

By: Representatives Watson,
Reynolds, Hines, Dedeaux, Franks,
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To: Ways and Means

HOUSE BILL NO. 3
(As Sent to Governor)

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 \$7,000,000.00 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; TO PROVIDE THAT THE OVERSIGHT COMMITTEE SHALL
49 HAVE NO JURISDICTION OR VOTE ON ANY MATTER WITHIN THE JURISDICTION
50 OF THE MISSISSIPPI DEVELOPMENT AUTHORITY; TO CREATE THE
51 MISSISSIPPI JOB PROTECTION ACT GRANT AND LOAN PROGRAM TO BE
52 ADMINISTERED BY THE MISSISSIPPI DEVELOPMENT AUTHORITY FOR THE

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

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

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

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

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

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

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

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

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

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

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

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

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

175 (ii) The amount of the loan requested;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

245 **SECTION 3.** (1) The Mississippi Development Authority, at
246 one time, or from time to time, may declare by resolution the
247 necessity for issuance of general obligation bonds of the State of
248 Mississippi to provide funds for the program authorized in Section
249 1 of House Bill No. __, 2005 Third Extraordinary Session. Upon
250 the adoption of a resolution by the Mississippi Development
251 Authority, declaring the necessity for the issuance of any part or
252 all of the general obligation bonds authorized by this section,
253 the Mississippi Development Authority shall deliver a certified
254 copy of its resolution or resolutions to the commission. Upon
255 receipt of such resolution, the commission, in its discretion, may
256 act as the issuing agent, prescribe the form of the bonds,
257 advertise for and accept bids, issue and sell the bonds so
258 authorized to be sold and do any and all other things necessary
259 and advisable in connection with the issuance and sale of such
260 bonds. The total amount of bonds issued under this act shall not
261 exceed Seven Million Dollars (\$7,000,000.00). No bonds shall be
262 issued under this act after July 1, 2008.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

612 57-1-16. (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

670 (v) A two-year business plan;

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

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

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

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

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

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

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

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

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

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

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

713 57-61-25. (1) The seller is authorized to borrow, on the
714 credit of the state upon receipt of a resolution from the
715 Mississippi Development Authority requesting the same, money not
716 exceeding the aggregate sum of Three Hundred Six Million Dollars
717 (\$306,000,000.00), not including money borrowed to refund
718 outstanding bonds, notes or replacement notes, as may be necessary
719 to carry out the purposes of this chapter. The rate of interest
720 on any such bonds or notes which are not subject to taxation shall
721 not exceed the rates set forth in Section 75-17-101, Mississippi
722 Code of 1972, for general obligation bonds.

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

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

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

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

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

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

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

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

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

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

783 57-61-34. (1) Notwithstanding any provision of this chapter
784 to the contrary, the Mississippi Development Authority shall
785 utilize not more than Sixteen Million Dollars (\$16,000,000.00) out
786 of the proceeds of bonds authorized to be issued in this chapter
787 to be made available as interest-bearing loans to municipalities
788 or private companies to aid in the establishment of business

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

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

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

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

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

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

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

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

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

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

829 57-61-36. (1) Notwithstanding any provision of this chapter
830 to the contrary, the Mississippi Development Authority shall
831 utilize not more than Twelve Million Five Hundred Thousand Dollars
832 (\$12,500,000.00) out of the proceeds of bonds authorized to be
833 issued in this chapter for the purpose of making grants to
834 municipalities through a development infrastructure grant fund to
835 complete infrastructure related to new or expanded industry.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

955 (2) The committee shall meet quarterly and may meet at other
956 times specified by the chairman of the committee.

957 (3) A quorum of the committee shall consist of four (4)
958 members. The committee shall elect from among its membership a
959 chairman and vice chairman.

960 (4) The MDA shall not be required to submit to the committee
961 any information that it considers confidential or proprietary, or
962 anything the disclosure of which may negatively affect a project
963 it has under consideration.

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

980 (6) The terms of the legislative members of the committee
981 shall expire at the end of their terms of office, and the
982 Governor's appointees shall serve for a term concurrent with the
983 term of office of the appointing Governor. Any vacancy on the
984 advisory committee shall be filled by appointment by the original

985 appointing authority for the remainder of the members' unexpired
986 term.

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

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

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

993 (c) "Outsource" means to send out work or jobs of a
994 certain provider or manufacturer of the State of Mississippi to an
995 overseas provider or manufacturer or a provider or manufacturer
996 located outside the boundaries of the United States or any
997 territory of the United States.

998 (2) (a) There is established the Mississippi Job Protection
999 Act to be administered by the MDA for the purpose of providing
1000 grants and loans to at-risk industries to be used for job
1001 retention and to improve productivity and competitiveness. An
1002 at-risk industry that accepts a grant or loan under this program
1003 shall not reduce employment by more than twenty percent (20%).

1004 (b) An enterprise desiring a grant or loan under this
1005 section must submit an application to the MDA. The application
1006 shall include:

1007 (i) A description of the purpose for which the
1008 grant or loan is requested;

1009 (ii) The amount of the grant or loan requested;

1010 (iii) The estimated total cost of the project;

1011 (iv) A two-year business plan for the project;

1012 (v) Financial statements or tax returns for the
1013 two (2) years immediately prior to the application;

1014 (vi) Credit reports on all persons or entities
1015 with a twenty percent (20%) or greater interest in the enterprise;

1016 and

1017 (vii) Any other information required by the MDA.

1018 (c) The MDA shall require that binding commitments be
1019 entered into requiring that:

1020 (i) The minimum requirements of this section and
1021 such other requirements as the MDA considers proper shall be met;
1022 and

1023 (ii) If such requirements are not met, all or a
1024 portion of the funds provided by this section as determined by the
1025 MDA shall be repaid.

1026 (d) The amount of a grant or loan under this section
1027 shall not exceed fifty percent (50%) of the total cost of the
1028 project.

1029 (e) The MDA shall have all powers necessary to
1030 implement and administer the program established under this
1031 section, and the MDA shall promulgate rules and regulations, in
1032 accordance with the Mississippi Administrative Procedures Law,
1033 necessary for the implementation of this section.

1034 (3) Grants to at-risk industries under this section shall
1035 not exceed Two Hundred Thousand Dollars (\$200,000.00).

1036 (4) (a) There is created in the State Treasury a special
1037 fund to be designated as the "Mississippi Job Protection Act
1038 Fund," which shall consist of funds appropriated or otherwise made
1039 available by the Legislature in any manner and funds from any
1040 other source designated for deposit into such fund. Unexpended
1041 amounts remaining in the fund at the end of a fiscal year shall
1042 not lapse into the State General Fund, and any investment earnings
1043 or interest earned on amounts in the fund shall be deposited to
1044 the credit of the fund. Monies in the fund shall be used by the
1045 MDA for the purposes described in this section.

