees and other fiduciaries,
383 and for savings banks, trust companies and insurance companies
384 organized under the laws of the State of Mississippi, and such
385 bonds shall be legal securities which may be deposited with and
386 shall be received by all public officers and bodies of this state
387 and all municipalities and political subdivisions for the purpose
388 of securing the deposit of public funds.

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

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

395 **SECTION 16.** The State Treasurer is authorized, without
396 further process of law, to certify to the Department of Finance
397 and Administration the necessity for warrants, and the Department

398 of Finance and Administration is authorized and directed to issue
399 such warrants, in such amounts as may be necessary to pay when due
400 the principal of, premium, if any, and interest on, or the
401 accreted value of, all bonds issued under this act; and the State
402 Treasurer shall forward the necessary amount to the designated
403 place or places of payment of such bonds in ample time to
404 discharge such bonds, or the interest thereon, on the due dates
405 thereof.

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

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

413 (a) "Accreted value" of any bonds means, as of any date
414 of computation, an amount equal to the sum of (i) the stated
415 initial value of such bond, plus (ii) the interest accrued thereon
416 from the issue date to the date of computation at the rate,
417 compounded semiannually, that is necessary to produce the
418 approximate yield to maturity shown for bonds of the same
419 maturity.

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

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

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

423 **SECTION 19.** (1) The Mississippi Development Authority, at
424 one time, or from time to time, may declare by resolution the
425 necessity for issuance of general obligation bonds of the State of
426 Mississippi to provide funds for the program authorized in Section
427 57-1-16. Upon the adoption of a resolution by the Mississippi
428 Development Authority, declaring the necessity for the issuance of
429 any part or all of the general obligation bonds authorized by this
430 section, the Mississippi Development Authority shall deliver a

431 certified copy of its resolution or resolutions to the commission.
432 Upon receipt of such resolution, the commission, in its
433 discretion, may act as the issuing agent, prescribe the form of
434 the bonds, advertise for and accept bids, issue and sell the bonds
435 so authorized to be sold and do any and all other things necessary
436 and advisable in connection with the issuance and sale of such
437 bonds. The total amount of bonds issued under this act shall not
438 exceed Seven Million Dollars (\$7,000,000.00). No bonds authorized
439 under this act shall be issued after July 1, 2009.

440 (2) The proceeds of bonds issued pursuant to this act shall
441 be deposited into the ACE Fund created pursuant to Section
442 57-1-16. Any investment earnings on bonds issued pursuant to this
443 act shall be used to pay debt service on bonds issued under this
444 act, in accordance with the proceedings authorizing issuance of
445 such bonds.

446 (3) The program authorized in Section 57-1-16 pertains to
447 that program administered by the MDA for the purpose of making
448 grants from the ACE fund for the benefit of allowing a local
449 economic development entity to participate in an extraordinary
450 economic development opportunity with a new or expanded business
451 or industry. In addition to any other requirements specified in
452 Section 57-1-16, the MDA shall require that any business or
453 industry desiring assistance from a local economic development
454 entity under Section 57-1-16 enter into a binding commitment to
455 meet the following minimum obligations, in return for obtaining a
456 grant derived from the proceeds of any bonds issued under this
457 section:

458 (a) The business or industry shall create a certain
459 minimum number of jobs over a certain period of time, as
460 determined by the authority, and such jobs must be held by persons
461 eligible for employment in the United States under applicable
462 state and federal law;

463 (b) The business or industry shall invest, over a
464 certain period of time, a certain minimum amount of capital within
465 the state, as determined by the authority; and

466 (c) The business or industry must meet the minimum
467 requirements of this section and such other requirements as the
468 MDA considers proper.

469 If any business or industry fails to satisfy any commitment
470 under this subsection, then the business or industry must repay an
471 amount equal to all or a portion of the funds provided by the
472 state under this subsection and Section 57-1-16, as determined by
473 the authority.

474 **SECTION 20.** The principal of and interest on the bonds
475 authorized under this act shall be payable in the manner provided
476 in this section. Such bonds shall bear such date or dates, be in
477 such denomination or denominations, bear interest at such rate or
478 rates (not to exceed the limits set forth in Section 75-17-101,
479 Mississippi Code of 1972), be payable at such place or places
480 within or without the State of Mississippi, shall mature
481 absolutely at such time or times not to exceed twenty-five (25)
482 years from date of issue, be redeemable before maturity at such
483 time or times and upon such terms, with or without premium, shall
484 bear such registration privileges, and shall be substantially in
485 such form, all as shall be determined by resolution of the
486 commission.

487 **SECTION 21.** The bonds authorized by this act shall be signed
488 by the chairman of the commission, or by his facsimile signature,
489 and the official seal of the commission shall be affixed thereto,
490 attested by the secretary of the commission. The interest
491 coupons, if any, to be attached to such bonds may be executed by
492 the facsimile signatures of such officers. Whenever any such
493 bonds shall have been signed by the officials designated to sign
494 the bonds who were in office at the time of such signing but who
495 may have ceased to be such officers before the sale and delivery

496 of such bonds, or who may not have been in office on the date such
497 bonds may bear, the signatures of such officers upon such bonds
498 and coupons shall nevertheless be valid and sufficient for all
499 purposes and have the same effect as if the person so officially
500 signing such bonds had remained in office until their delivery to
501 the purchaser, or had been in office on the date such bonds may
502 bear. However, notwithstanding anything herein to the contrary,
503 such bonds may be issued as provided in the Registered Bond Act of
504 the State of Mississippi.

505 **SECTION 22.** All bonds and interest coupons issued under the
506 provisions of this act have all the qualities and incidents of
507 negotiable instruments under the provisions of the Uniform
508 Commercial Code, and in exercising the powers granted by this act,
509 the commission shall not be required to and need not comply with
510 the provisions of the Uniform Commercial Code.

511 **SECTION 23.** The commission shall act as the issuing agent
512 for the bonds authorized under this act, prescribe the form of the
513 bonds, advertise for and accept bids, issue and sell the bonds so
514 authorized to be sold, pay all fees and costs incurred in such
515 issuance and sale, and do any and all other things necessary and
516 advisable in connection with the issuance and sale of such bonds.
517 The commission is authorized and empowered to pay the costs that
518 are incident to the sale, issuance and delivery of the bonds
519 authorized under this act from the proceeds derived from the sale
520 of such bonds. The commission shall sell such bonds on sealed
521 bids at public sale, and for such price as it may determine to be
522 for the best interest of the State of Mississippi, but no such
523 sale shall be made at a price less than par plus accrued interest
524 to the date of delivery of the bonds to the purchaser. All
525 interest accruing on such bonds so issued shall be payable
526 semiannually or annually; however, the first interest payment may
527 be for any period of not more than one (1) year.

528 Notice of the sale of any such bonds shall be published at
529 least one time, not less than ten (10) days before the date of
530 sale, and shall be so published in one or more newspapers
531 published or having a general circulation in the City of Jackson,
532 Mississippi, and in one or more other newspapers or financial
533 journals with a national circulation, to be selected by the
534 commission.

535 The commission, when issuing any bonds under the authority of
536 this act, may provide that bonds, at the option of the State of
537 Mississippi, may be called in for payment and redemption at the
538 call price named therein and accrued interest on such date or
539 dates named therein.

540 **SECTION 24.** The bonds issued under the provisions of this
541 act are general obligations of the State of Mississippi, and for
542 the payment thereof the full faith and credit of the State of
543 Mississippi is irrevocably pledged. If the funds appropriated by
544 the Legislature are insufficient to pay the principal of and the
545 interest on such bonds as they become due, then the deficiency
546 shall be paid by the State Treasurer from any funds in the State
547 Treasury not otherwise appropriated. All such bonds shall contain
548 recitals on their faces substantially covering the provisions of
549 this section.

550 **SECTION 25.** Upon the issuance and sale of bonds under the
551 provisions of this act, the commission shall transfer the proceeds
552 of any such sale or sales to the ACE Fund created in Section
553 57-1-16. The proceeds of such bonds shall be disbursed solely
554 upon the order of the Mississippi Development Authority under such
555 restrictions, if any, as may be contained in the resolution
556 providing for the issuance of the bonds.

557 **SECTION 26.** The bonds authorized under this act may be
558 issued without any other proceedings or the happening of any other
559 conditions or things other than those proceedings, conditions and
560 things which are specified or required by this act. Any

561 resolution providing for the issuance of bonds under the
562 provisions of this act shall become effective immediately upon its
563 adoption by the commission, and any such resolution may be adopted
564 at any regular or special meeting of the commission by a majority
565 of its members.

566 **SECTION 27.** The bonds authorized under the authority of this
567 act may be validated in the Chancery Court of the First Judicial
568 District of Hinds County, Mississippi, in the manner and with the
569 force and effect provided by Chapter 13, Title 31, Mississippi
570 Code of 1972, for the validation of county, municipal, school
571 district and other bonds. The notice to taxpayers required by
572 such statutes shall be published in a newspaper published or
573 having a general circulation in the City of Jackson, Mississippi.

574 **SECTION 28.** Any holder of bonds issued under the provisions
575 of this act or of any of the interest coupons pertaining thereto
576 may, either at law or in equity, by suit, action, mandamus or
577 other proceeding, protect and enforce any and all rights granted
578 under this act, or under such resolution, and may enforce and
579 compel performance of all duties required by this act to be
580 performed, in order to provide for the payment of bonds and
581 interest thereon.

582 **SECTION 29.** All bonds issued under the provisions of this
583 act shall be legal investments for trustees and other fiduciaries,
584 and for savings banks, trust companies and insurance companies
585 organized under the laws of the State of Mississippi, and such
586 bonds shall be legal securities which may be deposited with and
587 shall be received by all public officers and bodies of this state
588 and all municipalities and political subdivisions for the purpose
589 of securing the deposit of public funds.

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

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

596 **SECTION 32.** The State Treasurer is authorized, without
597 further process of law, to certify to the Department of Finance
598 and Administration the necessity for warrants, and the Department
599 of Finance and Administration is authorized and directed to issue
600 such warrants, in such amounts as may be necessary to pay when due
601 the principal of, premium, if any, and interest on, or the
602 accreted value of, all bonds issued under this act; and the State
603 Treasurer shall forward the necessary amount to the designated
604 place or places of payment of such bonds in ample time to
605 discharge such bonds, or the interest thereon, on the due dates
606 thereof.

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

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

613 57-1-16. (1) As used in this section:

614 (a) "Extraordinary economic development opportunity"
615 means a new or expanded business or industry which maintains a
616 strong financial condition and minimal credit risk and creates
617 substantial employment, particularly in areas of high
618 unemployment.

619 (b) "Local economic development entities" means public
620 or private nonprofit local economic development entities,
621 including, but not limited to, chambers of commerce, local
622 authorities, commissions or other entities created by local and
623 private legislation or districts created pursuant to Section
624 19-5-99.

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

626 (2) (a) There is hereby created in the State Treasury a
627 special fund to be designated as the ACE Fund, which shall consist
628 of money from any public or private source designated for deposit
629 into such fund. Unexpended amounts remaining in the fund at the
630 end of a fiscal year shall not lapse into the State General Fund,
631 and any interest earned on amounts in the fund shall be deposited
632 to the credit of the fund. The purpose of the fund shall be to
633 assist in maximizing extraordinary economic development
634 opportunities related to any new or expanded business or industry.
635 Such funds may be used to make grants to local economic
636 development entities to assist any new or expanding business or
637 industry that meets the criteria provided in this section when
638 such assistance aids the consummation of a project within the
639 State of Mississippi.

640 (b) Monies in the fund which are derived from the
641 proceeds of general obligation bonds may be used to reimburse
642 reasonable actual and necessary costs incurred by the MDA in
643 providing assistance under this section through the use of general
644 obligation bonds. An accounting of actual costs incurred for
645 which reimbursement is sought shall be maintained for each grant
646 by the MDA. Reimbursement of reasonable actual and necessary
647 costs for a grant shall not exceed three percent (3%) of the
648 proceeds of bonds issued for such grant. Monies authorized for a
649 particular grant may not be used to reimburse administrative costs
650 for unrelated grants. Reimbursements made under this subsection
651 shall satisfy any applicable federal tax law requirements.

652 (3) The MDA shall establish a grant program to make grants
653 from the ACE Fund created under this section. Local economic
654 development entities may apply to the MDA for a grant under this
655 section in the manner provided for in subsection (4) of this
656 section.

657 (4) (a) Any business or industry desiring assistance from a
658 local economic development entity under this section shall submit

659 an application to the local economic development entity which
660 shall include, at a minimum:

661 (i) Evidence that the business or industry meets
662 the definition of an extraordinary economic development
663 opportunity;

664 (ii) A demonstration that the business or industry
665 is at an economic disadvantage by locating the new or expanded
666 project in the county;

667 (iii) A description, including the cost, of the
668 requested assistance;

669 (iv) A description of the purpose for which the
670 assistance is requested;

671 (v) A two-year business plan;

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

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

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

678 (b) The MDA shall require that binding commitments be
679 entered into requiring that:

680 (i) The minimum requirements of this section and
681 such other requirements as the MDA considers proper shall be met;
682 and

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

686 (c) Upon receipt of the application from a business or
687 industry, the local economic development entity may apply to the
688 MDA for assistance under this section. Such application must
689 contain evidence that the business or industry meets the
690 definition of an extraordinary economic development opportunity, a
691 demonstration that the business or industry is at an economic

692 disadvantage by locating the new or expanded project in the
693 county, a description, including the cost, of the requested
694 assistance, and a statement of what efforts have been made or are
695 being made by the business or industry for securing or qualifying
696 for other local, state, federal or private funds for the project.

697 (d) The MDA shall have sole discretion in the awarding
698 of ACE funds, provided that the business or industry and the local
699 economic development entity have met the statutory requirements of
700 this section. However, in making grants under this section, the
701 MDA shall attempt to provide for an equitable distribution of such
702 grants among each of the congressional districts of this state in
703 order to promote economic development across the entire state.

704 (5) The MDA shall promulgate rules and regulations, in
705 accordance with the Mississippi Administrative Procedures Law, for
706 the implementation of this section. However, before the
707 implementation of any such rules and regulations, they shall be
708 submitted to a committee consisting of five (5) members of the
709 Senate Finance Committee and five (5) members of the House of
710 Representatives Ways and Means Committee, appointed by the
711 respective committee chairmen.

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

714 57-61-25. (1) The seller is authorized to borrow, on the
715 credit of the state upon receipt of a resolution from the
716 Mississippi Development Authority requesting the same, money not
717 exceeding the aggregate sum of Three Hundred Six Million Dollars
718 (\$306,000,000.00), not including money borrowed to refund
719 outstanding bonds, notes or replacement notes, as may be necessary
720 to carry out the purposes of this chapter. The rate of interest
721 on any such bonds or notes which are not subject to taxation shall
722 not exceed the rates set forth in Section 75-17-101, Mississippi
723 Code of 1972, for general obligation bonds.

724 (2) As evidence of indebtedness authorized in this chapter,
725 general or limited obligation bonds of the state shall be issued
726 from time to time, to provide monies necessary to carry out the
727 purposes of this chapter for such total amounts, in such form, in
728 such denominations payable in such currencies (either domestic or
729 foreign or both) and subject to such terms and conditions of
730 issue, redemption and maturity, rate of interest and time of
731 payment of interest as the seller directs, except that such bonds
732 shall mature or otherwise be retired in annual installments
733 beginning not more than five (5) years from date thereof and
734 extending not more than thirty (30) years from date thereof.

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

739 (4) All bonds and notes issued under authority of this
740 chapter may be general or limited obligations of the state, and
741 the full faith and credit of the State of Mississippi as to
742 general obligation bonds, or the revenues derived from projects
743 assisted as to limited obligation bonds, are hereby pledged for
744 the payment of the principal of and interest on such bonds and
745 notes.

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

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

752 (7) The seller is authorized to provide, by resolution, for
753 the issuance of refunding bonds for the purpose of refunding any
754 debt issued under the provision of this chapter and then
755 outstanding, either by voluntary exchange with the holders of the
756 outstanding debt or to provide funds to redeem and the costs of

757 issuance and retirement of the debt, at maturity or at any call
758 date. The issuance of the refunding bonds, the maturities and
759 other details thereof, the rights of the holders thereof and the
760 duties of the issuing officials in respect to the same shall be
761 governed by the provisions of this section, insofar as they may be
762 applicable.

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

767 (9) The proceeds of bonds issued under this chapter after
768 April 9, 2002, may be used to reimburse reasonable actual and
769 necessary costs incurred by the Mississippi Development Authority
770 in administering a program or providing assistance related to a
771 project, or both, for which funding is provided from the use of
772 proceeds of such bonds. An accounting of actual costs incurred
773 for which reimbursement is sought shall be maintained for each
774 project by the Mississippi Development Authority. Reimbursement
775 of reasonable actual and necessary costs for a program or project
776 shall not exceed three percent (3%) of the proceeds of bonds
777 issued for such program or project. Monies authorized for a
778 particular program or project may not be used to reimburse
779 administrative costs for unrelated programs or projects.
780 Reimbursements under this subsection shall satisfy any applicable
781 federal tax law requirements.

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

784 57-61-34. (1) Notwithstanding any provision of this chapter
785 to the contrary, the Mississippi Development Authority shall
786 utilize not more than Sixteen Million Dollars (\$16,000,000.00) out
787 of the proceeds of bonds authorized to be issued in this chapter
788 to be made available as interest-bearing loans to municipalities
789 or private companies to aid in the establishment of business

790 incubation centers and the creation of new and expanding research
791 and development and technology-based business and industry. In
792 making loans under this section, the Mississippi Development
793 Authority shall attempt to provide for an equitable distribution
794 of such loans among each of the congressional districts of this
795 state in order to promote economic development across the entire
796 state.

797 (2) The Mississippi Development Authority shall require that
798 any private company receiving a loan under subsection (1) of this
799 section enter into a binding commitment to meet the following
800 minimum obligations, in return for obtaining a loan derived from
801 the proceeds of any bonds issued under this section after the
802 effective date of this act:

803 (a) The private company shall create a certain minimum
804 number of jobs over a certain period of time, as determined by the
805 authority, and such jobs must be held by persons eligible for
806 employment in the United States under applicable state and federal
807 law;

808 (b) The private company shall invest, over a certain
809 period of time, a certain minimum amount of capital within the
810 state, as determined by the authority; and

811 (c) The private company must meet such other
812 requirements as the Mississippi Development Authority considers
813 proper.

814 If the private company fails to satisfy any commitment under
815 this subsection, then the company must repay an amount equal to
816 all or a portion of the funds loaned by the state under this
817 subsection, as determined by the Mississippi Development
818 Authority.