1046 (b) Monies in the fund which are derived from the
1047 proceeds of general obligation bonds may be used to reimburse
1048 reasonable actual and necessary costs incurred by the MDA in
1049 providing grants or loans under this section through the use of
1050 general obligation bonds. An accounting of actual costs incurred

1051 for which reimbursement is sought shall be maintained for each
1052 grant or loan by the MDA. Reimbursement of reasonable actual and
1053 necessary costs shall not exceed three percent (3%) of the
1054 proceeds of bonds issued under Sections 40 through 55 of this act.
1055 Monies authorized for a particular grant or loan may not be used
1056 to reimburse administrative costs for unrelated grants or loans.
1057 Reimbursements made under this subsection shall satisfy any
1058 applicable federal tax law requirements.

1059 **SECTION 40.** As used in Sections 40 through 55 of this act,
1060 the following words shall have the meanings ascribed herein unless
1061 the context clearly requires otherwise:

1062 (a) "Accreted value" of any bonds means, as of any date
1063 of computation, an amount equal to the sum of (i) the stated
1064 initial value of such bond, plus (ii) the interest accrued thereon
1065 from the issue date to the date of computation at the rate,
1066 compounded semiannually, that is necessary to produce the
1067 approximate yield to maturity shown for bonds of the same
1068 maturity.

1069 (b) "Act" means Sections 40 through 55 of this act.

1070 (c) "State" means the State of Mississippi.

1071 (d) "Commission" means the State Bond Commission.

1072 **SECTION 41.** (1) The Mississippi Development Authority, at
1073 one time, or from time to time, may declare by resolution the
1074 necessity for issuance of general obligation bonds of the State of
1075 Mississippi to provide funds for the program authorized in Section
1076 39 of House Bill No. ____, 2005 Third Extraordinary Session. Upon
1077 the adoption of a resolution by the Mississippi Development
1078 Authority, declaring the necessity for the issuance of any part or
1079 all of the general obligation bonds authorized by this section,
1080 the Mississippi Development Authority shall deliver a certified
1081 copy of its resolution or resolutions to the commission. Upon
1082 receipt of such resolution, the commission, in its discretion, may
1083 act as the issuing agent, prescribe the form of the bonds,

1084 advertise for and accept bids, issue and sell the bonds so
1085 authorized to be sold and do any and all other things necessary
1086 and advisable in connection with the issuance and sale of such
1087 bonds. The total amount of bonds issued under this act shall not
1088 exceed Twelve Million Dollars (\$12,000,000.00). No bonds shall be
1089 issued under this act after July 1, 2008.

1090 (2) The proceeds of bonds issued pursuant to this act shall
1091 be deposited into the Mississippi Job Protection Act Fund created
1092 pursuant to Section 39 of House Bill No. ____, 2005 Third
1093 Extraordinary Session. Any investment earnings on bonds issued
1094 pursuant to this act shall be used to pay debt service on bonds
1095 issued under this act, in accordance with the proceedings
1096 authorizing issuance of such bonds.

1097 **SECTION 42.** The principal of and interest on the bonds
1098 authorized under this act shall be payable in the manner provided
1099 in this section. Such bonds shall bear such date or dates, be in
1100 such denomination or denominations, bear interest at such rate or
1101 rates (not to exceed the limits set forth in Section 75-17-101,
1102 Mississippi Code of 1972), be payable at such place or places
1103 within or without the State of Mississippi, shall mature
1104 absolutely at such time or times not to exceed twenty-five (25)
1105 years from date of issue, be redeemable before maturity at such
1106 time or times and upon such terms, with or without premium, shall
1107 bear such registration privileges, and shall be substantially in
1108 such form, all as shall be determined by resolution of the
1109 commission.

1110 **SECTION 43.** The bonds authorized by this act shall be signed
1111 by the chairman of the commission, or by his facsimile signature,
1112 and the official seal of the commission shall be affixed thereto,
1113 attested by the secretary of the commission. The interest
1114 coupons, if any, to be attached to such bonds may be executed by
1115 the facsimile signatures of such officers. Whenever any such
1116 bonds shall have been signed by the officials designated to sign

1117 the bonds who were in office at the time of such signing but who
1118 may have ceased to be such officers before the sale and delivery
1119 of such bonds, or who may not have been in office on the date such
1120 bonds may bear, the signatures of such officers upon such bonds
1121 and coupons shall nevertheless be valid and sufficient for all
1122 purposes and have the same effect as if the person so officially
1123 signing such bonds had remained in office until their delivery to
1124 the purchaser, or had been in office on the date such bonds may
1125 bear. However, notwithstanding anything herein to the contrary,
1126 such bonds may be issued as provided in the Registered Bond Act of
1127 the State of Mississippi.

1128 **SECTION 44.** All bonds and interest coupons issued under the
1129 provisions of this act have all the qualities and incidents of
1130 negotiable instruments under the provisions of the Uniform
1131 Commercial Code, and in exercising the powers granted by this act,
1132 the commission shall not be required to and need not comply with
1133 the provisions of the Uniform Commercial Code.

1134 **SECTION 45.** The commission shall act as the issuing agent
1135 for the bonds authorized under this act, prescribe the form of the
1136 bonds, advertise for and accept bids, issue and sell the bonds so
1137 authorized to be sold, pay all fees and costs incurred in such
1138 issuance and sale, and do any and all other things necessary and
1139 advisable in connection with the issuance and sale of such bonds.
1140 The commission is authorized and empowered to pay the costs that
1141 are incident to the sale, issuance and delivery of the bonds
1142 authorized under this act from the proceeds derived from the sale
1143 of such bonds. The commission shall sell such bonds on sealed
1144 bids at public sale, and for such price as it may determine to be
1145 for the best interest of the State of Mississippi, but no such
1146 sale shall be made at a price less than par plus accrued interest
1147 to the date of delivery of the bonds to the purchaser. All
1148 interest accruing on such bonds so issued shall be payable

1149 semiannually or annually; however, the first interest payment may
1150 be for any period of not more than one (1) year.

1151 Notice of the sale of any such bonds shall be published at
1152 least one time, not less than ten (10) days before the date of
1153 sale, and shall be so published in one or more newspapers
1154 published or having a general circulation in the City of Jackson,
1155 Mississippi, and in one or more other newspapers or financial
1156 journals with a national circulation, to be selected by the
1157 commission.

1158 The commission, when issuing any bonds under the authority of
1159 this act, may provide that bonds, at the option of the State of
1160 Mississippi, may be called in for payment and redemption at the
1161 call price named therein and accrued interest on such date or
1162 dates named therein.

1163 **SECTION 46.** The bonds issued under the provisions of this
1164 act are general obligations of the State of Mississippi, and for
1165 the payment thereof the full faith and credit of the State of
1166 Mississippi is irrevocably pledged. If the funds appropriated by
1167 the Legislature are insufficient to pay the principal of and the
1168 interest on such bonds as they become due, then the deficiency
1169 shall be paid by the State Treasurer from any funds in the State
1170 Treasury not otherwise appropriated. All such bonds shall contain
1171 recitals on their faces substantially covering the provisions of
1172 this section.

1173 **SECTION 47.** Upon the issuance and sale of bonds under the
1174 provisions of this act, the commission shall transfer the proceeds
1175 of any such sale or sales to the Mississippi Job Protection Act
1176 Fund created in Section 39 of House Bill No. ____, 2005 Third
1177 Extraordinary Session. The proceeds of such bonds shall be
1178 disbursed solely upon the order of the Mississippi Development
1179 Authority under such restrictions, if any, as may be contained in
1180 the resolution providing for the issuance of the bonds.