819 (3) In exercising the power given it under this section, the
820 Mississippi Development Authority shall work in conjunction with
821 the University Research Center and may contract with the center to

822 provide space and assistance to business incubation centers as the
823 center is authorized to do pursuant to Section 57-13-13.

824 (4) The requirements of Section 57-61-9 shall not apply to
825 any loan made under this section. The Mississippi Development
826 Authority shall establish criteria and guidelines to govern loans
827 made pursuant to this section.

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

830 57-61-36. (1) Notwithstanding any provision of this chapter
831 to the contrary, the Mississippi Development Authority shall
832 utilize not more than Twelve Million Five Hundred Thousand Dollars
833 (\$12,500,000.00) out of the proceeds of bonds authorized to be
834 issued in this chapter for the purpose of making grants to
835 municipalities through a development infrastructure grant fund to
836 complete infrastructure related to new or expanded industry.

837 (2) Notwithstanding any provision of this chapter to the
838 contrary, the Mississippi Development Authority may utilize not
839 more than Seven Million Dollars (\$7,000,000.00) out of the
840 proceeds of bonds authorized to be issued in this chapter for the
841 purpose of making interest-bearing loans to any agency,
842 department, institution, instrumentality or political subdivision
843 of the state; or any agency, department, institution or
844 instrumentality of any political subdivision of the state; or any
845 business, organization, corporation, association or other legal
846 entity meeting criteria established by the department, through a
847 housing development revolving loan fund, to construct or repair
848 housing for low or moderate income earners; provided, however,
849 that the department may not utilize any bond proceeds authorized
850 under this chapter for the purpose of making any loans to the
851 Mississippi Home Corporation for any purpose whatsoever. No more
852 than forty percent (40%) of the additional bonds authorized by
853 Chapter 559, Laws of 1998, may be used for multiple family housing
854 activities. Funds authorized under this subsection may be

855 deposited in the Mississippi Affordable Housing Development Fund
856 authorized in Section 43-33-759 and used for purposes authorized
857 by that section. This subsection (2) shall be repealed from and
858 after July 1, 2006.

859 (3) Notwithstanding any provision of this chapter to the
860 contrary, the Mississippi Development Authority shall utilize not
861 more than Seventeen Million Five Hundred Thousand Dollars
862 (\$17,500,000.00) out of the proceeds of bonds authorized to be
863 issued in this chapter for the purpose of making grants or loans
864 to municipalities through an equipment and public facilities grant
865 and loan fund to aid in infrastructure-related improvements as
866 determined by the Mississippi Development Authority, the purchase
867 of equipment and in the purchase, construction or repair and
868 renovation of public facilities. Any bonds previously issued for
869 the Development Infrastructure Revolving Loan Program which have
870 not been loaned or applied for are eligible to be administered as
871 grants or loans. In making grants and loans under this section,
872 the Mississippi Development Authority shall attempt to provide for
873 an equitable distribution of such grants and loans among each of
874 the congressional districts of this state in order to promote
875 economic development across the entire state.

876 The requirements of Section 57-61-9 shall not apply to any
877 grant made under this subsection. The Mississippi Development
878 Authority may establish criteria and guidelines to govern grants
879 made pursuant to this subsection.

880 (4) Notwithstanding any provision of this chapter to the
881 contrary, the Mississippi Development Authority may utilize not
882 more than Seven Hundred Fifty Thousand Dollars (\$750,000.00) out
883 of the proceeds of bonds authorized to be issued in this chapter
884 in order to match federal funds available from the United States
885 Department of Agriculture for the purpose of establishing an
886 intermediary relending program to be administered by the
887 Mississippi Development Authority. The Mississippi Development

888 Authority may establish criteria and guidelines to govern loans
889 made under such program. This subsection (4) shall be repealed
890 from and after April 9, 2002.

891 (5) The Mississippi Development Authority may establish a
892 capital access program and may contract with any financial
893 institution to participate in the program upon such terms and
894 conditions as the authority shall consider necessary and proper.
895 The Mississippi Development Authority may establish loss reserve
896 accounts at financial institutions that participate in the program
897 and require payments by the financial institution and the borrower
898 to such loss reserve accounts. All money in such loss reserve
899 accounts is the property of the Mississippi Development Authority.

900 Under the capital access program a participating financial
901 institution may make a loan to any borrower the Mississippi
902 Development Authority determines to be qualified under rules and
903 regulations adopted by the authority and be protected against
904 losses from such loans as provided in the program. Under such
905 rules and regulations as may be adopted by the Mississippi
906 Development Authority, a participating financial institution may
907 submit claims for the reimbursement for losses incurred as a
908 result of default on loans by qualified borrowers.

909 Notwithstanding any provision of this chapter to the
910 contrary, the Mississippi Development Authority may utilize not
911 more than Seven Hundred Fifty Thousand Dollars (\$750,000.00) out
912 of the proceeds of bonds authorized to be issued in this chapter
913 for the purpose of making payments to loan loss reserve accounts
914 established at financial institutions that participate in the
915 capital access program established by the Mississippi Development
916 Authority.

917 (6) Notwithstanding any provision of this chapter to the
918 contrary, the Mississippi Development Authority shall utilize not
919 more than Two Hundred Thousand Dollars (\$200,000.00) out of the
920 proceeds of bonds authorized to be issued in this chapter for the

921 purpose of assisting Warren County, Mississippi, in the
922 continuation and completion of the study for the proposed Kings
923 Point levee.

924 (7) Notwithstanding any provision of this chapter to the
925 contrary, the Mississippi Development Authority shall utilize not
926 more than One Hundred Thousand Dollars (\$100,000.00) out of the
927 proceeds of bonds authorized to be issued in this chapter for the
928 purpose of developing a long-range plan for coordinating the
929 resources of the state institutions of higher learning, the
930 community and junior colleges, the Mississippi Development
931 Authority and other state agencies in order to promote economic
932 development in the state.

933 (8) Notwithstanding any other provision of this chapter to
934 the contrary, the Mississippi Development Authority shall use not
935 more than One Hundred Fifty Thousand Dollars (\$150,000.00) out of
936 the proceeds of bonds authorized to be issued in this chapter for
937 the purpose of providing assistance to municipalities that have
938 received community development block grant funds for repair,
939 renovation and other improvements to buildings for use as
940 community centers. Assistance provided to a municipality under
941 this subsection shall be used by the municipality to match such
942 community development block grant funds. The maximum amount of
943 assistance that may be provided to a municipality under this
944 subsection shall not exceed Seventy-five Thousand Dollars
945 (\$75,000.00) in the aggregate.

946 **SECTION 38.** (1) There is created the Mississippi
947 Development Authority Legislative Oversight Committee to serve in
948 an advisory capacity to the Mississippi Development Authority
949 ("MDA") regarding matters under the jurisdiction of the MDA. The
950 committee shall consist of six (6) members, two (2) members to be
951 appointed by the Governor, two (2) Senators to be appointed by the
952 Lieutenant Governor and two (2) Representatives to be appointed by
953 the Speaker of the House of Representatives. The committee shall

954 have no jurisdiction or vote on any matter within the jurisdiction
955 of the MDA.

956 (2) Members of the committee who are not legislators, state
957 officials or state employees shall be compensated at the per diem
958 rate authorized by Section 25-3-69 and shall be reimbursed in
959 accordance with Section 25-3-41 for mileage and actual expenses
960 incurred in the performance of their duties. Legislative members
961 of the committee shall be paid from the contingent expense funds
962 of their respective houses in the same manner as provided for
963 committee meetings when the Legislature is not in session.
964 However, no per diem or expense for attending meetings of the
965 committee may be paid to legislative members of the committee
966 while the Legislature is in session. No committee member may
967 incur per diem, travel or other expenses unless previously
968 authorized by vote, at a meeting of the committee, which action
969 shall be recorded in the official minutes of the meeting.
970 Nonlegislative members shall be paid from any funds made available
971 to the committee for that purpose.

972 (3) The terms of the legislative members of the committee
973 shall expire at the end of their terms of office, and the
974 Governor's appointees shall serve for a term concurrent with the
975 term of office of the appointing Governor. Any vacancy on the
976 advisory committee shall be filled by appointment by the original
977 appointing authority for the remainder of the members' unexpired
978 term.

979 **SECTION 39.** (1) As used in this section:

980 (a) "At-risk industry" means any enterprise that has
981 been operating in this state for not less than three (3)
982 consecutive years that has lost jobs or is at-risk to lose jobs
983 because such jobs have been outsourced.

984 (b) "MDA" means the Mississippi Development Authority.

985 (c) "Outsource" means to send out work or jobs of a
986 certain provider or manufacturer of the State of Mississippi to an

987 overseas provider or manufacturer or a provider or manufacturer
988 located outside the boundaries of the United States or any
989 territory of the United States.

990 (2) (a) There is established the Mississippi Job Protection
991 Act to be administered by the MDA for the purpose of providing
992 grants and loans to at-risk industries to be used for job
993 retention and to improve productivity and competitiveness. An
994 at-risk industry that accepts a grant or loan under this program
995 shall not reduce employment by more than twenty percent (20%).

996 (b) An enterprise desiring a grant or loan under this
997 section must submit an application to the MDA. The application
998 shall include:

999 (i) A description of the purpose for which the
1000 grant or loan is requested;

1001 (ii) The amount of the grant or loan requested;

1002 (iii) The estimated total cost of the project;

1003 (iv) A two-year business plan for the project;

1004 (v) Financial statements or tax returns for the
1005 two (2) years immediately prior to the application;

1006 (vi) Credit reports on all persons or entities
1007 with a twenty percent (20%) or greater interest in the enterprise;
1008 and

1009 (vii) Any other information required by the MDA.

1010 (c) The MDA shall require that binding commitments be
1011 entered into requiring that:

1012 (i) The minimum requirements of this section and
1013 such other requirements as the MDA considers proper shall be met;
1014 and

1015 (ii) If such requirements are not met, all or a
1016 portion of the funds provided by this section as determined by the
1017 MDA shall be repaid.

1018 (d) The amount of a grant or loan under this section
1019 shall not exceed fifty percent (50%) of the total cost of the
1020 project.

1021 (e) The MDA shall have all powers necessary to
1022 implement and administer the program established under this
1023 section, and the MDA shall promulgate rules and regulations, in
1024 accordance with the Mississippi Administrative Procedures Law,
1025 necessary for the implementation of this section.

1026 (2) (a) There is created in the State Treasury a special
1027 fund to be designated as the " Mississippi Job Protection Act
1028 Fund," which shall consist of funds appropriated or otherwise made
1029 available by the Legislature in any manner and funds from any
1030 other source designated for deposit into such fund. Unexpended
1031 amounts remaining in the fund at the end of a fiscal year shall
1032 not lapse into the State General Fund, and any investment earnings
1033 or interest earned on amounts in the fund shall be deposited to
1034 the credit of the fund. Monies in the fund shall be used by the
1035 MDA for the purposes described in this section.

1036 (b) Monies in the fund which are derived from the
1037 proceeds of general obligation bonds may be used to reimburse
1038 reasonable actual and necessary costs incurred by the MDA in
1039 providing grants or loans under this section through the use of
1040 general obligation bonds. An accounting of actual costs incurred
1041 for which reimbursement is sought shall be maintained for each
1042 grant or loan by the MDA. Reimbursement of reasonable actual and
1043 necessary costs shall not exceed three percent (3%) of the
1044 proceeds of bonds issued under Sections 40 through 55 of this act.
1045 Monies authorized for a particular grant or loan may not be used
1046 to reimburse administrative costs for unrelated grants or loans.
1047 Reimbursements made under this subsection shall satisfy any
1048 applicable federal tax law requirements.

1049 **SECTION 40.** As used in Sections 40 through 55 of this act,
1050 the following words shall have the meanings ascribed herein unless
1051 the context clearly requires otherwise:

1052 (a) "Accreted value" of any bonds means, as of any date
1053 of computation, an amount equal to the sum of (i) the stated
1054 initial value of such bond, plus (ii) the interest accrued thereon
1055 from the issue date to the date of computation at the rate,
1056 compounded semiannually, that is necessary to produce the
1057 approximate yield to maturity shown for bonds of the same
1058 maturity.

1059 (b) "Act" means Sections 40 through 55 of this act.

1060 (c) "State" means the State of Mississippi.

1061 (d) "Commission" means the State Bond Commission.

1062 **SECTION 41.** (1) The Mississippi Development Authority, at
1063 one time, or from time to time, may declare by resolution the
1064 necessity for issuance of general obligation bonds of the State of
1065 Mississippi to provide funds for the program authorized in Section
1066 39 of House Bill No. ____, 2005 Third Extraordinary Session. Upon
1067 the adoption of a resolution by the Mississippi Development
1068 Authority, declaring the necessity for the issuance of any part or
1069 all of the general obligation bonds authorized by this section,
1070 the Mississippi Development Authority shall deliver a certified
1071 copy of its resolution or resolutions to the commission. Upon
1072 receipt of such resolution, the commission, in its discretion, may
1073 act as the issuing agent, prescribe the form of the bonds,
1074 advertise for and accept bids, issue and sell the bonds so
1075 authorized to be sold and do any and all other things necessary
1076 and advisable in connection with the issuance and sale of such
1077 bonds. The total amount of bonds issued under this act shall not
1078 exceed Twelve Million Dollars (\$12,000,000.00). No bonds shall be
1079 issued under this act after July 1, 2008.

1080 (2) The proceeds of bonds issued pursuant to this act shall
1081 be deposited into the Mississippi Job Protection Act Fund created

1082 pursuant to Section 39 of House Bill No. ____, 2005 Third
1083 Extraordinary Session. Any investment earnings on bonds issued
1084 pursuant to this act shall be used to pay debt service on bonds
1085 issued under this act, in accordance with the proceedings
1086 authorizing issuance of such bonds.

1087 **SECTION 42.** The principal of and interest on the bonds
1088 authorized under this act shall be payable in the manner provided
1089 in this section. Such bonds shall bear such date or dates, be in
1090 such denomination or denominations, bear interest at such rate or
1091 rates (not to exceed the limits set forth in Section 75-17-101,
1092 Mississippi Code of 1972), be payable at such place or places
1093 within or without the State of Mississippi, shall mature
1094 absolutely at such time or times not to exceed twenty-five (25)
1095 years from date of issue, be redeemable before maturity at such
1096 time or times and upon such terms, with or without premium, shall
1097 bear such registration privileges, and shall be substantially in
1098 such form, all as shall be determined by resolution of the
1099 commission.

1100 **SECTION 43.** The bonds authorized by this act shall be signed
1101 by the chairman of the commission, or by his facsimile signature,
1102 and the official seal of the commission shall be affixed thereto,
1103 attested by the secretary of the commission. The interest
1104 coupons, if any, to be attached to such bonds may be executed by
1105 the facsimile signatures of such officers. Whenever any such
1106 bonds shall have been signed by the officials designated to sign
1107 the bonds who were in office at the time of such signing but who
1108 may have ceased to be such officers before the sale and delivery
1109 of such bonds, or who may not have been in office on the date such
1110 bonds may bear, the signatures of such officers upon such bonds
1111 and coupons shall nevertheless be valid and sufficient for all
1112 purposes and have the same effect as if the person so officially
1113 signing such bonds had remained in office until their delivery to
1114 the purchaser, or had been in office on the date such bonds may

1115 bear. However, notwithstanding anything herein to the contrary,
1116 such bonds may be issued as provided in the Registered Bond Act of
1117 the State of Mississippi.

1118 **SECTION 44.** All bonds and interest coupons issued under the
1119 provisions of this act have all the qualities and incidents of
1120 negotiable instruments under the provisions of the Uniform
1121 Commercial Code, and in exercising the powers granted by this act,
1122 the commission shall not be required to and need not comply with
1123 the provisions of the Uniform Commercial Code.

1124 **SECTION 45.** The commission shall act as the issuing agent
1125 for the bonds authorized under this act, prescribe the form of the
1126 bonds, advertise for and accept bids, issue and sell the bonds so
1127 authorized to be sold, pay all fees and costs incurred in such
1128 issuance and sale, and do any and all other things necessary and
1129 advisable in connection with the issuance and sale of such bonds.
1130 The commission is authorized and empowered to pay the costs that
1131 are incident to the sale, issuance and delivery of the bonds
1132 authorized under this act from the proceeds derived from the sale
1133 of such bonds. The commission shall sell such bonds on sealed
1134 bids at public sale, and for such price as it may determine to be
1135 for the best interest of the State of Mississippi, but no such
1136 sale shall be made at a price less than par plus accrued interest
1137 to the date of delivery of the bonds to the purchaser. All
1138 interest accruing on such bonds so issued shall be payable
1139 semiannually or annually; however, the first interest payment may
1140 be for any period of not more than one (1) year.

1141 Notice of the sale of any such bonds shall be published at
1142 least one time, not less than ten (10) days before the date of
1143 sale, and shall be so published in one or more newspapers
1144 published or having a general circulation in the City of Jackson,
1145 Mississippi, and in one or more other newspapers or financial
1146 journals with a national circulation, to be selected by the
1147 commission.

1148 The commission, when issuing any bonds under the authority of
1149 this act, may provide that bonds, at the option of the State of
1150 Mississippi, may be called in for payment and redemption at the
1151 call price named therein and accrued interest on such date or
1152 dates named therein.

1153 **SECTION 46.** The bonds issued under the provisions of this
1154 act are general obligations of the State of Mississippi, and for
1155 the payment thereof the full faith and credit of the State of
1156 Mississippi is irrevocably pledged. If the funds appropriated by
1157 the Legislature are insufficient to pay the principal of and the
1158 interest on such bonds as they become due, then the deficiency
1159 shall be paid by the State Treasurer from any funds in the State
1160 Treasury not otherwise appropriated. All such bonds shall contain
1161 recitals on their faces substantially covering the provisions of
1162 this section.

1163 **SECTION 47.** Upon the issuance and sale of bonds under the
1164 provisions of this act, the commission shall transfer the proceeds
1165 of any such sale or sales to the Mississippi Job Protection Act
1166 Fund created in Section 39 of House Bill No. ____, 2005 Third
1167 Extraordinary Session. The proceeds of such bonds shall be
1168 disbursed solely upon the order of the Mississippi Development
1169 Authority under such restrictions, if any, as may be contained in
1170 the resolution providing for the issuance of the bonds.

1171 **SECTION 48.** The bonds authorized under this act may be
1172 issued without any other proceedings or the happening of any other
1173 conditions or things other than those proceedings, conditions and
1174 things which are specified or required by this act. Any
1175 resolution providing for the issuance of bonds under the
1176 provisions of this act shall become effective immediately upon its
1177 adoption by the commission, and any such resolution may be adopted
1178 at any regular or special meeting of the commission by a majority
1179 of its members.

1180 **SECTION 49.** The bonds authorized under the authority of this
1181 act may be validated in the Chancery Court of the First Judicial
1182 District of Hinds County, Mississippi, in the manner and with the
1183 force and effect provided by Chapter 13, Title 31, Mississippi
1184 Code of 1972, for the validation of county, municipal, school
1185 district and other bonds. The notice to taxpayers required by
1186 such statutes shall be published in a newspaper published or
1187 having a general circulation in the City of Jackson, Mississippi.

1188 **SECTION 50.** Any holder of bonds issued under the provisions
1189 of this act or of any of the interest coupons pertaining thereto
1190 may, either at law or in equity, by suit, action, mandamus or
1191 other proceeding, protect and enforce any and all rights granted
1192 under this act, or under such resolution, and may enforce and
1193 compel performance of all duties required by this act to be
1194 performed, in order to provide for the payment of bonds and
1195 interest thereon.

1196 **SECTION 51.** All bonds issued under the provisions of this
1197 act shall be legal investments for trustees and other fiduciaries,
1198 and for savings banks, trust companies and insurance companies
1199 organized under the laws of the State of Mississippi, and such
1200 bonds shall be legal securities which may be deposited with and
1201 shall be received by all public officers and bodies of this state
1202 and all municipalities and political subdivisions for the purpose
1203 of securing the deposit of public funds.

1204 **SECTION 52.** Bonds issued under the provisions of this act
1205 and income therefrom shall be exempt from all taxation in the
1206 State of Mississippi.

1207 **SECTION 53.** The proceeds of the bonds issued under this act
1208 shall be used solely for the purposes therein provided, including
1209 the costs incident to the issuance and sale of such bonds.

1210 **SECTION 54.** The State Treasurer is authorized, without
1211 further process of law, to certify to the Department of Finance
1212 and Administration the necessity for warrants, and the Department

1213 of Finance and Administration is authorized and directed to issue
1214 such warrants, in such amounts as may be necessary to pay when due
1215 the principal of, premium, if any, and interest on, or the
1216 accreted value of, all bonds issued under this act; and the State
1217 Treasurer shall forward the necessary amount to the designated
1218 place or places of payment of such bonds in ample time to
1219 discharge such bonds, or the interest thereon, on the due dates
1220 thereof.

1221 **SECTION 55.** This act shall be deemed to be full and complete
1222 authority for the exercise of the powers therein granted, but this
1223 act shall not be deemed to repeal or to be in derogation of any
1224 existing law of this state.

1225 **SECTION 56.** As used in Sections 56 through 57 of this act,
1226 the following terms and phrases shall have the meanings ascribed
1227 in this section unless the context clearly indicates otherwise:

1228 (a) "Alternative energy project" means a business
1229 enterprise engaged in manufacturing or producing alternative
1230 energy in this state with not less than fifty percent (50%) of the
1231 finished product being derived from resources or products from
1232 this state.

1233 (b) "Authority" means the Mississippi Development
1234 Authority.

1235 (c) "Producer" means a manufacturer or producer of
1236 alternative energy through an alternative fuels project.

1237 (d) "State" means the State of Mississippi.

1238 **SECTION 57.** (1) Producers are allowed a job tax credit for
1239 taxes imposed by Section 27-7-5 equal to One Thousand Dollars
1240 (\$1,000.00) annually for each net new full-time employee job for a
1241 period of twenty (20) years from the date the credit begins. The
1242 credit shall begin on the date selected by the producer; however,
1243 the beginning date shall not be more than five (5) years from the
1244 date the producer begins manufacturing or producing alternative
1245 energy. For the year in which the beginning date occurs, the

1246 number of new full-time jobs shall be determined by using the
1247 monthly average number of full-time employees subject to the
1248 Mississippi income tax withholding. Thereafter, the number of new
1249 full-time jobs shall be determined by comparing the monthly
1250 average number of full-time employees subject to the Mississippi
1251 income tax withholding for the taxable year with the corresponding
1252 period of the prior taxable year. Once a producer creates
1253 twenty-five (25) or more new full-time employee jobs, the producer
1254 shall be eligible for the credit. The credit is not allowed for
1255 any year of the twenty-year period in which the overall monthly
1256 average number of full-time employees subject to the Mississippi
1257 income tax withholding falls below twenty-five (25). The State
1258 Tax Commission shall adjust the credit allowed each year for the
1259 net new employment fluctuations above twenty-five (25).

1260 (2) Any tax credit claimed under this section but not used
1261 in any taxable year may be carried forward for five (5)
1262 consecutive years from the close of the tax year in which the
1263 credits were earned. The credit that may be utilized each year
1264 shall be limited to an amount not greater than the total state
1265 income tax liability of the producer that is generated by, or
1266 arises out of, the alternative energy project.

1267 (3) The tax credits provided for in this section shall be in
1268 lieu of the tax credits provided for in Section 57-73-21 and any
1269 producer utilizing the tax credit authorized in this section shall
1270 not utilize the tax credit authorized in Section 57-73-21.

1271 **SECTION 58.** It is the policy of the Mississippi Development
1272 Authority and the Mississippi Development Authority is authorized
1273 to accommodate and support any entity using funds authorized and
1274 made available under Sections 1 through 37 of this act that wishes
1275 to have a program of diversity in contracting, and/or that wishes
1276 to do business with or cause its prime contractor to do business
1277 with Mississippi companies, including those companies that are
1278 small business concerns owned and controlled by socially and

1279 economically disadvantaged individuals. The term "socially and
1280 economically disadvantaged individuals" shall have the meaning
1281 ascribed to that term under Section 8(d) of the Small Business Act
1282 (15 USCS 637(d)) and relevant subcontracting regulations
1283 promulgated pursuant thereto; except that women shall be presumed
1284 to be socially and economically disadvantaged individuals for the
1285 purposes of this section.

1286 **SECTION 59.** The Mississippi Development Authority shall
1287 prepare and file a quarterly report with the Secretary of State
1288 regarding the net economic impact on the state as a result of
1289 incentives or other forms of assistance authorized under Sections
1290 1 through 37 of this act, the number of enterprises benefited and
1291 the number of jobs created. Each report shall estimate the number
1292 of jobs created or retained at each enterprise or business as a
1293 result of the incentives or other forms of assistance authorized
1294 under Sections 1 through 37 of this act.

1295 **SECTION 60.** Any business, enterprise or other entity that is
1296 convicted of hiring illegal immigrants shall be ineligible to
1297 receive any loan, grant or other form of assistance made available
1298 under Sections 1 through 57 of this act. Any business, enterprise
1299 or other entity that receives any loan, grant or other form of
1300 assistance made available under Sections 1 through 57 of this act,
1301 and is convicted of hiring illegal immigrants shall repay the full
1302 amount of such loan, grant or other form of assistance.

1303 **SECTION 61.** (1) As used in this section:

1304 (a) "Manufacturing enterprise" means an enterprise
1305 that:

1306 (i) Falls within the definition of the term
1307 "manufacturer" in Section 27-65-11; and

1308 (ii) Has operated in this state for not less than
1309 two (2) years prior to application for the credit authorized by
1310 this section; and

1311 (b) "Eligible investment" means an investment of at
1312 least One Million Dollars (\$1,000,000.00) in buildings and/or
1313 equipment for the manufacturing enterprise.

1314 (2) A manufacturing enterprise is allowed a manufacturing
1315 investment tax credit for taxes imposed by Section 27-7-5 equal to
1316 five percent (5%) of the eligible investments made by the
1317 manufacturing enterprise.

1318 (3) Any tax credit claimed under this section but not used
1319 in any taxable year may be carried forward for five (5) years from
1320 the close of the tax year in which the eligible investment was
1321 made, but the credit established by this section taken in any one
1322 tax year shall not exceed fifty percent (50%) of the taxpayer's
1323 state income tax liability which is attributable to income derived
1324 from operations in the state for that year reduced by the sum of
1325 all other income tax credits allowable to the taxpayer, except
1326 credit for tax payments made by or on behalf of the taxpayer.

1327 (4) The maximum credit that may be claimed by a taxpayer on
1328 any project shall be limited to One Million Dollars
1329 (\$1,000,000.00).

1330 (5) The credit received under this section is subject to
1331 recapture if the property for which the tax credit was received is
1332 disposed of, or converted to, other than business use. The amount
1333 of the credit subject to recapture is one hundred percent (100%)
1334 of the credit in the first year and fifty percent (50%) of the
1335 credit in the second year. This subsection shall not apply in
1336 cases in which an entire facility is sold.

1337 (6) The sale, merger, acquisition, reorganization,
1338 bankruptcy or relocation from one (1) county to another county
1339 within the state of any manufacturing enterprise may not create
1340 new eligibility in any succeeding business entity, but any unused
1341 manufacturing investment tax credit may be transferred and
1342 continued by any transferee of the enterprise. The State Tax
1343 Commission shall determine whether or not qualifying net increases

1344 or decreases have occurred or proper transfers of credit have been
1345 made and may require reports, promulgate regulations, and hold
1346 hearings as needed for substantiation and qualification.

1347 (7) No manufacturing enterprise for the transportation,
1348 handling, storage, processing or disposal of hazardous waste is
1349 eligible to receive the tax credits provided in this section.

1350 (8) The credits allowed under this section shall not be used
1351 by any business enterprise or corporation other than the
1352 manufacturing enterprise actually qualifying for the credits.

1353 **SECTION 62.** Section 27-31-101, Mississippi Code of 1972, is
1354 amended as follows:

1355 27-31-101. (1) County boards of supervisors and municipal
1356 authorities are hereby authorized and empowered, in their
1357 discretion, to grant exemptions from ad valorem taxation, except
1358 state ad valorem taxation; however, such governing authorities
1359 shall not exempt ad valorem taxes for school district purposes on
1360 tangible property used in, or necessary to, the operation of the
1361 manufacturers and other new enterprises enumerated by classes in
1362 this section, except to the extent authorized in Sections
1363 27-31-104 and 27-31-105(2), nor shall they exempt from ad valorem
1364 taxes the products of the manufacturers or other new enterprises
1365 or automobiles and trucks belonging to the manufacturers or other
1366 new enterprises operating on and over the highways of the State of
1367 Mississippi. The time of such exemption shall be for a period not
1368 to exceed a total of ten (10) years which shall begin on the date
1369 of completion of the new enterprise for which the exemption is
1370 granted; however, boards of supervisors and municipal authorities,
1371 in lieu of granting the exemption for one (1) period of ten (10)
1372 years, may grant the exemption in a period of less than ten (10)
1373 years. When the initial exemption period granted is less than ten
1374 (10) years, the boards of supervisors and municipal authorities
1375 may grant a subsequent consecutive period or periods to follow the
1376 initial period of exemption, provided that the total of all

1377 periods of exemption shall not exceed ten (10) years. The date of
1378 completion of the new enterprise, from which the initial period of
1379 exemption shall begin, shall be the date on which operations of
1380 the new enterprise begin. The initial request for an exemption
1381 must be made in writing by June 1 of the year immediately
1382 following the year in which the date of completion of a new
1383 enterprise occurs. If the initial request for the exemption is
1384 not timely made, the board of supervisors or municipal authorities
1385 may grant a subsequent request for the exemption and, in such
1386 case, the exemption shall begin on the anniversary date of
1387 completion of the enterprise in the year in which the request is
1388 made and may be for a period of time extending not more than ten
1389 (10) years from the date of completion of the new enterprise. Any
1390 subsequent request for the exemption must be made in writing by
1391 June 1 of the year in which it is granted.

1392 * * *

1393 (2) Any board of supervisors or municipal authority which
1394 has granted an exemption for a period of less than ten (10) years
1395 may grant subsequent periods of exemption to run consecutively
1396 with the initial exemption period, or a subsequently granted
1397 exemption period, but in no case shall the total of the exemption
1398 periods granted for a new enterprise exceed ten (10) years. Any
1399 consecutive period of exemption shall be granted by entry of an
1400 order by the board or the authority granting the consecutive
1401 exemption on its minutes, reflecting the granting of the
1402 consecutive exemption period and the dates upon which such
1403 consecutive exemption period begins and expires. The entry of
1404 this order granting the consecutive period of exemption shall be
1405 made before the expiration of the exemption period immediately
1406 preceding the consecutive exemption period being granted.

1407 (3) The new enterprises which may be exempt are enumerated
1408 as and limited to the following, as determined by the State Tax
1409 Commission:

1410 (a) Warehouse and/or distribution centers;
1411 (b) Manufacturing, processors and refineries;
1412 (c) Research facilities;
1413 (d) Corporate regional and national headquarters
1414 meeting minimum criteria established by the Department of Economic
1415 and Community Development;
1416 (e) Movie industry studios meeting minimum criteria
1417 established by the Mississippi Development Authority;
1418 (f) Air transportation and maintenance facilities
1419 meeting minimum criteria established by the Mississippi
1420 Development Authority;
1421 (g) Recreational facilities that impact tourism meeting
1422 minimum criteria established by the Mississippi Development
1423 Authority; * * *
1424 (h) Data/information processing enterprises meeting
1425 minimum criteria established by the Mississippi Development
1426 Authority;
1427 (i) Technology intensive enterprises or facilities
1428 meeting criteria established by the Mississippi Development
1429 Authority; and
1430 (j) Telecommunications enterprises meeting minimum
1431 criteria established by the Mississippi Development Authority.
1432 The term "telecommunications enterprises" means entities engaged
1433 in the creation, display, management, storage, processing,
1434 transmission or distribution for compensation of images, text,
1435 voice, video or data by wire or by wireless means, or entities
1436 engaged in the construction, design, development, manufacture,
1437 maintenance or distribution for compensation of devices, products,
1438 software or structures used in the above activities. Companies
1439 organized to do business as commercial broadcast radio stations,
1440 television stations or news organizations primarily serving
1441 in-state markets shall not be included within the definition of
1442 the term "telecommunications enterprises."

1443 SECTION 63. Section 27-65-17, Mississippi Code of 1972, is
1444 amended as follows:

1445 27-65-17. (1) (a) Except as otherwise provided in this
1446 section, upon every person engaging or continuing within this
1447 state in the business of selling any tangible personal property
1448 whatsoever there is hereby levied, assessed and shall be collected
1449 a tax equal to seven percent (7%) of the gross proceeds of the
1450 retail sales of the business * * *.

1451 (b) Retail sales of farm tractors shall be taxed at the
1452 rate of one percent (1%) when made to farmers for agricultural
1453 purposes.

1454 (c) Retail sales of farm implements sold to farmers and
1455 used directly in the production of poultry, ratite, domesticated
1456 fish as defined in Section 69-7-501, livestock, livestock
1457 products, agricultural crops or ornamental plant crops or used for
1458 other agricultural purposes shall be taxed at the rate of three
1459 percent (3%) when used on the farm. The three percent (3%) rate
1460 shall also apply to all equipment used in logging, pulpwood
1461 operations or tree farming which is either:

1462 (i) Self-propelled, or * * *

1463 (ii) Mounted so that it is * * * permanently
1464 attached to other equipment which is self-propelled or * * *
1465 permanently attached to other equipment drawn by a vehicle which
1466 is self-propelled.

1467 (d) Except as otherwise provided in subsection (3) of
1468 this section, retail sales of aircraft, automobiles, trucks,
1469 truck-tractors, semitrailers and mobile homes shall be taxed at
1470 the rate of three percent (3%).

1471 (e) Sales of manufacturing machinery or manufacturing
1472 machine parts when made to a manufacturer or custom processor for
1473 plant use only when the machinery and machine parts will be used
1474 exclusively and directly within this state in manufacturing a

1475 commodity for sale, rental or in processing for a fee shall be
1476 taxed at the rate of one and one-half percent (1-1/2%).

1477 (f) Sales of machinery and machine parts when made to a
1478 technology intensive enterprise for plant use only when the
1479 machinery and machine parts will be used exclusively and directly
1480 within this state for industrial purposes, including, but not
1481 limited to, manufacturing or research and development activities,
1482 shall be taxed at the rate of one and one-half percent (1-1/2%).
1483 In order to be considered a technology intensive enterprise for
1484 purposes of this paragraph:

1485 (i) The enterprise shall meet minimum criteria
1486 established by the Mississippi Development Authority;

1487 (ii) The enterprise shall employ at least ten (10)
1488 persons in full-time jobs;

1489 (iii) At least ten percent (10%) of the workforce
1490 in the facility operated by the enterprise shall be scientists,
1491 engineers or computer specialists;

1492 (iv) The enterprise shall manufacture plastics,
1493 chemicals, automobiles, aircraft, computers or electronics; or
1494 shall be a research and development facility, a computer design or
1495 related facility, or a software publishing facility or other
1496 technology intensive facility or enterprise as determined by the
1497 Mississippi Development Authority;

1498 (v) The average wage of all workers employed by
1499 the enterprise at the facility shall be at least one hundred fifty
1500 percent (150%) of the state average annual wage; and

1501 (vi) The enterprise must provide a basic health
1502 care plan to all employees at the facility.

1503 (g) Sales of materials for use in track and track
1504 structures to a railroad whose rates are fixed by the Interstate
1505 Commerce Commission or the Mississippi Public Service Commission
1506 shall be taxed at the rate of three percent (3%).

1507 (h) Sales of tangible personal property to electric
1508 power associations for use in the ordinary and necessary operation
1509 of their generating or distribution systems shall be taxed at the
1510 rate of one percent (1%).

1511 (i) Wholesale sales of beer shall be taxed at the rate
1512 of seven percent (7%), and the retailer shall file a return and
1513 compute the retail tax on retail sales but may take credit for the
1514 amount of the tax paid to the wholesaler on said return covering
1515 the subsequent sales of same property, provided adequate invoices
1516 and records are maintained to substantiate the credit.

1517 (j) Wholesale sales of food and drink for human
1518 consumption to full service vending machine operators to be sold
1519 through vending machines located apart from and not connected with
1520 other taxable businesses shall be taxed at the rate of eight
1521 percent (8%).

1522 * * *

1523 (k) Sales of equipment used or designed for the purpose
1524 of assisting disabled persons, such as wheelchair equipment and
1525 lifts, that is mounted or attached to or installed on a private
1526 carrier of passengers or light carrier of property, as defined in
1527 Section 27-51-101, at the time when the private carrier of
1528 passengers or light carrier of property is sold shall be taxed at
1529 the same rate as the sale of such vehicles under this section.

1530 (2) From and after January 1, 1995, retail sales of private
1531 carriers of passengers and light carriers of property, as defined
1532 in Section 27-51-101, shall be taxed an additional two percent
1533 (2%).