1181 **SECTION 48.** The bonds authorized under this act may be
1182 issued without any other proceedings or the happening of any other
1183 conditions or things other than those proceedings, conditions and
1184 things which are specified or required by this act. Any
1185 resolution providing for the issuance of bonds under the
1186 provisions of this act shall become effective immediately upon its
1187 adoption by the commission, and any such resolution may be adopted
1188 at any regular or special meeting of the commission by a majority
1189 of its members.

1190 **SECTION 49.** The bonds authorized under the authority of this
1191 act may be validated in the Chancery Court of the First Judicial
1192 District of Hinds County, Mississippi, in the manner and with the
1193 force and effect provided by Chapter 13, Title 31, Mississippi
1194 Code of 1972, for the validation of county, municipal, school
1195 district and other bonds. The notice to taxpayers required by
1196 such statutes shall be published in a newspaper published or
1197 having a general circulation in the City of Jackson, Mississippi.

1198 **SECTION 50.** Any holder of bonds issued under the provisions
1199 of this act or of any of the interest coupons pertaining thereto
1200 may, either at law or in equity, by suit, action, mandamus or
1201 other proceeding, protect and enforce any and all rights granted
1202 under this act, or under such resolution, and may enforce and
1203 compel performance of all duties required by this act to be
1204 performed, in order to provide for the payment of bonds and
1205 interest thereon.

1206 **SECTION 51.** All bonds issued under the provisions of this
1207 act shall be legal investments for trustees and other fiduciaries,
1208 and for savings banks, trust companies and insurance companies
1209 organized under the laws of the State of Mississippi, and such
1210 bonds shall be legal securities which may be deposited with and
1211 shall be received by all public officers and bodies of this state
1212 and all municipalities and political subdivisions for the purpose
1213 of securing the deposit of public funds.

1214 **SECTION 52.** Bonds issued under the provisions of this act
1215 and income therefrom shall be exempt from all taxation in the
1216 State of Mississippi.

1217 **SECTION 53.** The proceeds of the bonds issued under this act
1218 shall be used solely for the purposes therein provided, including
1219 the costs incident to the issuance and sale of such bonds.

1220 **SECTION 54.** The State Treasurer is authorized, without
1221 further process of law, to certify to the Department of Finance
1222 and Administration the necessity for warrants, and the Department
1223 of Finance and Administration is authorized and directed to issue
1224 such warrants, in such amounts as may be necessary to pay when due
1225 the principal of, premium, if any, and interest on, or the
1226 accreted value of, all bonds issued under this act; and the State
1227 Treasurer shall forward the necessary amount to the designated
1228 place or places of payment of such bonds in ample time to
1229 discharge such bonds, or the interest thereon, on the due dates
1230 thereof.

1231 **SECTION 55.** This act shall be deemed to be full and complete
1232 authority for the exercise of the powers therein granted, but this
1233 act shall not be deemed to repeal or to be in derogation of any
1234 existing law of this state.

1235 **SECTION 56.** As used in Sections 56 through 57 of this act,
1236 the following terms and phrases shall have the meanings ascribed
1237 in this section unless the context clearly indicates otherwise:

1238 (a) "Alternative energy project" means a business
1239 enterprise engaged in manufacturing or producing alternative
1240 energy in this state with not less than fifty percent (50%) of the
1241 finished product being derived from resources or products from
1242 this state.

1243 (b) "Authority" means the Mississippi Development
1244 Authority.

1245 (c) "Producer" means a manufacturer or producer of
1246 alternative energy through an alternative fuels project.

1247 (d) "State" means the State of Mississippi.

1248 **SECTION 57.** (1) Producers are allowed a job tax credit for
1249 taxes imposed by Section 27-7-5 equal to One Thousand Dollars
1250 (\$1,000.00) annually for each net new full-time employee job for a
1251 period of twenty (20) years from the date the credit begins. The
1252 credit shall begin on the date selected by the producer; however,
1253 the beginning date shall not be more than five (5) years from the
1254 date the producer begins manufacturing or producing alternative
1255 energy. For the year in which the beginning date occurs, the
1256 number of new full-time jobs shall be determined by using the
1257 monthly average number of full-time employees subject to the
1258 Mississippi income tax withholding. Thereafter, the number of new
1259 full-time jobs shall be determined by comparing the monthly
1260 average number of full-time employees subject to the Mississippi
1261 income tax withholding for the taxable year with the corresponding
1262 period of the prior taxable year. Once a producer creates
1263 twenty-five (25) or more new full-time employee jobs, the producer
1264 shall be eligible for the credit. The credit is not allowed for
1265 any year of the twenty-year period in which the overall monthly
1266 average number of full-time employees subject to the Mississippi
1267 income tax withholding falls below twenty-five (25). The State
1268 Tax Commission shall adjust the credit allowed each year for the
1269 net new employment fluctuations above twenty-five (25).

1270 (2) Any tax credit claimed under this section but not used
1271 in any taxable year may be carried forward for five (5)
1272 consecutive years from the close of the tax year in which the
1273 credits were earned. The credit that may be utilized each year
1274 shall be limited to an amount not greater than the total state
1275 income tax liability of the producer that is generated by, or
1276 arises out of, the alternative energy project.

1277 (3) The tax credits provided for in this section shall be in
1278 lieu of the tax credits provided for in Section 57-73-21 and any

1279 producer utilizing the tax credit authorized in this section shall
1280 not utilize the tax credit authorized in Section 57-73-21.

1281 **SECTION 58.** It is the policy of the Mississippi Development
1282 Authority and the Mississippi Development Authority is authorized
1283 to accommodate and support any entity using funds authorized and
1284 made available under Sections 1 through 37 of this act that wishes
1285 to have a program of diversity in contracting, and/or that wishes
1286 to do business with or cause its prime contractor to do business
1287 with Mississippi companies, including those companies that are
1288 small business concerns owned and controlled by socially and
1289 economically disadvantaged individuals. The term "socially and
1290 economically disadvantaged individuals" shall have the meaning
1291 ascribed to that term under Section 8(d) of the Small Business Act
1292 (15 USCS 637(d)) and relevant subcontracting regulations
1293 promulgated pursuant thereto; except that women shall be presumed
1294 to be socially and economically disadvantaged individuals for the
1295 purposes of this section.

1296 **SECTION 59.** The Mississippi Development Authority shall
1297 prepare and file a quarterly report with the Secretary of State
1298 regarding the net economic impact on the state as a result of
1299 incentives or other forms of assistance authorized under Sections
1300 1 through 37 of this act, the number of enterprises benefited and
1301 the number of jobs created. Each report shall estimate the number
1302 of jobs created or retained at each enterprise or business as a
1303 result of the incentives or other forms of assistance authorized
1304 under Sections 1 through 37 of this act.