1534 (3) In lieu of the tax levied in subsection (1) of this
1535 section, there is levied on retail sales of truck-tractors and
1536 semitrailers used in interstate commerce and registered under the
1537 International Registration Plan (IRP) or any similar reciprocity
1538 agreement or compact relating to the proportional registration of
1539 commercial vehicles entered into as provided for in Section

1540 27-19-143, a tax at the rate of three percent (3%) of the portion
1541 of the sale that is attributable to the usage of such
1542 truck-tractor or semitrailer in Mississippi. The portion of the
1543 retail sale that is attributable to the usage of such
1544 truck-tractor or semitrailer in Mississippi is the retail sales
1545 price of the truck-tractor or semitrailer multiplied by the
1546 percentage of the total miles traveled by the vehicle that are
1547 traveled in Mississippi. The tax levied pursuant to this
1548 subsection (3) shall be collected by the State Tax Commission from
1549 the purchaser of such truck-tractor or semitrailer at the time of
1550 registration of such truck-tractor or semitrailer.

1551 (4) A manufacturer selling at retail in this state shall be
1552 required to make returns of the gross proceeds of such sales and
1553 pay the tax imposed in this section.

1554 (5) Any person exercising any privilege taxable under
1555 Section 27-65-15 and selling his natural resource products at
1556 wholesale or to exempt persons shall pay the tax levied by said
1557 section in lieu of the tax levied by this section.

1558 **SECTION 64.** Section 27-65-19, Mississippi Code of 1972, is
1559 amended as follows:

1560 27-65-19. (1) (a) Except as otherwise provided in this
1561 subsection, upon every person selling to consumers, electricity,
1562 current, power, potable water, steam, coal, natural gas, liquefied
1563 petroleum gas or other fuel, there is hereby levied, assessed and
1564 shall be collected a tax equal to seven percent (7%) of the gross
1565 income of the business. Provided, gross income from sales to
1566 consumers of electricity, current, power, natural gas, liquefied
1567 petroleum gas or other fuel for residential heating, lighting or
1568 other residential noncommercial or nonagricultural use, and sales
1569 of potable water for residential, noncommercial or nonagricultural
1570 use shall be excluded from taxable gross income of the business.
1571 Provided further, upon every such seller using electricity,
1572 current, power, potable water, steam, coal, natural gas, liquefied

1573 petroleum gas or other fuel for nonindustrial purposes, there is
1574 hereby levied, assessed and shall be collected a tax equal to
1575 seven percent (7%) of the cost or value of the product or service
1576 used.

1577 (b) There is hereby levied, assessed and shall be
1578 collected a tax equal to one and one-half percent (1-1/2%) of the
1579 gross income of the business when the electricity, current, power,
1580 steam, coal, natural gas, liquefied petroleum gas or other fuel is
1581 sold to or used by a manufacturer, custom processor, technology
1582 intensive enterprise meeting the criteria provided for in Section
1583 27-65-17(1)(f), or public service company for industrial purposes,
1584 which shall include that used to generate electricity, to operate
1585 an electrical distribution or transmission system, to operate
1586 pipeline compressor or pumping stations or to operate railroad
1587 locomotives; however, sales of fuel used to produce electric power
1588 by a company primarily engaged in the business of producing,
1589 generating or distributing electric power for sale shall be exempt
1590 from sales tax as provided in Section 27-65-107.

1591 (c) The one and one-half percent (1-1/2%) industrial
1592 rate provided for in this subsection shall also apply when the
1593 electricity, current, power, steam, coal, natural gas, liquefied
1594 petroleum gas or other fuel is sold to a producer or processor for
1595 use directly in the production of poultry or poultry products, the
1596 production of livestock and livestock products, the production of
1597 domesticated fish and domesticated fish products, the production
1598 of marine aquaculture products, the production of plants or food
1599 by commercial horticulturists, the processing of milk and milk
1600 products, the processing of poultry and livestock feed, and the
1601 irrigation of farm crops.

1602 (d) The one and one-half percent (1-1/2%) rate provided
1603 for in this subsection shall not apply to sales of fuel for
1604 automobiles, trucks, truck-tractors, buses, farm tractors or
1605 airplanes.

1606 (e) Upon every person operating a telegraph or
1607 telephone business for the transmission of messages or
1608 conversations between points within this state, there is hereby
1609 levied, assessed and shall be collected a tax equal to seven
1610 percent (7%) of the gross income of such business, with no
1611 deduction or allowance for any part of an intrastate rate charge
1612 because of routing across a state line. Charges by one
1613 telecommunications provider to another telecommunications provider
1614 holding a permit issued under Section 27-65-27 for services that
1615 are resold by such other telecommunications provider, including,
1616 but not limited to, access charges, shall not be subject to the
1617 tax levied pursuant to this paragraph (e). However, any sale of a
1618 prepaid telephone calling card or prepaid authorization number, or
1619 both, shall be deemed to be the sale of tangible personal property
1620 subject only to such taxes imposed by law on the sale of tangible
1621 personal property. If the sale of a prepaid telephone calling
1622 card or prepaid authorization number does not take place at the
1623 vendor's place of business, it shall be conclusively determined to
1624 take place at the customer's shipping address. The
1625 reauthorization of a prepaid telephone calling card or a prepaid
1626 authorization number shall be conclusively determined to take
1627 place at the customer's billing address. Except for the
1628 provisions governing the sale of a prepaid telephone calling card
1629 or prepaid authorization number, this paragraph (e) shall not
1630 apply to persons providing mobile telecommunications services that
1631 are taxed pursuant to paragraph (g) of this section.

1632 (f) Upon every person operating a telegraph or
1633 telecommunications business for the transmission of messages or
1634 conversations originating in this state or terminating in this
1635 state via interstate telecommunications, which are charged to the
1636 customer's service address in this state, regardless of where such
1637 amount is billed or paid, there is hereby levied, assessed and
1638 shall be collected a tax equal to seven percent (7%) of the gross

1639 income received by such business from such interstate
1640 telecommunications. However, a person, upon proof that he has
1641 paid a tax in another state on such event, shall be allowed a
1642 credit against the tax imposed in this paragraph (f) on interstate
1643 telecommunications charges to the extent that the amount of such
1644 tax is properly due and actually paid in such other state and to
1645 the extent that the rate of sales tax imposed by and paid to such
1646 other state does not exceed the rate of sales tax imposed by this
1647 paragraph (f). Charges by one telecommunications provider to
1648 another telecommunications provider holding a permit issued under
1649 Section 27-65-27 for services that are resold by such other
1650 telecommunications provider, including, but not limited to, access
1651 charges, shall not be subject to the tax levied pursuant to this
1652 paragraph (f). This paragraph (f) shall not apply to persons
1653 providing mobile telecommunications services that are taxed
1654 pursuant to paragraph (g) of this subsection.

1655 (g) (i) Upon every person providing mobile
1656 telecommunications services in this state there is hereby levied,
1657 assessed and shall be collected:

1658 1. A tax equal to seven percent (7%) of the
1659 gross income received on such services from all charges for
1660 transmission of messages or conversations between points within
1661 any single state as they shall be construed to be within this
1662 state; and

1663 2. A tax equal to seven percent (7%) on the
1664 gross income received from all charges for services that originate
1665 in one state and terminate in any other state.

1666 Charges by one telecommunications provider to another
1667 telecommunications provider holding a permit issued under Section
1668 27-65-27 for services that are resold by such other
1669 telecommunications provider, including, but not limited to, access
1670 charges, shall not be subject to the tax levied pursuant to this
1671 paragraph (g).

1672 (ii) Subject to the provisions of 4 USCS 116(c),
1673 the tax levied by this paragraph (g) shall apply only to those
1674 charges for mobile telecommunications services subject to tax
1675 which are deemed to be provided to a customer by a home service
1676 provider pursuant to 4 USCS 117(a), if the customer's place of
1677 primary use is located within this state.

1678 (iii) A home service provider shall be responsible
1679 for obtaining and maintaining the customer's place of primary use.
1680 The home service provider shall be entitled to rely on the
1681 applicable residential or business street address supplied by such
1682 customer, if the home service provider's reliance is in good
1683 faith; and the home service provider shall be held harmless from
1684 liability for any additional taxes based on a different
1685 determination of the place of primary use for taxes that are
1686 customarily passed on to the customer as a separate itemized
1687 charge. A home service provider shall be allowed to treat the
1688 address used for purposes of the tax levied by this chapter for
1689 any customer under a service contract in effect on August 1, 2002,
1690 as that customer's place of primary use for the remaining term of
1691 such service contract or agreement, excluding any extension or
1692 renewal of such service contract or agreement. Month-to-month
1693 services provided after the expiration of a contract shall be
1694 treated as an extension or renewal of such contract or agreement.

1695 If the commissioner determines that the address used by a
1696 home service provider as a customer's place of primary use does
1697 not meet the definition of the term "place of primary use" as
1698 defined in this paragraph, the commissioner shall give binding
1699 notice to the home service provider to change the place of primary
1700 use on a prospective basis from the date of notice of
1701 determination; however, the customer shall have the opportunity,
1702 prior to such notice of determination, to demonstrate that such
1703 address satisfies such definition.

1704 The commission has the right to collect any taxes due
1705 directly from the home service provider's customer that has failed
1706 to provide an address that meets the definition of the term "place
1707 of primary use" which resulted in a failure of tax otherwise due
1708 being remitted.

1709 (iv) For purposes of this paragraph (g):

1710 1. "Place of primary use" means the street
1711 address representative of where the customer's use of mobile
1712 telecommunications services primarily occurs, which shall be
1713 either the residential street address of the customer or the
1714 primary business street address of the customer.

1715 2. "Customer" means the person or entity that
1716 contracts with the home service provider for mobile
1717 telecommunications services. For determining the place of primary
1718 use, in those instances in which the end user of mobile
1719 telecommunications services is not the contracting party, the end
1720 user of the mobile telecommunications services shall be deemed the
1721 customer. The term "customer" shall not include a reseller of
1722 mobile telecommunications service, or a serving carrier under an
1723 arrangement to serve the customer outside the home service
1724 provider's licensed service area.

1725 3. "Home service provider" means the
1726 facilities-based carrier or reseller with which the customer
1727 contracts for the provision of mobile telecommunications services.

1728 (h) (i) For purposes of this paragraph (h), "bundled
1729 transaction" means a transaction that consists of distinct and
1730 identifiable properties or services which are sold for a single
1731 nonitemized price but which are treated differently for tax
1732 purposes.

1733 (ii) In the case of a bundled transaction that
1734 includes telecommunications services taxed under this section in
1735 which the price of the bundled transaction is attributable to
1736 properties or services that are taxable and nontaxable, the

1737 portion of the price that is attributable to any nontaxable
1738 property or service shall be subject to the tax unless the
1739 provider can reasonably identify that portion from its books and
1740 records kept in the regular course of business.

1741 (iii) In the case of a bundled transaction that
1742 includes telecommunications services subject to tax under this
1743 section in which the price is attributable to properties or
1744 services that are subject to the tax but the tax revenue from the
1745 different properties or services are dedicated to different funds
1746 or purposes, the provider shall allocate the price among the
1747 properties or services:

1748 1. By reasonably identifying the portion of
1749 the price attributable to each of the properties and services from
1750 its books and records kept in the regular course of business; or

1751 2. Based on a reasonable allocation
1752 methodology approved by the commission.

1753 (iv) This paragraph (h) shall not create a right
1754 of action for a customer to require that the provider or the
1755 commission, for purposes of determining the amount of tax
1756 applicable to a bundled transaction, allocate the price to the
1757 different portions of the transaction in order to minimize the
1758 amount of tax charged to the customer. A customer shall not be
1759 entitled to rely on the fact that a portion of the price is
1760 attributable to properties or services not subject to tax unless
1761 the provider elects, after receiving a written request from the
1762 customer in the form required by the provider, to provide
1763 verifiable data based upon the provider's books and records that
1764 are kept in the regular course of business that reasonably
1765 identifies the portion of the price attributable to the properties
1766 or services not subject to the tax.

1767 (2) Persons making sales to consumers of electricity,
1768 current, power, natural gas, liquefied petroleum gas or other fuel
1769 for residential heating, lighting or other residential

1770 noncommercial or nonagricultural use or sales of potable water for
1771 residential, noncommercial or nonagricultural use shall indicate
1772 on each statement rendered to customers that such charges are
1773 exempt from sales taxes.

1774 (3) There is hereby levied, assessed and shall be paid on
1775 transportation charges on shipments moving between points within
1776 this state when paid directly by the consumer, a tax equal to the
1777 rate applicable to the sale of the property being transported.
1778 Such tax shall be reported and paid directly to the State Tax
1779 Commission by the consumer.

1780 **SECTION 65.** Section 27-65-101, Mississippi Code of 1972, is
1781 amended as follows:

1782 27-65-101. (1) The exemptions from the provisions of this
1783 chapter which are of an industrial nature or which are more
1784 properly classified as industrial exemptions than any other
1785 exemption classification of this chapter shall be confined to
1786 those persons or property exempted by this section or by the
1787 provisions of the Constitution of the United States or the State
1788 of Mississippi. No industrial exemption as now provided by any
1789 other section except Section 57-3-33 shall be valid as against the
1790 tax herein levied. Any subsequent industrial exemption from the
1791 tax levied hereunder shall be provided by amendment to this
1792 section. No exemption provided in this section shall apply to
1793 taxes levied by Section 27-65-15 or 27-65-21.

1794 The tax levied by this chapter shall not apply to the
1795 following:

1796 (a) Sales of boxes, crates, cartons, cans, bottles and
1797 other packaging materials to manufacturers and wholesalers for use
1798 as containers or shipping materials to accompany goods sold by
1799 said manufacturers or wholesalers where possession thereof will
1800 pass to the customer at the time of sale of the goods contained
1801 therein and sales to anyone of containers or shipping materials
1802 for use in ships engaged in international commerce.

1803 (b) Sales of raw materials, catalysts, processing
1804 chemicals, welding gases or other industrial processing gases
1805 (except natural gas) to a manufacturer for use directly in
1806 manufacturing or processing a product for sale or rental or
1807 repairing or reconditioning vessels or barges of fifty (50) tons
1808 load displacement and over. For the purposes of this exemption,
1809 electricity used directly in the electrolysis process in the
1810 production of sodium chlorate shall be considered a raw material.
1811 This exemption shall not apply to any property used as fuel except
1812 to the extent that such fuel comprises by-products which have no
1813 market value.

1814 (c) The gross proceeds of sales of dry docks, offshore
1815 drilling equipment for use in oil exploitation or production,
1816 vessels or barges of fifty (50) tons load displacement and over,
1817 when sold by the manufacturer or builder thereof.

1818 (d) Sales to commercial fishermen of commercial fishing
1819 boats of over five (5) tons load displacement and not more than
1820 fifty (50) tons load displacement as registered with the United
1821 States Coast Guard and licensed by the Mississippi Commission on
1822 Marine Resources.

1823 (e) The gross income from repairs to vessels and barges
1824 engaged in foreign trade or interstate transportation.

1825 (f) Sales of petroleum products to vessels or barges
1826 for consumption in marine international commerce or interstate
1827 transportation businesses.

1828 (g) Sales and rentals of rail rolling stock (and
1829 component parts thereof) for ultimate use in interstate commerce
1830 and gross income from services with respect to manufacturing,
1831 repairing, cleaning, altering, reconditioning or improving such
1832 rail rolling stock (and component parts thereof).

1833 (h) Sales of raw materials, catalysts, processing
1834 chemicals, welding gases or other industrial processing gases
1835 (except natural gas) used or consumed directly in manufacturing,

1836 repairing, cleaning, altering, reconditioning or improving such
1837 rail rolling stock (and component parts thereof). This exemption
1838 shall not apply to any property used as fuel.

1839 (i) Sales of machinery or tools or repair parts
1840 therefor or replacements thereof, fuel or supplies used directly
1841 in manufacturing, converting or repairing ships, vessels or barges
1842 of three thousand (3,000) tons load displacement and over, but not
1843 to include office and plant supplies or other equipment not
1844 directly used on the ship, vessel or barge being built, converted
1845 or repaired. For purposes of this exemption, "ships, vessels or
1846 barges" shall not include floating structures described in Section
1847 27-65-18.

1848 (j) Sales of tangible personal property to persons
1849 operating ships in international commerce for use or consumption
1850 on board such ships. This exemption shall be limited to cases in
1851 which procedures satisfactory to the commissioner, ensuring
1852 against use in this state other than on such ships, are
1853 established.

1854 (k) Sales of materials used in the construction of a
1855 building, or any addition or improvement thereon, and sales of any
1856 machinery and equipment not later than three (3) months after the
1857 completion of construction of the building, or any addition
1858 thereon, to be used therein, to qualified businesses, as defined
1859 in Section 57-51-5, which are located in a county or portion
1860 thereof designated as an enterprise zone pursuant to Sections
1861 57-51-1 through 57-51-15.

1862 (l) Sales of materials used in the construction of a
1863 building, or any addition or improvement thereon, and sales of any
1864 machinery and equipment not later than three (3) months after the
1865 completion of construction of the building, or any addition
1866 thereon, to be used therein, to qualified businesses, as defined
1867 in Section 57-54-5.

1868 (m) Income from storage and handling of perishable
1869 goods by a public storage warehouse.

1870 (n) The value of natural gas lawfully injected into the
1871 earth for cycling, repressuring or lifting of oil, or lawfully
1872 vented or flared in connection with the production of oil;
1873 however, if any gas so injected into the earth is sold for such
1874 purposes, then the gas so sold shall not be exempt.

1875 (o) The gross collections from self-service commercial
1876 laundering, drying, cleaning and pressing equipment.

1877 (p) Sales of materials used in the construction of a
1878 building, or any addition or improvement thereon, and sales of any
1879 machinery and equipment not later than three (3) months after the
1880 completion of construction of the building, or any addition
1881 thereon, to be used therein, to qualified companies, certified as
1882 such by the Mississippi Development Authority under Section
1883 57-53-1.

1884 (q) Sales of component materials used in the
1885 construction of a building, or any addition or improvement
1886 thereon, sales of machinery and equipment to be used therein, and
1887 sales of manufacturing or processing machinery and equipment which
1888 is permanently attached to the ground or to a permanent foundation
1889 and which is not by its nature intended to be housed within a
1890 building structure, not later than three (3) months after the
1891 initial start-up date, to permanent business enterprises engaging
1892 in manufacturing or processing in Tier Three areas (as such term
1893 is defined in Section 57-73-21), which businesses are certified by
1894 the State Tax Commission as being eligible for the exemption
1895 granted in this paragraph (q).

1896 (r) Sales of component materials used in the
1897 construction of a building, or any addition or improvement
1898 thereon, and sales of any machinery and equipment not later than
1899 three (3) months after the completion of the building, addition or
1900 improvement thereon, to be used therein, for any company

1901 establishing or transferring its national or regional headquarters
1902 from within or outside the State of Mississippi and creating a
1903 minimum of thirty-five (35) jobs at the new headquarters in this
1904 state. The Tax Commission shall establish criteria and prescribe
1905 procedures to determine if a company qualifies as a national or
1906 regional headquarters for the purpose of receiving the exemption
1907 provided in this paragraph.

1908 (s) The gross proceeds from the sale of semitrailers,
1909 trailers, boats, travel trailers, motorcycles and all-terrain
1910 cycles if exported from this state within forty-eight (48) hours
1911 and registered and first used in another state.

1912 (t) Gross income from the storage and handling of
1913 natural gas in underground salt domes and in other underground
1914 reservoirs, caverns, structures and formations suitable for such
1915 storage.

1916 (u) Sales of machinery and equipment to nonprofit
1917 organizations if the organization:

1918 (i) Is tax-exempt pursuant to Section 501(c)(4) of
1919 the Internal Revenue Code of 1986, as amended;

1920 (ii) Assists in the implementation of the national
1921 contingency plan or area contingency plan, and which is created in
1922 response to the requirements of Title IV, Subtitle B of the Oil
1923 Pollution Act of 1990, Public Law 101-380; and

1924 (iii) Engages primarily in programs to contain,
1925 clean up and otherwise mitigate spills of oil or other substances
1926 occurring in the United States coastal and tidal waters.

1927 For purposes of this exemption, "machinery and equipment"
1928 means any ocean-going vessels, barges, booms, skimmers and other
1929 capital equipment used primarily in the operations of nonprofit
1930 organizations referred to herein.

1931 (v) Sales or leases of materials and equipment to
1932 approved business enterprises as provided under the Growth and
1933 Prosperity Act.

1934 (w) From and after July 1, 2001, sales of pollution
1935 control equipment to manufacturers or custom processors for
1936 industrial use. For the purposes of this exemption, "pollution
1937 control equipment" means equipment, devices, machinery or systems
1938 used or acquired to prevent, control, monitor or reduce air, water
1939 or groundwater pollution, or solid or hazardous waste as required
1940 by federal or state law or regulation.

1941 (x) Sales or leases to a manufacturer of motor vehicles
1942 operating a project that has been certified by the Mississippi
1943 Major Economic Impact Authority as a project as defined in Section
1944 57-75-5(f)(iv)1 of machinery and equipment; special tooling such
1945 as dies, molds, jigs and similar items treated as special tooling
1946 for federal income tax purposes; or repair parts therefor or
1947 replacements thereof; repair services thereon; fuel, supplies,
1948 electricity, coal and natural gas used directly in the manufacture
1949 of motor vehicles or motor vehicle parts or used to provide
1950 climate control for manufacturing areas.

1951 (y) Sales or leases of component materials, machinery
1952 and equipment used in the construction of a building, or any
1953 addition or improvement thereon to an enterprise operating a
1954 project that has been certified by the Mississippi Major Economic
1955 Impact Authority as a project as defined in Section
1956 57-75-5(f)(iv)1 and any other sales or leases required to
1957 establish or operate such project.

1958 (z) Sales of component materials and equipment to a
1959 business enterprise as provided under Section 57-64-33.

1960 (aa) The gross income from the stripping and painting
1961 of commercial aircraft engaged in foreign or interstate
1962 transportation business.

1963 (bb) Sales of production items used in the production
1964 of motion pictures such as film; videotape; component building
1965 materials used in the construction of a set; makeup; fabric used
1966 as or in the making of costumes; clothing, including, shoes,

1967 accessories and jewelry used as wardrobes; materials used as set
1968 dressing; materials used as props on a set or by an actor;
1969 materials used in the creation of special effects; and expendable
1970 items purchased for limited use by grip, electric and camera
1971 departments such as tape, fasteners and compressed air. For the
1972 purposes of this paragraph (bb), the term "motion picture" means a
1973 nationally distributed feature-length film, video, television
1974 series or commercial made in Mississippi, in whole or in part, for
1975 theatrical or television viewing or as a television pilot. The
1976 term "motion picture" shall not include the production of
1977 television coverage of news and athletic events, or a film, video,
1978 television series or commercial that contains any material or
1979 performance defined in Section 97-29-103.

1980 (cc) Sales or leases to an enterprise owning or
1981 operating a project that has been designated by the Mississippi
1982 Major Economic Impact Authority as a project as defined in Section
1983 57-75-5(f)(xviii) of machinery and equipment; special tooling such
1984 as dies, molds, jigs and similar items treated as special tooling
1985 for federal income tax purposes; or repair parts therefor or
1986 replacements thereof; repair services thereon; fuel, supplies,
1987 electricity, coal and natural gas used directly in the
1988 manufacturing/production operations of the project or used to
1989 provide climate control for manufacturing/production areas.

1990 (dd) Sales or leases of component materials, machinery
1991 and equipment used in the construction of a building, or any
1992 addition or improvement thereon to an enterprise owning or
1993 operating a project that has been designated by the Mississippi
1994 Major Economic Impact Authority as a project as defined in Section
1995 57-75-5(f)(xviii) and any other sales or leases required to
1996 establish or operate such project.

1997 (ee) Sales of parts used in the repair and servicing of
1998 aircraft not registered in Mississippi engaged exclusively in the

1999 business of foreign or interstate transportation to businesses
2000 engaged in aircraft repair and maintenance.

2001 (ff) Sales of component materials used in the
2002 construction of a facility, or any addition or improvement
2003 thereon, and sales or leases of machinery and equipment not later
2004 than three (3) months after the completion of construction of the
2005 facility, or any addition or improvement thereto, to be used in
2006 the building or any addition or improvement thereto, to a
2007 permanent business enterprise operating a data/information
2008 enterprise in Tier Three areas (as such areas are designated in
2009 accordance with Section 57-73-21), meeting minimum criteria
2010 established by the Mississippi Development Authority.

2011 (gg) Sales of component materials used in the
2012 construction of a facility, or any addition or improvement
2013 thereto, and sales of machinery and equipment not later than three
2014 (3) months after the completion of construction of the facility,
2015 or any addition or improvement thereto, to be used in the facility
2016 or any addition or improvement thereto, to technology intensive
2017 enterprises for industrial purposes in Tier Three areas (as such
2018 areas are designated in accordance with Section 57-73-21), as
2019 certified by the State Tax Commission. For purposes of this
2020 paragraph, an enterprise must meet the criteria provided for in
2021 Section 27-65-17(1)(f) in order to be considered a technology
2022 intensive enterprise.

2023 (2) Sales of component materials used in the construction of
2024 a building, or any addition or improvement thereon, sales of
2025 machinery and equipment to be used therein, and sales of
2026 manufacturing or processing machinery and equipment which is
2027 permanently attached to the ground or to a permanent foundation
2028 and which is not by its nature intended to be housed within a
2029 building structure, not later than three (3) months after the
2030 initial start-up date, to permanent business enterprises engaging
2031 in manufacturing or processing in Tier Two areas and Tier One

2032 areas (as such areas are designated in accordance with Section
2033 57-73-21), which businesses are certified by the State Tax
2034 Commission as being eligible for the exemption granted in this
2035 paragraph, shall be exempt from one-half (1/2) of the taxes
2036 imposed on such transactions under this chapter.

2037 (3) Sales of component materials used in the construction of
2038 a facility, or any addition or improvement thereon, and sales or
2039 leases of machinery and equipment not later than three (3) months
2040 after the completion of construction of the facility, or any
2041 addition or improvement thereto, to be used in the building or any
2042 addition or improvement thereto, to a permanent business
2043 enterprise operating a data/information enterprise in Tier Two
2044 areas and Tier One areas (as such areas are designated in
2045 accordance with Section 57-73-21), which businesses meet minimum
2046 criteria established by the Mississippi Development Authority,
2047 shall be exempt from one-half (1/2) of the taxes imposed on such
2048 transaction under this chapter.

2049 (4) Sales of component materials used in the construction of
2050 a facility, or any addition or improvement thereto, and sales of
2051 machinery and equipment not later than three (3) months after the
2052 completion of construction of the facility, or any addition or
2053 improvement thereto, to be used in the building or any addition or
2054 improvement thereto, to technology intensive enterprises for
2055 industrial purposes in Tier Two areas and Tier One areas (as such
2056 areas are designated in accordance with Section 57-73-21), which
2057 businesses are certified by the State Tax Commission as being
2058 eligible for the exemption granted in this paragraph, shall be
2059 exempt from one-half (1/2) of the taxes imposed on such
2060 transactions under this chapter. For purposes of this subsection,
2061 an enterprise must meet the criteria provided for in Section
2062 27-65-17(1)(f) in order to be considered a technology intensive
2063 enterprise.

2064 (5) (a) For purposes of this subsection:

2065 (i) "Telecommunications enterprises" shall have
2066 the meaning ascribed to such term in Section 57-73-21 * * *;
2067 (ii) "Tier One areas" mean counties designated as
2068 Tier One areas pursuant to Section 57-73-21 * * *;
2069 (iii) "Tier Two areas" mean counties designated as
2070 Tier Two areas pursuant to Section 57-73-21 * * *;
2071 (iv) "Tier Three areas" mean counties designated
2072 as Tier Three areas pursuant to Section 57-73-21 * * *; and
2073 (v) "Equipment used in the deployment of broadband
2074 technologies" means any equipment capable of being used for or in
2075 connection with the transmission of information at a rate, prior
2076 to taking into account the effects of any signal degradation, that
2077 is not less than three hundred eighty-four (384) kilobits per
2078 second in at least one direction, including, but not limited to,
2079 asynchronous transfer mode switches, digital subscriber line
2080 access multiplexers, routers, servers, multiplexers, fiber optics
2081 and related equipment.

2082 (b) Sales of equipment to telecommunications
2083 enterprises after June 30, 2003, and before July 1, 2013, that is
2084 installed in Tier One areas and used in the deployment of
2085 broadband technologies shall be exempt from one-half (1/2) of the
2086 taxes imposed on such transactions under this chapter.

2087 (c) Sales of equipment to telecommunications
2088 enterprises after June 30, 2003, and before July 1, 2013, that is
2089 installed in Tier Two and Tier Three areas and used in the
2090 deployment of broadband technologies shall be exempt from the
2091 taxes imposed on such transactions under this chapter.

2092 **SECTION 66.** Section 57-73-21, Mississippi Code of 1972, is
2093 amended as follows:

2094 **[In cases involving business enterprises that received or**
2095 **applied for the job tax credit authorized by this section prior to**
2096 **January 1, 2005, this section shall read as follows:]**

2097 57-73-21. (1) Annually by December 31, using the most
2098 current data available from the University Research Center,
2099 Mississippi Department of Employment Security and the United
2100 States Department of Commerce, the State Tax Commission shall rank
2101 and designate the state's counties as provided in this section.
2102 The twenty-eight (28) counties in this state having a combination
2103 of the highest unemployment rate and lowest per capita income for
2104 the most recent thirty-six-month period, with equal weight being
2105 given to each category, are designated Tier Three areas. The
2106 twenty-seven (27) counties in the state with a combination of the
2107 next highest unemployment rate and next lowest per capita income
2108 for the most recent thirty-six-month period, with equal weight
2109 being given to each category, are designated Tier Two areas. The
2110 twenty-seven (27) counties in the state with a combination of the
2111 lowest unemployment rate and the highest per capita income for the
2112 most recent thirty-six-month period, with equal weight being given
2113 to each category, are designated Tier One areas. Counties
2114 designated by the Tax Commission qualify for the appropriate tax
2115 credit for jobs as provided in subsections (2), (3) and (4) of
2116 this section. The designation by the Tax Commission is effective
2117 for the tax years of permanent business enterprises which begin
2118 after the date of designation. For companies which plan an
2119 expansion in their labor forces, the Tax Commission shall
2120 prescribe certification procedures to ensure that the companies
2121 can claim credits in future years without regard to whether or not
2122 a particular county is removed from the list of Tier Three or Tier
2123 Two areas.

2124 (2) Permanent business enterprises primarily engaged in
2125 manufacturing, processing, warehousing, distribution, wholesaling
2126 and research and development, or permanent business enterprises
2127 designated by rule and regulation of the Mississippi Development
2128 Authority as air transportation and maintenance facilities, final
2129 destination or resort hotels having a minimum of one hundred fifty

2130 (150) guest rooms, recreational facilities that impact tourism,
2131 movie industry studios, telecommunications enterprises, data or
2132 information processing enterprises or computer software
2133 development enterprises or any technology intensive facility or
2134 enterprise, in counties designated by the Tax Commission as Tier
2135 Three areas are allowed a job tax credit for taxes imposed by
2136 Section 27-7-5 equal to Two Thousand Dollars (\$2,000.00) annually
2137 for each net new full-time employee job for five (5) years
2138 beginning with years two (2) through six (6) after the creation of
2139 the job. The number of new full-time jobs must be determined by
2140 comparing the monthly average number of full-time employees
2141 subject to the Mississippi income tax withholding for the taxable
2142 year with the corresponding period of the prior taxable year.
2143 Only those permanent businesses that increase employment by ten
2144 (10) or more in a Tier Three area are eligible for the credit.
2145 Credit is not allowed during any of the five (5) years if the net
2146 employment increase falls below ten (10). The Tax Commission
2147 shall adjust the credit allowed each year for the net new
2148 employment fluctuations above the minimum level of ten (10).

2149 (3) Permanent business enterprises primarily engaged in
2150 manufacturing, processing, warehousing, distribution, wholesaling
2151 and research and development, or permanent business enterprises
2152 designated by rule and regulation of the Mississippi Development
2153 Authority as air transportation and maintenance facilities, final
2154 destination or resort hotels having a minimum of one hundred fifty
2155 (150) guest rooms, recreational facilities that impact tourism,
2156 movie industry studios, telecommunications enterprises, data or
2157 information processing enterprises or computer software
2158 development enterprises or any technology intensive facility or
2159 enterprise, in counties that have been designated by the Tax
2160 Commission as Tier Two areas are allowed a job tax credit for
2161 taxes imposed by Section 27-7-5 equal to One Thousand Dollars
2162 (\$1,000.00) annually for each net new full-time employee job for

2163 five (5) years beginning with years two (2) through six (6) after
2164 the creation of the job. The number of new full-time jobs must be
2165 determined by comparing the monthly average number of full-time
2166 employees subject to Mississippi income tax withholding for the
2167 taxable year with the corresponding period of the prior taxable
2168 year. Only those permanent businesses that increase employment by
2169 fifteen (15) or more in Tier Two areas are eligible for the
2170 credit. The credit is not allowed during any of the five (5)
2171 years if the net employment increase falls below fifteen (15).
2172 The Tax Commission shall adjust the credit allowed each year for
2173 the net new employment fluctuations above the minimum level of
2174 fifteen (15).

2175 (4) Permanent business enterprises primarily engaged in
2176 manufacturing, processing, warehousing, distribution, wholesaling
2177 and research and development, or permanent business enterprises
2178 designated by rule and regulation of the Mississippi Development
2179 Authority as air transportation and maintenance facilities, final
2180 destination or resort hotels having a minimum of one hundred fifty
2181 (150) guest rooms, recreational facilities that impact tourism,
2182 movie industry studios, telecommunications enterprises, data or
2183 information processing enterprises or computer software
2184 development enterprises or any technology intensive facility or
2185 enterprise, in counties designated by the Tax Commission as Tier
2186 One areas are allowed a job tax credit for taxes imposed by
2187 Section 27-7-5 equal to Five Hundred Dollars (\$500.00) annually
2188 for each net new full-time employee job for five (5) years
2189 beginning with years two (2) through six (6) after the creation of
2190 the job. The number of new full-time jobs must be determined by
2191 comparing the monthly average number of full-time employees
2192 subject to Mississippi income tax withholding for the taxable year
2193 with the corresponding period of the prior taxable year. Only
2194 those permanent businesses that increase employment by twenty (20)
2195 or more in Tier One areas are eligible for the credit. The credit

2196 is not allowed during any of the five (5) years if the net
2197 employment increase falls below twenty (20). The Tax Commission
2198 shall adjust the credit allowed each year for the net new
2199 employment fluctuations above the minimum level of twenty (20).

2200 (5) In addition to the credits authorized in subsections
2201 (2), (3) and (4), an additional Five Hundred Dollars (\$500.00)
2202 credit for each net new full-time employee or an additional One
2203 Thousand Dollars (\$1,000.00) credit for each net new full-time
2204 employee who is paid a salary, excluding benefits which are not
2205 subject to Mississippi income taxation, of at least one hundred
2206 twenty-five percent (125%) of the average annual wage of the state
2207 or an additional Two Thousand Dollars (\$2,000.00) credit for each
2208 net new full-time employee who is paid a salary, excluding
2209 benefits which are not subject to Mississippi income taxation, of
2210 at least two hundred percent (200%) of the average annual wage of
2211 the state, shall be allowed for any company establishing or
2212 transferring its national or regional headquarters from within or
2213 outside the State of Mississippi. A minimum of thirty-five (35)
2214 jobs must be created to qualify for the additional credit. The
2215 State Tax Commission shall establish criteria and prescribe
2216 procedures to determine if a company qualifies as a national or
2217 regional headquarters for purposes of receiving the credit awarded
2218 in this subsection. As used in this subsection, the average
2219 annual wage of the state is the most recently published average
2220 annual wage as determined by the Mississippi Department of
2221 Employment Security.

2222 (6) In addition to the credits authorized in subsections
2223 (2), (3), (4) and (5), any job requiring research and development
2224 skills (chemist, engineer, etc.) shall qualify for an additional
2225 One Thousand Dollars (\$1,000.00) credit for each net new full-time
2226 employee.

2227 (7) In lieu of the tax credits provided in subsections (2)
2228 through (6), any commercial or industrial property owner which

2229 remediates contaminated property in accordance with Sections
2230 49-35-1 through 49-35-25, is allowed a job tax credit for taxes
2231 imposed by Section 27-7-5 equal to the amounts provided in
2232 subsection (2), (3) or (4) for each net new full-time employee job
2233 for five (5) years beginning with years two (2) through six (6)
2234 after the creation of the job. The number of new full-time jobs
2235 must be determined by comparing the monthly average number of
2236 full-time employees subject to Mississippi income tax withholding
2237 for the taxable year with the corresponding period of the prior
2238 taxable year. This subsection shall be administered in the same
2239 manner as subsections (2), (3) and (4), except the landowner shall
2240 not be required to increase employment by the levels provided in
2241 subsections (2), (3) and (4) to be eligible for the tax credit.