1305 **SECTION 60.** Any business, enterprise or other entity that is
1306 criminally convicted by a court of competent jurisdiction of
1307 intentionally hiring illegal immigrants shall be ineligible to
1308 receive any loan, grant or other form of assistance made available
1309 under Sections 1 through 57 of this act. Any business, enterprise
1310 or other entity that receives any loan, grant or other form of
1311 assistance made available under Sections 1 through 57 of this act,

1312 and is criminally convicted by a court of competent jurisdiction
1313 of intentionally hiring illegal immigrants shall repay the full
1314 amount of such loan, grant or other form of assistance.

1315 **SECTION 61.** (1) As used in this section:

1316 (a) "Manufacturing enterprise" means an enterprise
1317 that:

1318 (i) Falls within the definition of the term
1319 "manufacturer" in Section 27-65-11; and

1320 (ii) Has operated in this state for not less than
1321 two (2) years prior to application for the credit authorized by
1322 this section; and

1323 (b) "Eligible investment" means an investment of at
1324 least One Million Dollars (\$1,000,000.00) in buildings and/or
1325 equipment for the manufacturing enterprise.

1326 (2) A manufacturing enterprise is allowed a manufacturing
1327 investment tax credit for taxes imposed by Section 27-7-5 equal to
1328 five percent (5%) of the eligible investments made by the
1329 manufacturing enterprise.

1330 (3) Any tax credit claimed under this section but not used
1331 in any taxable year may be carried forward for five (5) years from
1332 the close of the tax year in which the eligible investment was
1333 made, but the credit established by this section taken in any one
1334 tax year shall not exceed fifty percent (50%) of the taxpayer's
1335 state income tax liability which is attributable to income derived
1336 from operations in the state for that year reduced by the sum of
1337 all other income tax credits allowable to the taxpayer, except
1338 credit for tax payments made by or on behalf of the taxpayer.

1339 (4) The maximum credit that may be claimed by a taxpayer on
1340 any project shall be limited to One Million Dollars
1341 (\$1,000,000.00).

1342 (5) The credit received under this section is subject to
1343 recapture if the property for which the tax credit was received is
1344 disposed of, or converted to, other than business use. The amount

1345 of the credit subject to recapture is one hundred percent (100%)
1346 of the credit in the first year and fifty percent (50%) of the
1347 credit in the second year. This subsection shall not apply in
1348 cases in which an entire facility is sold.

1349 (6) The sale, merger, acquisition, reorganization,
1350 bankruptcy or relocation from one (1) county to another county
1351 within the state of any manufacturing enterprise may not create
1352 new eligibility in any succeeding business entity, but any unused
1353 manufacturing investment tax credit may be transferred and
1354 continued by any transferee of the enterprise. The State Tax
1355 Commission shall determine whether or not qualifying net increases
1356 or decreases have occurred or proper transfers of credit have been
1357 made and may require reports, promulgate regulations, and hold
1358 hearings as needed for substantiation and qualification.

1359 (7) No manufacturing enterprise for the transportation,
1360 handling, storage, processing or disposal of hazardous waste is
1361 eligible to receive the tax credits provided in this section.

1362 (8) The credits allowed under this section shall not be used
1363 by any business enterprise or corporation other than the
1364 manufacturing enterprise actually qualifying for the credits.

1365 **SECTION 62.** Section 27-31-101, Mississippi Code of 1972, is
1366 amended as follows:

1367 27-31-101. (1) County boards of supervisors and municipal
1368 authorities are hereby authorized and empowered, in their
1369 discretion, to grant exemptions from ad valorem taxation, except
1370 state ad valorem taxation; however, such governing authorities
1371 shall not exempt ad valorem taxes for school district purposes on
1372 tangible property used in, or necessary to, the operation of the
1373 manufacturers and other new enterprises enumerated by classes in
1374 this section, except to the extent authorized in Sections
1375 27-31-104 and 27-31-105(2), nor shall they exempt from ad valorem
1376 taxes the products of the manufacturers or other new enterprises
1377 or automobiles and trucks belonging to the manufacturers or other

1378 new enterprises operating on and over the highways of the State of
1379 Mississippi. The time of such exemption shall be for a period not
1380 to exceed a total of ten (10) years which shall begin on the date
1381 of completion of the new enterprise for which the exemption is
1382 granted; however, boards of supervisors and municipal authorities,
1383 in lieu of granting the exemption for one (1) period of ten (10)
1384 years, may grant the exemption in a period of less than ten (10)
1385 years. When the initial exemption period granted is less than ten
1386 (10) years, the boards of supervisors and municipal authorities
1387 may grant a subsequent consecutive period or periods to follow the
1388 initial period of exemption, provided that the total of all
1389 periods of exemption shall not exceed ten (10) years. The date of
1390 completion of the new enterprise, from which the initial period of
1391 exemption shall begin, shall be the date on which operations of
1392 the new enterprise begin. The initial request for an exemption
1393 must be made in writing by June 1 of the year immediately
1394 following the year in which the date of completion of a new
1395 enterprise occurs. If the initial request for the exemption is
1396 not timely made, the board of supervisors or municipal authorities
1397 may grant a subsequent request for the exemption and, in such
1398 case, the exemption shall begin on the anniversary date of
1399 completion of the enterprise in the year in which the request is
1400 made and may be for a period of time extending not more than ten
1401 (10) years from the date of completion of the new enterprise. Any
1402 subsequent request for the exemption must be made in writing by
1403 June 1 of the year in which it is granted.

1404 * * *

1405 (2) Any board of supervisors or municipal authority which
1406 has granted an exemption for a period of less than ten (10) years
1407 may grant subsequent periods of exemption to run consecutively
1408 with the initial exemption period, or a subsequently granted
1409 exemption period, but in no case shall the total of the exemption
1410 periods granted for a new enterprise exceed ten (10) years. Any

1411 consecutive period of exemption shall be granted by entry of an
1412 order by the board or the authority granting the consecutive
1413 exemption on its minutes, reflecting the granting of the
1414 consecutive exemption period and the dates upon which such
1415 consecutive exemption period begins and expires. The entry of
1416 this order granting the consecutive period of exemption shall be
1417 made before the expiration of the exemption period immediately
1418 preceding the consecutive exemption period being granted.

1419 (3) The new enterprises which may be exempt are enumerated
1420 as and limited to the following, as determined by the State Tax
1421 Commission:

1422 (a) Warehouse and/or distribution centers;

1423 (b) Manufacturing, processors and refineries;

1424 (c) Research facilities;

1425 (d) Corporate regional and national headquarters
1426 meeting minimum criteria established by the Department of Economic
1427 and Community Development;

1428 (e) Movie industry studios meeting minimum criteria
1429 established by the Mississippi Development Authority;

1430 (f) Air transportation and maintenance facilities
1431 meeting minimum criteria established by the Mississippi
1432 Development Authority;

1433 (g) Recreational facilities that impact tourism meeting
1434 minimum criteria established by the Mississippi Development
1435 Authority; * * *

1436 (h) Data/information processing enterprises meeting
1437 minimum criteria established by the Mississippi Development
1438 Authority;

1439 (i) Technology intensive enterprises or facilities
1440 meeting criteria established by the Mississippi Development
1441 Authority; and

1442 (j) Telecommunications enterprises meeting minimum
1443 criteria established by the Mississippi Development Authority.

1444 The term "telecommunications enterprises" means entities engaged
1445 in the creation, display, management, storage, processing,
1446 transmission or distribution for compensation of images, text,
1447 voice, video or data by wire or by wireless means, or entities
1448 engaged in the construction, design, development, manufacture,
1449 maintenance or distribution for compensation of devices, products,
1450 software or structures used in the above activities. Companies
1451 organized to do business as commercial broadcast radio stations,
1452 television stations or news organizations primarily serving
1453 in-state markets shall not be included within the definition of
1454 the term "telecommunications enterprises."

1455 **SECTION 63.** Section 27-65-17, Mississippi Code of 1972, is
1456 amended as follows:

1457 27-65-17. (1) (a) Except as otherwise provided in this
1458 section, upon every person engaging or continuing within this
1459 state in the business of selling any tangible personal property
1460 whatsoever there is hereby levied, assessed and shall be collected
1461 a tax equal to seven percent (7%) of the gross proceeds of the
1462 retail sales of the business * * *.

1463 (b) Retail sales of farm tractors shall be taxed at the
1464 rate of one percent (1%) when made to farmers for agricultural
1465 purposes.

1466 (c) Retail sales of farm implements sold to farmers and
1467 used directly in the production of poultry, ratite, domesticated
1468 fish as defined in Section 69-7-501, livestock, livestock
1469 products, agricultural crops or ornamental plant crops or used for
1470 other agricultural purposes shall be taxed at the rate of three
1471 percent (3%) when used on the farm. The three percent (3%) rate
1472 shall also apply to all equipment used in logging, pulpwood
1473 operations or tree farming which is either:

1474 (i) Self-propelled, or * * *

1475 (ii) Mounted so that it is * * * permanently
1476 attached to other equipment which is self-propelled or * * *

1477 permanently attached to other equipment drawn by a vehicle which
1478 is self-propelled.

1479 (d) Except as otherwise provided in subsection (3) of
1480 this section, retail sales of aircraft, automobiles, trucks,
1481 truck-tractors, semitrailers and mobile homes shall be taxed at
1482 the rate of three percent (3%).

1483 (e) Sales of manufacturing machinery or manufacturing
1484 machine parts when made to a manufacturer or custom processor for
1485 plant use only when the machinery and machine parts will be used
1486 exclusively and directly within this state in manufacturing a
1487 commodity for sale, rental or in processing for a fee shall be
1488 taxed at the rate of one and one-half percent (1-1/2%).

1489 (f) Sales of machinery and machine parts when made to a
1490 technology intensive enterprise for plant use only when the
1491 machinery and machine parts will be used exclusively and directly
1492 within this state for industrial purposes, including, but not
1493 limited to, manufacturing or research and development activities,
1494 shall be taxed at the rate of one and one-half percent (1-1/2%).
1495 In order to be considered a technology intensive enterprise for
1496 purposes of this paragraph:

1497 (i) The enterprise shall meet minimum criteria
1498 established by the Mississippi Development Authority;

1499 (ii) The enterprise shall employ at least ten (10)
1500 persons in full-time jobs;

1501 (iii) At least ten percent (10%) of the workforce
1502 in the facility operated by the enterprise shall be scientists,
1503 engineers or computer specialists;

1504 (iv) The enterprise shall manufacture plastics,
1505 chemicals, automobiles, aircraft, computers or electronics; or
1506 shall be a research and development facility, a computer design or
1507 related facility, or a software publishing facility or other
1508 technology intensive facility or enterprise as determined by the
1509 Mississippi Development Authority;

1510 (v) The average wage of all workers employed by
1511 the enterprise at the facility shall be at least one hundred fifty
1512 percent (150%) of the state average annual wage; and

1513 (vi) The enterprise must provide a basic health
1514 care plan to all employees at the facility.

1515 (g) Sales of materials for use in track and track
1516 structures to a railroad whose rates are fixed by the Interstate
1517 Commerce Commission or the Mississippi Public Service Commission
1518 shall be taxed at the rate of three percent (3%).

1519 (h) Sales of tangible personal property to electric
1520 power associations for use in the ordinary and necessary operation
1521 of their generating or distribution systems shall be taxed at the
1522 rate of one percent (1%).

1523 (i) Wholesale sales of beer shall be taxed at the rate
1524 of seven percent (7%), and the retailer shall file a return and
1525 compute the retail tax on retail sales but may take credit for the
1526 amount of the tax paid to the wholesaler on said return covering
1527 the subsequent sales of same property, provided adequate invoices
1528 and records are maintained to substantiate the credit.

1529 (j) Wholesale sales of food and drink for human
1530 consumption to full service vending machine operators to be sold
1531 through vending machines located apart from and not connected with
1532 other taxable businesses shall be taxed at the rate of eight
1533 percent (8%).

1534 * * *

1535 (k) Sales of equipment used or designed for the purpose
1536 of assisting disabled persons, such as wheelchair equipment and
1537 lifts, that is mounted or attached to or installed on a private
1538 carrier of passengers or light carrier of property, as defined in
1539 Section 27-51-101, at the time when the private carrier of
1540 passengers or light carrier of property is sold shall be taxed at
1541 the same rate as the sale of such vehicles under this section.

1542 (2) From and after January 1, 1995, retail sales of private
1543 carriers of passengers and light carriers of property, as defined
1544 in Section 27-51-101, shall be taxed an additional two percent
1545 (2%).

1546 (3) In lieu of the tax levied in subsection (1) of this
1547 section, there is levied on retail sales of truck-tractors and
1548 semitrailers used in interstate commerce and registered under the
1549 International Registration Plan (IRP) or any similar reciprocity
1550 agreement or compact relating to the proportional registration of
1551 commercial vehicles entered into as provided for in Section
1552 27-19-143, a tax at the rate of three percent (3%) of the portion
1553 of the sale that is attributable to the usage of such
1554 truck-tractor or semitrailer in Mississippi. The portion of the
1555 retail sale that is attributable to the usage of such
1556 truck-tractor or semitrailer in Mississippi is the retail sales
1557 price of the truck-tractor or semitrailer multiplied by the
1558 percentage of the total miles traveled by the vehicle that are
1559 traveled in Mississippi. The tax levied pursuant to this
1560 subsection (3) shall be collected by the State Tax Commission from
1561 the purchaser of such truck-tractor or semitrailer at the time of
1562 registration of such truck-tractor or semitrailer.

1563 (4) A manufacturer selling at retail in this state shall be
1564 required to make returns of the gross proceeds of such sales and
1565 pay the tax imposed in this section.

1566 (5) Any person exercising any privilege taxable under
1567 Section 27-65-15 and selling his natural resource products at
1568 wholesale or to exempt persons shall pay the tax levied by said
1569 section in lieu of the tax levied by this section.