2242 (8) Tax credits for five (5) years for the taxes imposed by
2243 Section 27-7-5 shall be awarded for additional net new full-time
2244 jobs created by business enterprises qualified under subsections
2245 (2), (3), (4), (5), (6) and (7) of this section. Except as
2246 otherwise provided, the Tax Commission shall adjust the credit
2247 allowed in the event of employment fluctuations during the
2248 additional five (5) years of credit.

2249 (9) The sale, merger, acquisition, reorganization,
2250 bankruptcy or relocation from one county to another county within
2251 the state of any business enterprise may not create new
2252 eligibility in any succeeding business entity, but any unused job
2253 tax credit may be transferred and continued by any transferee of
2254 the business enterprise. The Tax Commission shall determine
2255 whether or not qualifying net increases or decreases have occurred
2256 or proper transfers of credit have been made and may require
2257 reports, promulgate regulations, and hold hearings as needed for
2258 substantiation and qualification.

2259 (10) Any tax credit claimed under this section but not used
2260 in any taxable year may be carried forward for five (5) years from
2261 the close of the tax year in which the qualified jobs were

2262 established but the credit established by this section taken in
2263 any one (1) tax year must be limited to an amount not greater than
2264 fifty percent (50%) of the taxpayer's state income tax liability
2265 which is attributable to income derived from operations in the
2266 state for that year.

2267 (11) No business enterprise for the transportation,
2268 handling, storage, processing or disposal of hazardous waste is
2269 eligible to receive the tax credits provided in this section.

2270 (12) The credits allowed under this section shall not be
2271 used by any business enterprise or corporation other than the
2272 business enterprise actually qualifying for the credits.

2273 (13) The tax credits provided for in this section shall be
2274 in addition to any tax credits described in Sections 57-51-13(b),
2275 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official
2276 action by the Department of Economic Development prior to July 1,
2277 1989, to any business enterprise determined prior to July 1, 1989,
2278 by the Department of Economic Development to be a qualified
2279 business as defined in Section 57-51-5(f) or Section 57-54-5(d) or
2280 a qualified company as described in Section 57-53-1, as the case
2281 may be; however, from and after July 1, 1989, tax credits shall be
2282 allowed only under either this section or Sections 57-51-13(b),
2283 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time
2284 employee.

2285 (14) As used in this section, the term "telecommunications
2286 enterprises" means entities engaged in the creation, display,
2287 management, storage, processing, transmission or distribution for
2288 compensation of images, text, voice, video or data by wire or by
2289 wireless means, or entities engaged in the construction, design,
2290 development, manufacture, maintenance or distribution for
2291 compensation of devices, products, software or structures used in
2292 the above activities. Companies organized to do business as
2293 commercial broadcast radio stations, television stations or news
2294 organizations primarily serving in-state markets shall not be

2295 included within the definition of the term "telecommunications
2296 enterprises."

2297 **[In cases involving business enterprises that apply for the**
2298 **job tax credit authorized by this section from and after January**
2299 **1, 2005, this section shall read as follows:]**

2300 57-73-21. (1) Annually by December 31, using the most
2301 current data available from the University Research Center,
2302 Mississippi Department of Employment Security and the United
2303 States Department of Commerce, the State Tax Commission shall rank
2304 and designate the state's counties as provided in this section.
2305 The twenty-eight (28) counties in this state having a combination
2306 of the highest unemployment rate and lowest per capita income for
2307 the most recent thirty-six-month period, with equal weight being
2308 given to each category, are designated Tier Three areas. The
2309 twenty-seven (27) counties in the state with a combination of the
2310 next highest unemployment rate and next lowest per capita income
2311 for the most recent thirty-six-month period, with equal weight
2312 being given to each category, are designated Tier Two areas. The
2313 twenty-seven (27) counties in the state with a combination of the
2314 lowest unemployment rate and the highest per capita income for the
2315 most recent thirty-six-month period, with equal weight being given
2316 to each category, are designated Tier One areas. Counties
2317 designated by the Tax Commission qualify for the appropriate tax
2318 credit for jobs as provided in * * * this section. The
2319 designation by the Tax Commission is effective for the tax years
2320 of permanent business enterprises which begin after the date of
2321 designation. For companies which plan an expansion in their labor
2322 forces, the Tax Commission shall prescribe certification
2323 procedures to ensure that the companies can claim credits in
2324 future years without regard to whether or not a particular county
2325 is removed from the list of Tier Three or Tier Two areas.

2326 (2) Permanent business enterprises * * * in counties
2327 designated by the Tax Commission as Tier Three areas are allowed a

2328 job tax credit for taxes imposed by Section 27-7-5 equal to ten
2329 percent (10%) of the payroll of the enterprise for net new
2330 full-time employee jobs for five (5) years beginning with years
2331 two (2) through six (6) after the creation of the minimum number
2332 of jobs required by this subsection. The number of new full-time
2333 jobs must be determined by comparing the monthly average number of
2334 full-time employees subject to the Mississippi income tax
2335 withholding for the taxable year with the corresponding period of
2336 the prior taxable year. Only those permanent business enterprises
2337 that increase employment by ten (10) or more in a Tier Three area
2338 are eligible for the credit. Credit is not allowed during any of
2339 the five (5) years if the net employment increase falls below ten
2340 (10). The Tax Commission shall adjust the credit allowed each
2341 year for the net new employment fluctuations above the minimum
2342 level of ten (10).

2343 (3) Permanent business enterprises * * * in counties that
2344 have been designated by the Tax Commission as Tier Two areas are
2345 allowed a job tax credit for taxes imposed by Section 27-7-5 equal
2346 to five percent (5%) of the payroll of the enterprise for net new
2347 full-time employee jobs for five (5) years beginning with years
2348 two (2) through six (6) after the creation of the minimum number
2349 of jobs required by this subsection. The number of new full-time
2350 jobs must be determined by comparing the monthly average number of
2351 full-time employees subject to Mississippi income tax withholding
2352 for the taxable year with the corresponding period of the prior
2353 taxable year. Only those permanent business enterprises that
2354 increase employment by fifteen (15) or more in Tier Two areas are
2355 eligible for the credit. The credit is not allowed during any of
2356 the five (5) years if the net employment increase falls below
2357 fifteen (15). The Tax Commission shall adjust the credit allowed
2358 each year for the net new employment fluctuations above the
2359 minimum level of fifteen (15).

2360 (4) Permanent business enterprises * * * in counties
2361 designated by the Tax Commission as Tier One areas are allowed a
2362 job tax credit for taxes imposed by Section 27-7-5 equal to two
2363 and one-half percent (2.5%) of the payroll of the enterprise for
2364 net new full-time employee jobs for five (5) years beginning with
2365 years two (2) through six (6) after the creation of the minimum
2366 number of jobs required by this subsection. The number of new
2367 full-time jobs must be determined by comparing the monthly average
2368 number of full-time employees subject to Mississippi income tax
2369 withholding for the taxable year with the corresponding period of
2370 the prior taxable year. Only those permanent business enterprises
2371 that increase employment by twenty (20) or more in Tier One areas
2372 are eligible for the credit. The credit is not allowed during any
2373 of the five (5) years if the net employment increase falls below
2374 twenty (20). The Tax Commission shall adjust the credit allowed
2375 each year for the net new employment fluctuations above the
2376 minimum level of twenty (20).

2377 (5) In addition to the other credits authorized in this
2378 section, an additional Five Hundred Dollars (\$500.00) credit for
2379 each net new full-time employee or an additional One Thousand
2380 Dollars (\$1,000.00) credit for each net new full-time employee who
2381 is paid a salary, excluding benefits which are not subject to
2382 Mississippi income taxation, of at least one hundred twenty-five
2383 percent (125%) of the average annual wage of the state or an
2384 additional Two Thousand Dollars (\$2,000.00) credit for each net
2385 new full-time employee who is paid a salary, excluding benefits
2386 which are not subject to Mississippi income taxation, of at least
2387 two hundred percent (200%) of the average annual wage of the
2388 state, shall be allowed for any company establishing or
2389 transferring its national or regional headquarters from within or
2390 outside the State of Mississippi. A minimum of thirty-five (35)
2391 jobs must be created to qualify for the additional credit. The
2392 State Tax Commission shall establish criteria and prescribe

2393 procedures to determine if a company qualifies as a national or
2394 regional headquarters for purposes of receiving the credit awarded
2395 in this subsection. As used in this subsection, the average
2396 annual wage of the state is the most recently published average
2397 annual wage as determined by the Mississippi Department of
2398 Employment Security.

2399 (6) In addition to the other credits authorized in this
2400 section, any job requiring research and development skills
2401 (chemist, engineer, etc.) shall qualify for an additional One
2402 Thousand Dollars (\$1,000.00) credit for each net new full-time
2403 employee.

2404 (7) In lieu of the other tax credits provided in this
2405 section, any commercial or industrial property owner which
2406 remediates contaminated property in accordance with Sections
2407 49-35-1 through 49-35-25, is allowed a job tax credit for taxes
2408 imposed by Section 27-7-5 equal to the percentage of payroll
2409 provided in subsection (2), (3) or (4) of this section for * * *
2410 net new full-time employee jobs for five (5) years beginning with
2411 years two (2) through six (6) after the creation of the jobs. The
2412 number of new full-time jobs must be determined by comparing the
2413 monthly average number of full-time employees subject to
2414 Mississippi income tax withholding for the taxable year with the
2415 corresponding period of the prior taxable year. This subsection
2416 shall be administered in the same manner as subsections (2), (3)
2417 and (4), except the landowner shall not be required to increase
2418 employment by the levels provided in subsections (2), (3) and (4)
2419 to be eligible for the tax credit.

2420 (8) (a) Tax credits for five (5) years for the taxes
2421 imposed by Section 27-7-5 shall be awarded for increases in the
2422 annual payroll for net new full-time jobs created by business
2423 enterprises qualified under this section. The Tax Commission
2424 shall adjust the credit allowed in the event of payroll
2425 fluctuations during the additional five (5) years of credit.

2426 **(b)** Tax credits for five (5) years for the taxes
2427 imposed by Section 27-7-5 shall be awarded for additional net new
2428 full-time jobs created by business enterprises qualified under
2429 subsections * * * (5) and (6) * * * of this section. * * * The
2430 Tax Commission shall adjust the credit allowed in the event of
2431 employment fluctuations during the additional five (5) years of
2432 credit.

2433 (9) The sale, merger, acquisition, reorganization,
2434 bankruptcy or relocation from one county to another county within
2435 the state of any business enterprise may not create new
2436 eligibility in any succeeding business entity, but any unused job
2437 tax credit may be transferred and continued by any transferee of
2438 the business enterprise. The Tax Commission shall determine
2439 whether or not qualifying net increases or decreases have occurred
2440 or proper transfers of credit have been made and may require
2441 reports, promulgate regulations, and hold hearings as needed for
2442 substantiation and qualification.

2443 (10) Any tax credit claimed under this section but not used
2444 in any taxable year may be carried forward for five (5) years from
2445 the close of the tax year in which the qualified jobs were
2446 established but the credit established by this section taken in
2447 any one tax year must be limited to an amount not greater than
2448 fifty percent (50%) of the taxpayer's state income tax liability
2449 which is attributable to income derived from operations in the
2450 state for that year.

2451 (11) No business enterprise for the transportation,
2452 handling, storage, processing or disposal of hazardous waste is
2453 eligible to receive the tax credits provided in this section.

2454 (12) The credits allowed under this section shall not be
2455 used by any business enterprise or corporation other than the
2456 business enterprise actually qualifying for the credits.

2457 (13) As used in this section:

2458 (a) "Business enterprises" means entities primarily
2459 engaged in:

2460 (i) Manufacturing, processing, warehousing,
2461 distribution, wholesaling and research and development, or

2462 (ii) Permanent business enterprises designated by
2463 rule and regulation of the Mississippi Development Authority as
2464 air transportation and maintenance facilities, final destination
2465 or resort hotels having a minimum of one hundred fifty (150) guest
2466 rooms, recreational facilities that impact tourism, movie industry
2467 studios, telecommunications enterprises, data or information
2468 processing enterprises or computer software development
2469 enterprises or any technology intensive facility or enterprise.

2470 (b) "Telecommunications enterprises" means entities
2471 engaged in the creation, display, management, storage, processing,
2472 transmission or distribution for compensation of images, text,
2473 voice, video or data by wire or by wireless means, or entities
2474 engaged in the construction, design, development, manufacture,
2475 maintenance or distribution for compensation of devices, products,
2476 software or structures used in the above activities. Companies
2477 organized to do business as commercial broadcast radio stations,
2478 television stations or news organizations primarily serving
2479 in-state markets shall not be included within the definition of
2480 the term "telecommunications enterprises."

2481 (14) The tax credits provided for in this section shall be
2482 in addition to any tax credits described in Sections 57-51-13(b),
2483 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official
2484 action by the Department of Economic Development prior to July 1,
2485 1989, to any business enterprise determined prior to July 1, 1989,
2486 by the Department of Economic Development to be a qualified
2487 business as defined in Section 57-51-5(f) or Section 57-54-5(d) or
2488 a qualified company as described in Section 57-53-1, as the case
2489 may be; however, from and after July 1, 1989, tax credits shall be
2490 allowed only under either this section or Sections 57-51-13(b),

2491 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time
2492 employee.

2493 * * *

2494 SECTION 67. Section 57-73-25, Mississippi Code of 1972, is
2495 amended as follows:

2496 57-73-25. (1) A fifty percent (50%) income tax credit shall
2497 be granted to any employer (as defined in subsection (4) of this
2498 section) sponsoring skills training. The fifty percent (50%)
2499 credit shall be granted to employers that participate in
2500 employer-sponsored training programs through any community/junior
2501 college in the district within which the employer is located or
2502 training approved by such community/junior college. The credit is
2503 applied to qualified training expenses, which are expenses related
2504 to instructors, instructional materials and equipment, and the
2505 construction and maintenance of facilities by such employer
2506 designated for training purposes which is attributable to training
2507 provided through such community/junior college or training
2508 approved by such community/junior college. The credits allowed
2509 under this section shall only be used by the actual employer
2510 qualifying for the credits. The credit shall not exceed fifty
2511 percent (50%) of the income tax liability in a tax year and may be
2512 carried forward for the five (5) successive years if the amount
2513 allowable as credit exceeds the income tax liability in a tax
2514 year; however, thereafter, if the amount allowable as a credit
2515 exceeds the tax liability, the amount of excess shall not be
2516 refundable or carried forward to any other taxable year. The
2517 credit authorized under this section shall not exceed Two Thousand
2518 Five Hundred Dollars (\$2,500.00) per employee during any one (1)
2519 year. Nothing in this section shall be interpreted in any manner
2520 as to prevent the continuing operation of state-supported
2521 university programs.

2522 (2) Employer-sponsored training shall include an evaluation
2523 by the local community or junior college that serves the employer

2524 to ensure that the training provided is job related and conforms
2525 to the definition of "skills training" as hereinafter defined.

2526 (3) Employers shall be certified as eligible for the tax
2527 credit by the local community or junior college that serves the
2528 employer and the State Tax Commission.

2529 (4) For the purposes of this section:

2530 (a) "Skills training" means any employer-sponsored
2531 training by an appropriate community/junior college or training
2532 approved by such community/junior college that enhances skills
2533 that improve job performance. If the employer provides
2534 pre-employment training, the portion of the pre-employment
2535 training that involves skills training shall be eligible for the
2536 credit.

2537 (b) "Employer-sponsored training" means training
2538 provided by the appropriate community/junior college in the
2539 district within which the employer is located or training approved
2540 by such community/junior college.

2541 (c) "Employer" means those permanent business
2542 enterprises as defined and set out in Section 57-73-21 * * *.

2543 (5) The tax credits provided for in this section shall be in
2544 addition to all other tax credits heretofore granted by the laws
2545 of the state.

2546 (6) A community/junior college may commit to provide
2547 employer-sponsored skills training programs for an employer for a
2548 multiple number of years, not to exceed five (5) years.

2549 (7) The State Board for Community and Junior Colleges shall
2550 make a report to the Legislature by January 30 of each year
2551 summarizing the number of participants, the junior or community
2552 college through which the training was offered and the type
2553 training offered.

2554 (8) This section shall stand repealed from and after July 1,
2555 2006.

2556 SECTION 68. Section 57-10-401, Mississippi Code of 1972, is
2557 amended as follows:

2558 **[In cases involving an economic development project for which**
2559 **the Mississippi Business Finance Corporation has issued bonds for**
2560 **the purpose of financing the approved costs of such project prior**
2561 **to July 1, 1994, this section shall read as follows:]**

2562 57-10-401. As used in Sections 57-10-401 through 57-10-445
2563 the following terms shall have the meanings ascribed to them
2564 herein unless the context clearly indicates otherwise:

2565 (a) "Approved company" means any eligible company
2566 seeking to locate an economic development project in a county,
2567 which eligible company is approved by the corporation.

2568 (b) "Approved costs" means:

2569 (i) Obligations incurred for equipment and labor
2570 and to contractors, subcontractors, builders and materialmen in
2571 connection with the acquisition, construction and installation of
2572 an economic development project;

2573 (ii) The cost of acquiring land or rights in land
2574 and any cost incidental thereto, including recording fees;

2575 (iii) The cost of contract bonds and of insurance
2576 of all kinds that may be required or necessary during the course
2577 of acquisition, construction and installation of an economic
2578 development project which is not paid by the contractor or
2579 contractors or otherwise provided for;

2580 (iv) All costs of architectural and engineering
2581 services, including test borings, surveys, estimates, plans and
2582 specifications, preliminary investigations, and supervision of
2583 construction, as well as for the performance of all the duties
2584 required by or consequent upon the acquisition, construction and
2585 installation of an economic development project;

2586 (v) All costs which shall be required to be paid
2587 under the terms of any contract or contracts for the acquisition,
2588 construction and installation of an economic development project;

2589 (vi) All costs, expenses and fees incurred in
2590 connection with the issuance of bonds pursuant to Sections
2591 57-10-401 through 57-10-445;

2592 (vii) All costs funded by a loan made under the
2593 Mississippi Small Enterprise Development Finance Act; and

2594 (viii) All costs of professionals permitted to be
2595 engaged under the Mississippi Small Enterprise Development Finance
2596 Act for a loan made under such act.

2597 (c) "Assessment" means the job development assessment
2598 fee authorized in Section 57-10-413.

2599 (d) "Bonds" means the revenue bonds, notes or other
2600 debt obligations of the corporation authorized to be issued by the
2601 corporation on behalf of an eligible company or other state
2602 agency.

2603 (e) "Corporation" means the Mississippi Business
2604 Finance Corporation created under Section 57-10-167, Mississippi
2605 Code of 1972.