1570 **SECTION 64.** Section 27-65-19, Mississippi Code of 1972, is
1571 amended as follows:

1572 27-65-19. (1) (a) Except as otherwise provided in this
1573 subsection, upon every person selling to consumers, electricity,
1574 current, power, potable water, steam, coal, natural gas, liquefied

1575 petroleum gas or other fuel, there is hereby levied, assessed and
1576 shall be collected a tax equal to seven percent (7%) of the gross
1577 income of the business. Provided, gross income from sales to
1578 consumers of electricity, current, power, natural gas, liquefied
1579 petroleum gas or other fuel for residential heating, lighting or
1580 other residential noncommercial or nonagricultural use, and sales
1581 of potable water for residential, noncommercial or nonagricultural
1582 use shall be excluded from taxable gross income of the business.
1583 Provided further, upon every such seller using electricity,
1584 current, power, potable water, steam, coal, natural gas, liquefied
1585 petroleum gas or other fuel for nonindustrial purposes, there is
1586 hereby levied, assessed and shall be collected a tax equal to
1587 seven percent (7%) of the cost or value of the product or service
1588 used.

1589 (b) There is hereby levied, assessed and shall be
1590 collected a tax equal to one and one-half percent (1-1/2%) of the
1591 gross income of the business when the electricity, current, power,
1592 steam, coal, natural gas, liquefied petroleum gas or other fuel is
1593 sold to or used by a manufacturer, custom processor, technology
1594 intensive enterprise meeting the criteria provided for in Section
1595 27-65-17(1)(f), or public service company for industrial purposes,
1596 which shall include that used to generate electricity, to operate
1597 an electrical distribution or transmission system, to operate
1598 pipeline compressor or pumping stations or to operate railroad
1599 locomotives; however, sales of fuel used to produce electric power
1600 by a company primarily engaged in the business of producing,
1601 generating or distributing electric power for sale shall be exempt
1602 from sales tax as provided in Section 27-65-107.

1603 (c) The one and one-half percent (1-1/2%) industrial
1604 rate provided for in this subsection shall also apply when the
1605 electricity, current, power, steam, coal, natural gas, liquefied
1606 petroleum gas or other fuel is sold to a producer or processor for
1607 use directly in the production of poultry or poultry products, the

1608 production of livestock and livestock products, the production of
1609 domesticated fish and domesticated fish products, the production
1610 of marine aquaculture products, the production of plants or food
1611 by commercial horticulturists, the processing of milk and milk
1612 products, the processing of poultry and livestock feed, and the
1613 irrigation of farm crops.

1614 (d) The one and one-half percent (1-1/2%) rate provided
1615 for in this subsection shall not apply to sales of fuel for
1616 automobiles, trucks, truck-tractors, buses, farm tractors or
1617 airplanes.

1618 (e) Upon every person operating a telegraph or
1619 telephone business for the transmission of messages or
1620 conversations between points within this state, there is hereby
1621 levied, assessed and shall be collected a tax equal to seven
1622 percent (7%) of the gross income of such business, with no
1623 deduction or allowance for any part of an intrastate rate charge
1624 because of routing across a state line. Charges by one
1625 telecommunications provider to another telecommunications provider
1626 holding a permit issued under Section 27-65-27 for services that
1627 are resold by such other telecommunications provider, including,
1628 but not limited to, access charges, shall not be subject to the
1629 tax levied pursuant to this paragraph (e). However, any sale of a
1630 prepaid telephone calling card or prepaid authorization number, or
1631 both, shall be deemed to be the sale of tangible personal property
1632 subject only to such taxes imposed by law on the sale of tangible
1633 personal property. If the sale of a prepaid telephone calling
1634 card or prepaid authorization number does not take place at the
1635 vendor's place of business, it shall be conclusively determined to
1636 take place at the customer's shipping address. The
1637 reauthorization of a prepaid telephone calling card or a prepaid
1638 authorization number shall be conclusively determined to take
1639 place at the customer's billing address. Except for the
1640 provisions governing the sale of a prepaid telephone calling card

1641 or prepaid authorization number, this paragraph (e) shall not
1642 apply to persons providing mobile telecommunications services that
1643 are taxed pursuant to paragraph (g) of this section.

1644 (f) Upon every person operating a telegraph or
1645 telecommunications business for the transmission of messages or
1646 conversations originating in this state or terminating in this
1647 state via interstate telecommunications, which are charged to the
1648 customer's service address in this state, regardless of where such
1649 amount is billed or paid, there is hereby levied, assessed and
1650 shall be collected a tax equal to seven percent (7%) of the gross
1651 income received by such business from such interstate
1652 telecommunications. However, a person, upon proof that he has
1653 paid a tax in another state on such event, shall be allowed a
1654 credit against the tax imposed in this paragraph (f) on interstate
1655 telecommunications charges to the extent that the amount of such
1656 tax is properly due and actually paid in such other state and to
1657 the extent that the rate of sales tax imposed by and paid to such
1658 other state does not exceed the rate of sales tax imposed by this
1659 paragraph (f). Charges by one telecommunications provider to
1660 another telecommunications provider holding a permit issued under
1661 Section 27-65-27 for services that are resold by such other
1662 telecommunications provider, including, but not limited to, access
1663 charges, shall not be subject to the tax levied pursuant to this
1664 paragraph (f). This paragraph (f) shall not apply to persons
1665 providing mobile telecommunications services that are taxed
1666 pursuant to paragraph (g) of this subsection.

1667 (g) (i) Upon every person providing mobile
1668 telecommunications services in this state there is hereby levied,
1669 assessed and shall be collected:

1670 1. A tax equal to seven percent (7%) of the
1671 gross income received on such services from all charges for
1672 transmission of messages or conversations between points within

1673 any single state as they shall be construed to be within this
1674 state; and

1675 2. A tax equal to seven percent (7%) on the
1676 gross income received from all charges for services that originate
1677 in one state and terminate in any other state.

1678 Charges by one telecommunications provider to another
1679 telecommunications provider holding a permit issued under Section
1680 27-65-27 for services that are resold by such other
1681 telecommunications provider, including, but not limited to, access
1682 charges, shall not be subject to the tax levied pursuant to this
1683 paragraph (g).

1684 (ii) Subject to the provisions of 4 USCS 116(c),
1685 the tax levied by this paragraph (g) shall apply only to those
1686 charges for mobile telecommunications services subject to tax
1687 which are deemed to be provided to a customer by a home service
1688 provider pursuant to 4 USCS 117(a), if the customer's place of
1689 primary use is located within this state.

1690 (iii) A home service provider shall be responsible
1691 for obtaining and maintaining the customer's place of primary use.
1692 The home service provider shall be entitled to rely on the
1693 applicable residential or business street address supplied by such
1694 customer, if the home service provider's reliance is in good
1695 faith; and the home service provider shall be held harmless from
1696 liability for any additional taxes based on a different
1697 determination of the place of primary use for taxes that are
1698 customarily passed on to the customer as a separate itemized
1699 charge. A home service provider shall be allowed to treat the
1700 address used for purposes of the tax levied by this chapter for
1701 any customer under a service contract in effect on August 1, 2002,
1702 as that customer's place of primary use for the remaining term of
1703 such service contract or agreement, excluding any extension or
1704 renewal of such service contract or agreement. Month-to-month

1705 services provided after the expiration of a contract shall be
1706 treated as an extension or renewal of such contract or agreement.

1707 If the commissioner determines that the address used by a
1708 home service provider as a customer's place of primary use does
1709 not meet the definition of the term "place of primary use" as
1710 defined in this paragraph, the commissioner shall give binding
1711 notice to the home service provider to change the place of primary
1712 use on a prospective basis from the date of notice of
1713 determination; however, the customer shall have the opportunity,
1714 prior to such notice of determination, to demonstrate that such
1715 address satisfies such definition.