2606 (f) "Economic development project" means and includes
2607 the acquisition of any equipment or real estate in a county and
2608 the construction and installation thereon, and with respect
2609 thereto, of improvements and facilities necessary or desirable for
2610 improvement of the real estate, including surveys, site tests and
2611 inspections, subsurface site work, excavation, removal of
2612 structures, roadways, cemeteries and other surface obstructions,
2613 filling, grading and provision of drainage, storm water detention,
2614 installation of utilities such as water, sewer, sewage treatment,
2615 gas, electricity, communications and similar facilities, off-site
2616 construction of utility extensions to the boundaries of the real
2617 estate, and the acquisition, construction and installation of
2618 manufacturing, telecommunications, data processing, distribution
2619 or warehouse facilities on the real estate, for lease or financial
2620 arrangement by the corporation to an approved company for use and
2621 occupancy by the approved company or its affiliates for

2622 manufacturing, telecommunications, data processing, distribution
2623 or warehouse purposes. Such term also includes, without
2624 limitation, any project the financing of which has been approved
2625 under the Mississippi Small Enterprise Development Finance Act.

2626 (g) "Eligible company" means any corporation,
2627 partnership, sole proprietorship, business trust, or other entity
2628 which is:

2629 (i) Engaged in manufacturing which meets the
2630 standards promulgated by the corporation under Sections 57-10-401
2631 through 57-10-445;

2632 (ii) A private company approved by the corporation
2633 for a loan under the Mississippi Small Enterprise Development
2634 Finance Act;

2635 (iii) A distribution or warehouse facility
2636 employing a minimum of fifty (50) people or employing a minimum of
2637 twenty (20) people and having a capital investment in such
2638 facility of at least Five Million Dollars (\$5,000,000.00); or

2639 (iv) A telecommunications or data processing
2640 business.

2641 (h) "Executive director" means the Executive Director
2642 of the Mississippi Business Finance Corporation.

2643 (i) "Financing agreement" means any financing documents
2644 and agreements, indentures, loan agreements, lease agreements,
2645 security agreements and the like, entered into by and among the
2646 corporation, private lenders and an approved company with respect
2647 to an economic development project.

2648 (j) "Manufacturing" means any activity involving the
2649 manufacturing, processing, assembling or production of any
2650 property, including the processing resulting in a change in the
2651 conditions of the property and any activity functionally related
2652 thereto, together with the storage, warehousing, distribution and
2653 related office facilities in respect thereof as determined by the
2654 Mississippi Business Finance Corporation; however, in no event

2655 shall "manufacturing" include mining, coal or mineral processing,
2656 or extraction of Mississippi minerals.

2657 (k) "State agency" means any state board, commission,
2658 committee, council, university, department or unit thereof created
2659 by the Constitution or laws of this state.

2660 (l) "Revenues" shall not be considered state funds.

2661 (m) "State" means the State of Mississippi.

2662 (n) "Mississippi Small Enterprise Development Finance
2663 Act" means the provisions of law contained in Section 57-71-1 et
2664 seq.

2665 **[In cases involving an economic development project for which**
2666 **the Mississippi Business Finance Corporation has not issued bonds**
2667 **for the purpose of financing the approved costs of such project**
2668 **prior to July 1, 1994, this section shall read as follows:]**

2669 57-10-401. As used in Sections 57-10-401 through 57-10-445
2670 the following terms shall have the meanings ascribed to them
2671 herein unless the context clearly indicates otherwise:

2672 (a) "Approved company" means any eligible company
2673 seeking to locate an economic development project in a county,
2674 which eligible company is approved by the corporation.

2675 (b) "Approved costs" means:

2676 (i) Obligations incurred for equipment and labor
2677 and to contractors, subcontractors, builders and materialmen in
2678 connection with the acquisition, construction and installation of
2679 an economic development project;

2680 (ii) The cost of acquiring land or rights in land
2681 and any cost incidental thereto, including recording fees;

2682 (iii) The cost of contract bonds and of insurance
2683 of all kinds that may be required or necessary during the course
2684 of acquisition, construction and installation of an economic
2685 development project which is not paid by the contractor or
2686 contractors or otherwise provided for;

2687 (iv) All costs of architectural and engineering
2688 services, including test borings, surveys, estimates, plans and
2689 specifications, preliminary investigations, and supervision of
2690 construction, as well as for the performance of all the duties
2691 required by or consequent upon the acquisition, construction and
2692 installation of an economic development project;

2693 (v) All costs which shall be required to be paid
2694 under the terms of any contract or contracts for the acquisition,
2695 construction and installation of an economic development project;

2696 (vi) All costs, expenses and fees incurred in
2697 connection with the issuance of bonds pursuant to Sections
2698 57-10-401 through 57-10-445;

2699 (vii) All costs funded by a loan made under the
2700 Mississippi Small Enterprise Development Finance Act; and

2701 (viii) All costs of professionals permitted to be
2702 engaged under the Mississippi Small Enterprise Development Finance
2703 Act for a loan made under such act.

2704 (c) "Assessment" means the job development assessment
2705 fee authorized in Section 57-10-413.

2706 (d) "Bonds" means the revenue bonds, notes or other
2707 debt obligations of the corporation authorized to be issued by the
2708 corporation on behalf of an eligible company or other state
2709 agency.

2710 (e) "Corporation" means the Mississippi Business
2711 Finance Corporation created under Section 57-10-167, Mississippi
2712 Code of 1972.

2713 (f) "Economic development project" means and includes
2714 the acquisition of any equipment or real estate in a county and
2715 the construction and installation thereon, and with respect
2716 thereto, of improvements and facilities necessary or desirable for
2717 improvement of the real estate, including surveys, site tests and
2718 inspections, subsurface site work, excavation, removal of
2719 structures, roadways, cemeteries and other surface obstructions,

2720 filling, grading and provision of drainage, storm water detention,
2721 installation of utilities such as water, sewer, sewage treatment,
2722 gas, electricity, communications and similar facilities, off-site
2723 construction of utility extensions to the boundaries of the real
2724 estate, and the acquisition, construction and installation of
2725 manufacturing, telecommunications, data processing, distribution
2726 or warehouse facilities on the real estate, for lease or financial
2727 arrangement by the corporation to an approved company for use and
2728 occupancy by the approved company or its affiliates for
2729 manufacturing, telecommunications, data processing, distribution
2730 or warehouse purposes. Such term also includes, without
2731 limitation, any project the financing of which has been approved
2732 under the Mississippi Small Enterprise Development Finance Act.

2733 If an eligible company closes a facility in this state and
2734 becomes an approved company under the provisions of Sections
2735 57-10-401 through 57-10-449, only that portion of the project for
2736 which such company is attempting to obtain financing that is in
2737 excess of the value of the closed facility shall be included
2738 within the definition of the term "economic development project."
2739 The Mississippi Business Finance Corporation shall promulgate
2740 rules and regulations to govern the determination of the
2741 difference between the value of the closed facility and the new
2742 facility.

2743 (g) "Eligible company" means any corporation,
2744 partnership, sole proprietorship, business trust, or other entity
2745 which:

2746 (i) Engaged in manufacturing which meets the
2747 standards promulgated by the corporation under Sections 57-10-401
2748 through 57-10-445;

2749 (ii) A private company approved by the corporation
2750 for a loan under the Mississippi Small Enterprise Development
2751 Finance Act;

2752 (iii) A distribution or warehouse facility
2753 employing a minimum of fifty (50) people or employing a minimum of
2754 twenty (20) people and having a capital investment in such
2755 facility of at least Five Million Dollars (\$5,000,000.00); * * *

2756 (iv) A telecommunications or data/information
2757 processing business meeting criteria established by the
2758 Mississippi Business Finance Corporation;

2759 (v) National or regional headquarters meeting
2760 criteria established by the Mississippi Business Finance
2761 Corporation;

2762 (vi) Research and development facilities meeting
2763 criteria established by the Mississippi Business Finance
2764 Corporation; or

2765 (vii) Technology intensive enterprises or
2766 facilities meeting criteria established by the Mississippi
2767 Business Finance Corporation.

2768 (h) "Executive director" means the Executive Director
2769 of the Mississippi Business Finance Corporation.

2770 (i) "Financing agreement" means any financing documents
2771 and agreements, indentures, loan agreements, lease agreements,
2772 security agreements and the like, entered into by and among the
2773 corporation, private lenders and an approved company with respect
2774 to an economic development project.

2775 (j) "Manufacturing" means any activity involving the
2776 manufacturing, processing, assembling or production of any
2777 property, including the processing resulting in a change in the
2778 conditions of the property and any activity functionally related
2779 thereto, together with the storage, warehousing, distribution and
2780 related office facilities in respect thereof as determined by the
2781 Mississippi Business Finance Corporation; however, in no event
2782 shall "manufacturing" include mining, coal or mineral processing,
2783 or extraction of Mississippi minerals.

2784 (k) "State agency" means any state board, commission,
2785 committee, council, university, department or unit thereof created
2786 by the Constitution or laws of this state.

2787 (l) "Revenues" shall not be considered state funds.

2788 (m) "State" means the State of Mississippi.

2789 (n) "Mississippi Small Enterprise Development Finance
2790 Act" means the provisions of law contained in Section 57-71-1 et
2791 seq.

2792 **SECTION 69.** Section 57-62-5, Mississippi Code of 1972, is
2793 amended as follows:

2794 **[For businesses or industries that received or applied for**
2795 **incentive payments prior to July 1, 2005, this section shall read**
2796 **as follows:]**

2797 57-62-5. As used in this chapter, the following words and
2798 phrases shall have the meanings ascribed in this section unless
2799 the context clearly indicates otherwise:

2800 (a) "Qualified business or industry" means any
2801 corporation, limited liability company, partnership, sole
2802 proprietorship, business trust or other legal entity and subunits
2803 or affiliates thereof, pursuant to rules and regulations of the
2804 MDA, which provides an average annual salary, excluding benefits
2805 which are not subject to Mississippi income taxes, of at least one
2806 hundred twenty-five percent (125%) of the most recently published
2807 state average annual wage or the most recently published average
2808 annual wage of the county in which the qualified business or
2809 industry is located as determined by the Mississippi Department of
2810 Employment Security, whichever is the lesser. An establishment
2811 shall not be considered to be a qualified business or industry
2812 unless it offers, or will offer within one hundred eighty (180)
2813 days of the date it receives the first incentive payment pursuant
2814 to the provisions of this chapter, a basic health benefits plan to
2815 the individuals it employs in new direct jobs in this state which

2816 is approved by the MDA. Qualified business or industry does not
2817 include retail business or gaming business;

2818 (b) "New direct job" means full-time employment in this
2819 state in a qualified business or industry that has qualified to
2820 receive an incentive payment pursuant to this chapter, which
2821 employment did not exist in this state before the date of approval
2822 by the MDA of the application of the qualified business or
2823 industry pursuant to the provisions of this chapter. "New direct
2824 job" shall include full-time employment in this state of employees
2825 who are employed by an entity other than the establishment that
2826 has qualified to receive an incentive payment and who are leased
2827 to the qualified business or industry, if such employment did not
2828 exist in this state before the date of approval by the MDA of the
2829 application of the establishment;

2830 (c) "Full-time job" means a job of at least thirty-five
2831 (35) hours per week;

2832 (d) "Estimated direct state benefits" means the tax
2833 revenues projected by the MDA to accrue to the state as a result
2834 of the qualified business or industry;

2835 (e) "Estimated direct state costs" means the costs
2836 projected by the MDA to accrue to the state as a result of the
2837 qualified business or industry;

2838 (f) "Estimated net direct state benefits" means the
2839 estimated direct state benefits less the estimated direct state
2840 costs;

2841 (g) "Net benefit rate" means the estimated net direct
2842 state benefits computed as a percentage of gross payroll, provided
2843 that:

2844 (i) Except as otherwise provided in this paragraph
2845 (g), the net benefit rate may be variable and shall not exceed
2846 four percent (4%) of the gross payroll; and shall be set in the
2847 sole discretion of the MDA;

2848 (ii) In no event shall incentive payments,
2849 cumulatively, exceed the estimated net direct state benefits;
2850 (h) "Gross payroll" means wages for new direct jobs of
2851 the qualified business or industry; and
2852 (i) "MDA" means the Mississippi Development Authority.

2853 **[For businesses or industries that apply for incentive**
2854 **payments from and after July 1, 2005, this section shall read as**
2855 **follows:]**

2856 57-62-5. As used in this chapter, the following words and
2857 phrases shall have the meanings ascribed in this section unless
2858 the context clearly indicates otherwise:

2859 (a) "Qualified business or industry" means any
2860 corporation, limited liability company, partnership, sole
2861 proprietorship, business trust or other legal entity and subunits
2862 or affiliates thereof, pursuant to rules and regulations of the
2863 MDA, which:

2864 (i) Is a data/information processing enterprise
2865 meeting minimum criteria established by the MDA that provides an
2866 average annual salary, excluding benefits which are not subject to
2867 Mississippi income taxes, of at least one hundred percent (100%)
2868 of the most recently published state average annual wage or the
2869 most recently published average annual wage of the county in which
2870 the qualified business or industry is located as determined by the
2871 Mississippi Department of Employment Security, whichever is the
2872 lesser, and creates not less than two hundred (200) new direct
2873 jobs if the enterprise is located in a Tier One or Tier Two area
2874 (as such areas are designated in accordance with Section
2875 57-73-21), or which creates not less than one hundred (100) new
2876 jobs if the enterprise is located in a Tier Three area (as such
2877 areas are designated in accordance with Section 57-73-21);

2878 (ii) Is a manufacturing or distribution enterprise
2879 meeting minimum criteria established by the MDA that provides an
2880 average annual salary, excluding benefits which are not subject to

2881 Mississippi income taxes, of at least one hundred ten percent
2882 (110%) of the most recently published state average annual wage or
2883 the most recently published average annual wage of the county in
2884 which the qualified business or industry is located as determined
2885 by the Mississippi Department of Employment Security, whichever is
2886 the lesser, invests not less than Twenty Million Dollars
2887 (\$20,000,000.00) in land, buildings and equipment, and creates not
2888 less than fifty (50) new direct jobs if the enterprise is located
2889 in a Tier One or Tier Two area (as such areas are designated in
2890 accordance with Section 57-73-21), or which creates not less than
2891 twenty (20) new jobs if the enterprise is located in a Tier Three
2892 area (as such areas are designated in accordance with Section
2893 57-73-21);

2894 (iii) Is a corporation, limited liability company,
2895 partnership, sole proprietorship, business trust or other legal
2896 entity and subunits or affiliates thereof, pursuant to rules and
2897 regulations of the MDA, which provides an average annual salary,
2898 excluding benefits which are not subject to Mississippi income
2899 taxes, of at least one hundred twenty-five percent (125%) of the
2900 most recently published state average annual wage or the most
2901 recently published average annual wage of the county in which the
2902 qualified business or industry is located as determined by the
2903 Mississippi Department of Employment Security, whichever is the
2904 lesser. An establishment shall not be considered to be a
2905 qualified business or industry unless it offers, or will offer
2906 within one hundred eighty (180) days of the date it receives the
2907 first incentive payment pursuant to the provisions of this
2908 chapter, a basic health benefits plan to the individuals it
2909 employs in new direct jobs in this state which is approved by the
2910 MDA. Qualified business or industry does not include retail
2911 business or gaming business; or

2912 (iv) Is a research and development or a technology
2913 intensive enterprise meeting minimum criteria established by the

2914 MDA that provides an average annual salary, excluding benefits
2915 which are not subject to Mississippi income taxes, of at least one
2916 hundred fifty percent (150%) of the most recently published state
2917 average annual wage or the most recently published average annual
2918 wage of the county in which the qualified business or industry is
2919 located as determined by the Mississippi Department of Employment
2920 Security, whichever is the lesser, and creates not less than ten
2921 (10) new direct jobs.

2922 An establishment shall not be considered to be a qualified
2923 business or industry unless it offers, or will offer within one
2924 hundred eighty (180) days of the date it receives the first
2925 incentive payment pursuant to the provisions of this chapter, a
2926 basic health benefits plan to the individuals it employs in new
2927 direct jobs in this state which is approved by the MDA. Qualified
2928 business or industry does not include retail business or gaming
2929 business.

2930 (b) "New direct job" means full-time employment in this
2931 state in a qualified business or industry that has qualified to
2932 receive an incentive payment pursuant to this chapter, which
2933 employment did not exist in this state before the date of approval
2934 by the MDA of the application of the qualified business or
2935 industry pursuant to the provisions of this chapter. "New direct
2936 job" shall include full-time employment in this state of employees
2937 who are employed by an entity other than the establishment that
2938 has qualified to receive an incentive payment and who are leased
2939 to the qualified business or industry, if such employment did not
2940 exist in this state before the date of approval by the MDA of the
2941 application of the establishment.

2942 (c) "Full-time job" or "full-time employment" means a
2943 job of at least thirty-five (35) hours per week.

2944 (d) "Estimated direct state benefits" means the tax
2945 revenues projected by the MDA to accrue to the state as a result
2946 of the qualified business or industry.

2947 (e) "Estimated direct state costs" means the costs
2948 projected by the MDA to accrue to the state as a result of the
2949 qualified business or industry.

2950 (f) "Estimated net direct state benefits" means the
2951 estimated direct state benefits less the estimated direct state
2952 costs.

2953 (g) "Net benefit rate" means the estimated net direct
2954 state benefits computed as a percentage of gross payroll, provided
2955 that:

2956 (i) Except as otherwise provided in this paragraph
2957 (g), the net benefit rate may be variable and shall not exceed
2958 four percent (4%) of the gross payroll; and shall be set in the
2959 sole discretion of the MDA;

2960 (ii) In no event shall incentive payments,
2961 cumulatively, exceed the estimated net direct state benefits.

2962 (h) "Gross payroll" means wages for new direct jobs of
2963 the qualified business or industry.

2964 (i) "MDA" means the Mississippi Development Authority.

2965 **SECTION 70.** Section 57-62-9, Mississippi Code of 1972, is
2966 amended as follows:

2967 **[For businesses or industries that received or applied for**
2968 **incentive payments prior to July 1, 2005, this section shall read**
2969 **as follows:]**

2970 57-62-9. (1) Except as otherwise provided in this section,
2971 a qualified business or industry that meets the qualifications
2972 specified in the Mississippi Advantage Jobs Act may receive
2973 quarterly incentive payments for a period not to exceed ten (10)
2974 years from the State Tax Commission pursuant to the provisions of
2975 the Mississippi Advantage Jobs Act in an amount which shall be
2976 equal to the net benefit rate multiplied by the actual gross
2977 payroll of new direct jobs for a calendar quarter as verified by
2978 the Mississippi Department of Employment Security, but not to
2979 exceed the amount of money previously paid into the fund by the

2980 employer. A qualified business or industry that is a project as
2981 defined in Section 57-75-5(f)(iv)1 may elect the date upon which
2982 the ten-year period will begin. Such date may not be later than
2983 sixty (60) months after the date the business or industry applied
2984 for incentive payments.

2985 (2) (a) A qualified business or industry that is a project
2986 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to
2987 receive incentive payments for an additional period not to exceed
2988 five (5) years beyond the expiration date of the initial ten-year
2989 period if:

2990 (i) The qualified business or industry creates at
2991 least three thousand (3,000) new direct jobs within five (5) years
2992 after the date the business or industry commences commercial
2993 production;

2994 (ii) Within five (5) years after the date the
2995 business or industry commences commercial production, the average
2996 annual wage of the jobs is at least one hundred fifty percent
2997 (150%) of the most recently published state average annual wage or
2998 the most recently published average annual wage of the county in
2999 which the qualified business or industry is located as determined
3000 by the Mississippi Department of Employment Security, whichever is
3001 the lesser. The criteria for the average annual wage requirement
3002 shall be based upon the state average annual wage or the average
3003 annual wage of the county whichever is appropriate, at the time of
3004 creation of the minimum number of jobs, and the threshold
3005 established at that time will remain constant for the duration of
3006 the additional period; and

3007 (iii) The qualified business or industry meets and
3008 maintains the job and wage requirements of subparagraphs (i) and
3009 (ii) of this paragraph (a) for four (4) consecutive calendar
3010 quarters.

3011 (b) A qualified business or industry that is a project
3012 as defined in Section 57-75-5(f)(iv)1 and qualified to receive

3013 incentive payments for the additional period provided in paragraph
3014 (a) of this subsection (2) may apply to the MDA to receive
3015 incentive payments for an additional period not to exceed ten (10)
3016 years beyond the expiration date of the additional period provided
3017 in paragraph (a) of this subsection (2) if:

3018 (i) The qualified business or industry creates at
3019 least four thousand (4,000) new direct jobs after qualifying for
3020 the additional incentive period provided in paragraph (a) of this
3021 subsection (2) but before the expiration of the additional period.
3022 For purposes of determining whether the business or industry meets
3023 the minimum jobs requirement of this subparagraph (i), the number
3024 of jobs the business or industry created in order to meet the
3025 minimum jobs requirement of paragraph (a) of this subsection (2)
3026 shall be subtracted from the minimum jobs requirement of this
3027 subparagraph (i);

3028 (ii) The average annual wage of the jobs is at
3029 least one hundred fifty percent (150%) of the most recently
3030 published state average annual wage or the most recently published
3031 average annual wage of the county in which the qualified business
3032 or industry is located as determined by the Mississippi Department
3033 of Employment Security, whichever is the lesser. The criteria for
3034 the average annual wage requirement shall be based upon the state
3035 average annual wage or the average annual wage of the county
3036 whichever is appropriate, at the time of creation of the minimum
3037 number of jobs, and the threshold established at that time will
3038 remain constant for the duration of the additional period; and

3039 (iii) The qualified business or industry meets and
3040 maintains the job and wage requirements of subparagraphs (i) and
3041 (ii) of this paragraph (b) for four (4) consecutive calendar
3042 quarters.

3043 (3) In order to receive incentive payments, an establishment
3044 shall apply to the MDA. The application shall be on a form

3045 prescribed by the MDA and shall contain such information as may be
3046 required by the MDA to determine if the applicant is qualified.

3047 (4) In order to qualify to receive such payments, the
3048 establishment applying shall be required to:

3049 (a) Be engaged in a qualified business or industry;

3050 (b) Provide an average salary, excluding benefits which
3051 are not subject to Mississippi income taxes, of at least one
3052 hundred twenty-five percent (125%) of the most recently published
3053 state average annual wage or the most recently published average
3054 annual wage of the county in which the qualified business or
3055 industry is located as determined by the Mississippi Department of
3056 Employment Security, whichever is the lesser. The criteria for
3057 this requirement shall be based upon the state average annual wage
3058 or the average annual wage of the county whichever is appropriate,
3059 at the time of application, and the threshold established upon
3060 application will remain constant for the duration of the project;

3061 (c) The business or industry must create and maintain a
3062 minimum of ten (10) full-time jobs in counties that have an
3063 average unemployment rate over the previous twelve-month period
3064 which is at least one hundred fifty percent (150%) of the most
3065 recently published state unemployment rate, as determined by the
3066 Mississippi Department of Employment Security or in Tier Three
3067 counties as determined under Section 57-73-21. In all other
3068 counties, the business or industry must create and maintain a
3069 minimum of twenty-five (25) full-time jobs. The criteria for this
3070 requirement shall be based on the designation of the county at the
3071 time of the application. The threshold established upon the
3072 application will remain constant for the duration of the project.
3073 The business or industry must meet its job creation commitment
3074 within twenty-four (24) months of the application approval.
3075 However, if the qualified business or industry is applying for
3076 incentive payments for an additional period under subsection (2)
3077 of this section, the business or industry must comply with the

3078 applicable job and wage requirements of subsection (2) of this
3079 section.

3080 (5) The MDA shall determine if the applicant is qualified to
3081 receive incentive payments. If the applicant is determined to be
3082 qualified by the MDA, the MDA shall conduct a cost/benefit
3083 analysis to determine the estimated net direct state benefits and
3084 the net benefit rate applicable for a period not to exceed ten
3085 (10) years and to estimate the amount of gross payroll for the
3086 period. If the applicant is determined to be qualified to receive
3087 incentive payments for an additional period under subsection (2)
3088 of this section, the MDA shall conduct a cost/benefit analysis to
3089 determine the estimated net direct state benefits and the net
3090 benefit rate applicable for the appropriate additional period and
3091 to estimate the amount of gross payroll for the additional period.
3092 In conducting such cost/benefit analysis, the MDA shall consider
3093 quantitative factors, such as the anticipated level of new tax
3094 revenues to the state along with the cost to the state of the
3095 qualified business or industry, and such other criteria as deemed
3096 appropriate by the MDA, including the adequacy of retirement
3097 benefits that the business or industry provides to individuals it
3098 employs in new direct jobs in this state. In no event shall
3099 incentive payments, cumulatively, exceed the estimated net direct
3100 state benefits. Once the qualified business or industry is
3101 approved by the MDA, an agreement shall be deemed to exist between
3102 the qualified business or industry and the State of Mississippi,
3103 requiring the continued incentive payment to be made as long as
3104 the qualified business or industry retains its eligibility.

3105 (6) Upon approval of such an application, the MDA shall
3106 notify the State Tax Commission and shall provide it with a copy
3107 of the approved application and the estimated net direct state
3108 benefits. The State Tax Commission may require the qualified
3109 business or industry to submit such additional information as may
3110 be necessary to administer the provisions of this chapter. The

3111 qualified business or industry shall report to the State Tax
3112 Commission periodically to show its continued eligibility for
3113 incentive payments. The qualified business or industry may be
3114 audited by the State Tax Commission to verify such eligibility.

3115 **[For businesses or industries that apply for incentive**
3116 **payments from and after July 1, 2005, this section shall read as**
3117 **follows:]**

3118 57-62-9. (1) (a) Except as otherwise provided in this
3119 section, a qualified business or industry that meets the
3120 qualifications specified in the Mississippi Advantage Jobs Act may
3121 receive quarterly incentive payments for a period not to exceed
3122 ten (10) years from the State Tax Commission pursuant to the
3123 provisions of the Mississippi Advantage Jobs Act in an amount
3124 which shall be equal to the net benefit rate multiplied by the
3125 actual gross payroll of new direct jobs for a calendar quarter as
3126 verified by the Mississippi Department of Employment Security, but
3127 not to exceed:

3128 (i) Ninety percent (90%) of the amount of money
3129 previously paid into the fund by the employer if the employer
3130 provides an average annual salary, excluding benefits which are
3131 not subject to Mississippi income taxes, of at least one hundred
3132 seventy-five percent (175%) of the most recently published state
3133 average annual wage or the most recently published average annual
3134 wage of the county in which the qualified business or industry is
3135 located as determined by the Mississippi Department of Employment
3136 Security, whichever is the lesser;

3137 (ii) Eighty percent (80%) of the amount of money
3138 previously paid into the fund by the employer if the employer
3139 provides an average annual salary, excluding benefits which are
3140 not subject to Mississippi income taxes, of at least one hundred
3141 twenty-five percent (125%) but less than one hundred seventy-five
3142 percent (175%) of the most recently published state average annual
3143 wage or the most recently published average annual wage of the

3144 county in which the qualified business or industry is located as
3145 determined by the Mississippi Department of Employment Security,
3146 whichever is the lesser; or

3147 (iii) Seventy percent (70%) of the amount of money
3148 previously paid into the fund by the employer if the employer
3149 provides an average annual salary, excluding benefits which are
3150 not subject to Mississippi income taxes, of less than one hundred
3151 twenty-five percent (125%) of the most recently published state
3152 average annual wage or the most recently published average annual
3153 wage of the county in which the qualified business or industry is
3154 located as determined by the Mississippi Department of Employment
3155 Security, whichever is the lesser.

3156 (b) A qualified business or industry that is a project
3157 as defined in Section 57-75-5(f)(iv)1 may elect the date upon
3158 which the ten-year period will begin. Such date may not be later
3159 than sixty (60) months after the date the business or industry
3160 applied for incentive payments.

3161 (2) (a) A qualified business or industry that is a project
3162 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to
3163 receive incentive payments for an additional period not to exceed
3164 five (5) years beyond the expiration date of the initial ten-year
3165 period if:

3166 (i) The qualified business or industry creates at
3167 least three thousand (3,000) new direct jobs within five (5) years
3168 after the date the business or industry commences commercial
3169 production;

3170 (ii) Within five (5) years after the date the
3171 business or industry commences commercial production, the average
3172 annual wage of the jobs is at least one hundred fifty percent
3173 (150%) of the most recently published state average annual wage or
3174 the most recently published average annual wage of the county in
3175 which the qualified business or industry is located as determined
3176 by the Mississippi Department of Employment Security, whichever is

3177 the lesser. The criteria for the average annual wage requirement
3178 shall be based upon the state average annual wage or the average
3179 annual wage of the county whichever is appropriate, at the time of
3180 creation of the minimum number of jobs, and the threshold
3181 established at that time will remain constant for the duration of
3182 the additional period; and

3183 (iii) The qualified business or industry meets and
3184 maintains the job and wage requirements of subparagraphs (i) and
3185 (ii) of this paragraph (a) for four (4) consecutive calendar
3186 quarters.

3187 (b) A qualified business or industry that is a project
3188 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
3189 incentive payments for the additional period provided in paragraph
3190 (a) of this subsection (2) may apply to the MDA to receive
3191 incentive payments for an additional period not to exceed ten (10)
3192 years beyond the expiration date of the additional period provided
3193 in paragraph (a) of this subsection (2) if:

3194 (i) The qualified business or industry creates at
3195 least four thousand (4,000) new direct jobs after qualifying for
3196 the additional incentive period provided in paragraph (a) of this
3197 subsection (2) but before the expiration of the additional period.
3198 For purposes of determining whether the business or industry meets
3199 the minimum jobs requirement of this subparagraph (i), the number
3200 of jobs the business or industry created in order to meet the
3201 minimum jobs requirement of paragraph (a) of this subsection (2)
3202 shall be subtracted from the minimum jobs requirement of this
3203 subparagraph (i);

3204 (ii) The average annual wage of the jobs is at
3205 least one hundred fifty percent (150%) of the most recently
3206 published state average annual wage or the most recently published
3207 average annual wage of the county in which the qualified business
3208 or industry is located as determined by the Mississippi Department
3209 of Employment Security, whichever is the lesser. The criteria for

3210 the average annual wage requirement shall be based upon the state
3211 average annual wage or the average annual wage of the county
3212 whichever is appropriate, at the time of creation of the minimum
3213 number of jobs, and the threshold established at that time will
3214 remain constant for the duration of the additional period; and

3215 (iii) The qualified business or industry meets and
3216 maintains the job and wage requirements of subparagraphs (i) and
3217 (ii) of this paragraph (b) for four (4) consecutive calendar
3218 quarters.

3219 (3) In order to receive incentive payments, an establishment
3220 shall apply to the MDA. The application shall be on a form
3221 prescribed by the MDA and shall contain such information as may be
3222 required by the MDA to determine if the applicant is qualified.

3223 (4) (a) In order to qualify to receive such payments, the
3224 establishment applying shall be required to meet the definition of
3225 the term "qualified business or industry";

3226 (b) * * * The criteria for the average annual salary
3227 requirement shall be based upon the state average annual wage or
3228 the average annual wage of the county whichever is appropriate, at
3229 the time of application, and the threshold established upon
3230 application will remain constant for the duration of the project;

3231 (c) * * * The business or industry must meet its job
3232 creation commitment within twenty-four (24) months of the
3233 application approval. However, if the qualified business or
3234 industry is applying for incentive payments for an additional
3235 period under subsection (2) of this section, the business or
3236 industry must comply with the applicable job and wage requirements
3237 of subsection (2) of this section.

3238 (5) (a) The MDA shall determine if the applicant is
3239 qualified to receive incentive payments. If the applicant is
3240 determined to be qualified by the MDA, the MDA shall:

3241 (i) Conduct a cost/benefit analysis to determine
3242 the estimated net direct state benefits and the net benefit rate

3243 applicable for a period not to exceed ten (10) years and to
3244 estimate the amount of gross payroll for the period; and
3245 (ii) Require the applicant to execute a
3246 performance agreement with the MDA that specifies the manner in
3247 which the applicant will utilize the incentive payments made to it
3248 under this chapter.

3249 (b) If the applicant is determined to be qualified to
3250 receive incentive payments for an additional period under
3251 subsection (2) of this section, the MDA shall conduct a
3252 cost/benefit analysis to determine the estimated net direct state
3253 benefits and the net benefit rate applicable for the appropriate
3254 additional period and to estimate the amount of gross payroll for
3255 the additional period. In conducting such cost/benefit analysis,
3256 the MDA shall consider quantitative factors, such as the
3257 anticipated level of new tax revenues to the state along with the
3258 cost to the state of the qualified business or industry, and such
3259 other criteria as deemed appropriate by the MDA, including the
3260 adequacy of retirement benefits that the business or industry
3261 provides to individuals it employs in new direct jobs in this
3262 state. In no event shall incentive payments, cumulatively, exceed
3263 the estimated net direct state benefits. Once the qualified
3264 business or industry is approved by the MDA, an agreement shall be
3265 deemed to exist between the qualified business or industry and the
3266 State of Mississippi, requiring the continued incentive payment to
3267 be made as long as the qualified business or industry retains its
3268 eligibility.

3269 (6) Upon approval of such an application, the MDA shall
3270 notify the State Tax Commission and shall provide it with a copy
3271 of the approved application and the estimated net direct state
3272 benefits. The State Tax Commission may require the qualified
3273 business or industry to submit such additional information as may
3274 be necessary to administer the provisions of this chapter. The
3275 qualified business or industry shall report to the State Tax

3276 Commission periodically to show its continued eligibility for
3277 incentive payments. The qualified business or industry may be
3278 audited by the State Tax Commission to verify such eligibility.

3279 SECTION 71. Section 57-62-13, Mississippi Code of 1972, is
3280 amended as follows:

3281 57-62-13. (1) As soon as practicable after the end of a
3282 calendar quarter for which a qualified business or industry has
3283 qualified to receive an incentive payment, the qualified business
3284 or industry shall file a claim for the payment with the State Tax
3285 Commission and shall specify the actual number of new direct jobs
3286 created and maintained by the business or industry for the
3287 calendar quarter and the gross payroll thereof. The State Tax
3288 Commission shall verify the actual number of new direct jobs
3289 created and maintained by the business or industry and compliance
3290 with the average annual wage requirements for such business or
3291 industry under this chapter. If the qualified business or
3292 industry files a claim for an incentive payment during an
3293 additional incentive period provided under Section 57-62-9(2), the
3294 State Tax Commission shall verify the actual number of new direct
3295 jobs created and maintained by the business or industry and
3296 compliance with the average annual wage requirements for such
3297 business or industry under this chapter. If the State Tax
3298 Commission is not able to provide such verification utilizing all
3299 available resources, the State Tax Commission may request such
3300 additional information from the business or industry as may be
3301 necessary.

3302 (2) (a) The business or industry must meet the salary and
3303 job requirements of this chapter for four (4) consecutive calendar
3304 quarters prior to payment of the first incentive payment. If the
3305 business or industry does not maintain the salary or job
3306 requirements of this chapter at any other time during the ten-year
3307 period after the date the first payment was made, the incentive
3308 payments shall not be made and shall not be resumed until such

3309 time as the actual verified number of new direct jobs created and
3310 maintained by the business or industry equals or exceeds the
3311 requirements of this chapter for one (1) calendar quarter.

3312 (b) If the business or industry is qualified to receive
3313 incentive payments for an additional period provided under Section
3314 57-62-9(2), the business or industry must meet the wage and job
3315 requirements of Section 57-62-9(2), for four (4) consecutive
3316 calendar quarters prior to payment of the first incentive payment.
3317 If the business or industry does not maintain the wage or job
3318 requirements of Section 57-62-9(2), at any other time during the
3319 appropriate additional period after the date the first payment was
3320 made, the incentive payments shall not be made and shall not be
3321 resumed until such time as the actual verified number of new
3322 direct jobs created and maintained by the business or industry
3323 equals or exceeds the amounts specified in Section 57-62-9(2), for
3324 one (1) calendar quarter.

3325 (3) An establishment that has qualified pursuant to this
3326 chapter may receive payments only in accordance with the provision
3327 under which it initially applied and was approved. If an
3328 establishment that is receiving incentive payments expands, it may
3329 apply for additional incentive payments based on the new gross
3330 payroll for new direct jobs anticipated from the expansion only,
3331 pursuant to this chapter.

3332 (4) As soon as practicable after verification of the
3333 qualified business or industry meeting the requirements of this
3334 chapter and all rules and regulations, the Department of Finance
3335 and Administration, upon requisition of the State Tax Commission,
3336 shall issue a warrant drawn on the Mississippi Advantage Jobs
3337 Incentive Payment Fund to the establishment in the amount of the
3338 net benefit rate multiplied by the actual gross payroll as
3339 determined pursuant to subsection (1) of this section for the
3340 calendar quarter.

3341 **SECTION 72.** Section 57 of this act shall take effect and be
3342 in force from and after January 1, 2005, and the remainder of this
3343 act shall take effect and be in force from and after July 1, 2005.