1716 The commission has the right to collect any taxes due
1717 directly from the home service provider's customer that has failed
1718 to provide an address that meets the definition of the term "place
1719 of primary use" which resulted in a failure of tax otherwise due
1720 being remitted.

1721 (iv) For purposes of this paragraph (g):

1722 1. "Place of primary use" means the street
1723 address representative of where the customer's use of mobile
1724 telecommunications services primarily occurs, which shall be
1725 either the residential street address of the customer or the
1726 primary business street address of the customer.

1727 2. "Customer" means the person or entity that
1728 contracts with the home service provider for mobile
1729 telecommunications services. For determining the place of primary
1730 use, in those instances in which the end user of mobile
1731 telecommunications services is not the contracting party, the end
1732 user of the mobile telecommunications services shall be deemed the
1733 customer. The term "customer" shall not include a reseller of
1734 mobile telecommunications service, or a serving carrier under an
1735 arrangement to serve the customer outside the home service
1736 provider's licensed service area.

1737 3. "Home service provider" means the
1738 facilities-based carrier or reseller with which the customer
1739 contracts for the provision of mobile telecommunications services.

1740 (h) (i) For purposes of this paragraph (h), "bundled
1741 transaction" means a transaction that consists of distinct and
1742 identifiable properties or services which are sold for a single
1743 nonitemized price but which are treated differently for tax
1744 purposes.

1745 (ii) In the case of a bundled transaction that
1746 includes telecommunications services taxed under this section in
1747 which the price of the bundled transaction is attributable to
1748 properties or services that are taxable and nontaxable, the
1749 portion of the price that is attributable to any nontaxable
1750 property or service shall be subject to the tax unless the
1751 provider can reasonably identify that portion from its books and
1752 records kept in the regular course of business.

1753 (iii) In the case of a bundled transaction that
1754 includes telecommunications services subject to tax under this
1755 section in which the price is attributable to properties or
1756 services that are subject to the tax but the tax revenue from the
1757 different properties or services are dedicated to different funds
1758 or purposes, the provider shall allocate the price among the
1759 properties or services:

1760 1. By reasonably identifying the portion of
1761 the price attributable to each of the properties and services from
1762 its books and records kept in the regular course of business; or

1763 2. Based on a reasonable allocation
1764 methodology approved by the commission.

1765 (iv) This paragraph (h) shall not create a right
1766 of action for a customer to require that the provider or the
1767 commission, for purposes of determining the amount of tax
1768 applicable to a bundled transaction, allocate the price to the
1769 different portions of the transaction in order to minimize the

1770 amount of tax charged to the customer. A customer shall not be
1771 entitled to rely on the fact that a portion of the price is
1772 attributable to properties or services not subject to tax unless
1773 the provider elects, after receiving a written request from the
1774 customer in the form required by the provider, to provide
1775 verifiable data based upon the provider's books and records that
1776 are kept in the regular course of business that reasonably
1777 identifies the portion of the price attributable to the properties
1778 or services not subject to the tax.

1779 (2) Persons making sales to consumers of electricity,
1780 current, power, natural gas, liquefied petroleum gas or other fuel
1781 for residential heating, lighting or other residential
1782 noncommercial or nonagricultural use or sales of potable water for
1783 residential, noncommercial or nonagricultural use shall indicate
1784 on each statement rendered to customers that such charges are
1785 exempt from sales taxes.

1786 (3) There is hereby levied, assessed and shall be paid on
1787 transportation charges on shipments moving between points within
1788 this state when paid directly by the consumer, a tax equal to the
1789 rate applicable to the sale of the property being transported.
1790 Such tax shall be reported and paid directly to the State Tax
1791 Commission by the consumer.

1792 **SECTION 65.** Section 27-65-101, Mississippi Code of 1972, is
1793 amended as follows:

1794 27-65-101. (1) The exemptions from the provisions of this
1795 chapter which are of an industrial nature or which are more
1796 properly classified as industrial exemptions than any other
1797 exemption classification of this chapter shall be confined to
1798 those persons or property exempted by this section or by the
1799 provisions of the Constitution of the United States or the State
1800 of Mississippi. No industrial exemption as now provided by any
1801 other section except Section 57-3-33 shall be valid as against the
1802 tax herein levied. Any subsequent industrial exemption from the

1803 tax levied hereunder shall be provided by amendment to this
1804 section. No exemption provided in this section shall apply to
1805 taxes levied by Section 27-65-15 or 27-65-21.

1806 The tax levied by this chapter shall not apply to the
1807 following:

1808 (a) Sales of boxes, crates, cartons, cans, bottles and
1809 other packaging materials to manufacturers and wholesalers for use
1810 as containers or shipping materials to accompany goods sold by
1811 said manufacturers or wholesalers where possession thereof will
1812 pass to the customer at the time of sale of the goods contained
1813 therein and sales to anyone of containers or shipping materials
1814 for use in ships engaged in international commerce.

1815 (b) Sales of raw materials, catalysts, processing
1816 chemicals, welding gases or other industrial processing gases
1817 (except natural gas) to a manufacturer for use directly in
1818 manufacturing or processing a product for sale or rental or
1819 repairing or reconditioning vessels or barges of fifty (50) tons
1820 load displacement and over. For the purposes of this exemption,
1821 electricity used directly in the electrolysis process in the
1822 production of sodium chlorate shall be considered a raw material.
1823 This exemption shall not apply to any property used as fuel except
1824 to the extent that such fuel comprises by-products which have no
1825 market value.

1826 (c) The gross proceeds of sales of dry docks, offshore
1827 drilling equipment for use in oil exploitation or production,
1828 vessels or barges of fifty (50) tons load displacement and over,
1829 when sold by the manufacturer or builder thereof.

1830 (d) Sales to commercial fishermen of commercial fishing
1831 boats of over five (5) tons load displacement and not more than
1832 fifty (50) tons load displacement as registered with the United
1833 States Coast Guard and licensed by the Mississippi Commission on
1834 Marine Resources.

1835 (e) The gross income from repairs to vessels and barges
1836 engaged in foreign trade or interstate transportation.

1837 (f) Sales of petroleum products to vessels or barges
1838 for consumption in marine international commerce or interstate
1839 transportation businesses.

1840 (g) Sales and rentals of rail rolling stock (and
1841 component parts thereof) for ultimate use in interstate commerce
1842 and gross income from services with respect to manufacturing,
1843 repairing, cleaning, altering, reconditioning or improving such
1844 rail rolling stock (and component parts thereof).

1845 (h) Sales of raw materials, catalysts, processing
1846 chemicals, welding gases or other industrial processing gases
1847 (except natural gas) used or consumed directly in manufacturing,
1848 repairing, cleaning, altering, reconditioning or improving such
1849 rail rolling stock (and component parts thereof). This exemption
1850 shall not apply to any property used as fuel.

1851 (i) Sales of machinery or tools or repair parts
1852 therefor or replacements thereof, fuel or supplies used directly
1853 in manufacturing, converting or repairing ships, vessels or barges
1854 of three thousand (3,000) tons load displacement and over, but not
1855 to include office and plant supplies or other equipment not
1856 directly used on the ship, vessel or barge being built, converted
1857 or repaired. For purposes of this exemption, "ships, vessels or
1858 barges" shall not include floating structures described in Section
1859 27-65-18.

1860 (j) Sales of tangible personal property to persons
1861 operating ships in international commerce for use or consumption
1862 on board such ships. This exemption shall be limited to cases in
1863 which procedures satisfactory to the commissioner, ensuring
1864 against use in this state other than on such ships, are
1865 established.

1866 (k) Sales of materials used in the construction of a
1867 building, or any addition or improvement thereon, and sales of any

1868 machinery and equipment not later than three (3) months after the
1869 completion of construction of the building, or any addition
1870 thereon, to be used therein, to qualified businesses, as defined
1871 in Section 57-51-5, which are located in a county or portion
1872 thereof designated as an enterprise zone pursuant to Sections
1873 57-51-1 through 57-51-15.

1874 (l) Sales of materials used in the construction of a
1875 building, or any addition or improvement thereon, and sales of any
1876 machinery and equipment not later than three (3) months after the
1877 completion of construction of the building, or any addition
1878 thereon, to be used therein, to qualified businesses, as defined
1879 in Section 57-54-5.

1880 (m) Income from storage and handling of perishable
1881 goods by a public storage warehouse.

1882 (n) The value of natural gas lawfully injected into the
1883 earth for cycling, repressuring or lifting of oil, or lawfully
1884 vented or flared in connection with the production of oil;
1885 however, if any gas so injected into the earth is sold for such
1886 purposes, then the gas so sold shall not be exempt.

1887 (o) The gross collections from self-service commercial
1888 laundering, drying, cleaning and pressing equipment.

1889 (p) Sales of materials used in the construction of a
1890 building, or any addition or improvement thereon, and sales of any
1891 machinery and equipment not later than three (3) months after the
1892 completion of construction of the building, or any addition
1893 thereon, to be used therein, to qualified companies, certified as
1894 such by the Mississippi Development Authority under Section
1895 57-53-1.

1896 (q) Sales of component materials used in the
1897 construction of a building, or any addition or improvement
1898 thereon, sales of machinery and equipment to be used therein, and
1899 sales of manufacturing or processing machinery and equipment which
1900 is permanently attached to the ground or to a permanent foundation

1901 and which is not by its nature intended to be housed within a
1902 building structure, not later than three (3) months after the
1903 initial start-up date, to permanent business enterprises engaging
1904 in manufacturing or processing in Tier Three areas (as such term
1905 is defined in Section 57-73-21), which businesses are certified by
1906 the State Tax Commission as being eligible for the exemption
1907 granted in this paragraph (q).

1908 (r) Sales of component materials used in the
1909 construction of a building, or any addition or improvement
1910 thereon, and sales of any machinery and equipment not later than
1911 three (3) months after the completion of the building, addition or
1912 improvement thereon, to be used therein, for any company
1913 establishing or transferring its national or regional headquarters
1914 from within or outside the State of Mississippi and creating a
1915 minimum of thirty-five (35) jobs at the new headquarters in this
1916 state. The Tax Commission shall establish criteria and prescribe
1917 procedures to determine if a company qualifies as a national or
1918 regional headquarters for the purpose of receiving the exemption
1919 provided in this paragraph.

1920 (s) The gross proceeds from the sale of semitrailers,
1921 trailers, boats, travel trailers, motorcycles and all-terrain
1922 cycles if exported from this state within forty-eight (48) hours
1923 and registered and first used in another state.

1924 (t) Gross income from the storage and handling of
1925 natural gas in underground salt domes and in other underground
1926 reservoirs, caverns, structures and formations suitable for such
1927 storage.

1928 (u) Sales of machinery and equipment to nonprofit
1929 organizations if the organization:

1930 (i) Is tax-exempt pursuant to Section 501(c)(4) of
1931 the Internal Revenue Code of 1986, as amended;

1932 (ii) Assists in the implementation of the national
1933 contingency plan or area contingency plan, and which is created in

1934 response to the requirements of Title IV, Subtitle B of the Oil
1935 Pollution Act of 1990, Public Law 101-380; and

1936 (iii) Engages primarily in programs to contain,
1937 clean up and otherwise mitigate spills of oil or other substances
1938 occurring in the United States coastal and tidal waters.

1939 For purposes of this exemption, "machinery and equipment"
1940 means any ocean-going vessels, barges, booms, skimmers and other
1941 capital equipment used primarily in the operations of nonprofit
1942 organizations referred to herein.

1943 (v) Sales or leases of materials and equipment to
1944 approved business enterprises as provided under the Growth and
1945 Prosperity Act.

1946 (w) From and after July 1, 2001, sales of pollution
1947 control equipment to manufacturers or custom processors for
1948 industrial use. For the purposes of this exemption, "pollution
1949 control equipment" means equipment, devices, machinery or systems
1950 used or acquired to prevent, control, monitor or reduce air, water
1951 or groundwater pollution, or solid or hazardous waste as required
1952 by federal or state law or regulation.

1953 (x) Sales or leases to a manufacturer of motor vehicles
1954 operating a project that has been certified by the Mississippi
1955 Major Economic Impact Authority as a project as defined in Section
1956 57-75-5(f)(iv)1 of machinery and equipment; special tooling such
1957 as dies, molds, jigs and similar items treated as special tooling
1958 for federal income tax purposes; or repair parts therefor or
1959 replacements thereof; repair services thereon; fuel, supplies,
1960 electricity, coal and natural gas used directly in the manufacture
1961 of motor vehicles or motor vehicle parts or used to provide
1962 climate control for manufacturing areas.

1963 (y) Sales or leases of component materials, machinery
1964 and equipment used in the construction of a building, or any
1965 addition or improvement thereon to an enterprise operating a
1966 project that has been certified by the Mississippi Major Economic

1967 Impact Authority as a project as defined in Section
1968 57-75-5(f)(iv)1 and any other sales or leases required to
1969 establish or operate such project.

1970 (z) Sales of component materials and equipment to a
1971 business enterprise as provided under Section 57-64-33.

1972 (aa) The gross income from the stripping and painting
1973 of commercial aircraft engaged in foreign or interstate
1974 transportation business.

1975 (bb) Sales of production items used in the production
1976 of motion pictures such as film; videotape; component building
1977 materials used in the construction of a set; makeup; fabric used
1978 as or in the making of costumes; clothing, including, shoes,
1979 accessories and jewelry used as wardrobes; materials used as set
1980 dressing; materials used as props on a set or by an actor;
1981 materials used in the creation of special effects; and expendable
1982 items purchased for limited use by grip, electric and camera
1983 departments such as tape, fasteners and compressed air. For the
1984 purposes of this paragraph (bb), the term "motion picture" means a
1985 nationally distributed feature-length film, video, television
1986 series or commercial made in Mississippi, in whole or in part, for
1987 theatrical or television viewing or as a television pilot. The
1988 term "motion picture" shall not include the production of
1989 television coverage of news and athletic events, or a film, video,
1990 television series or commercial that contains any material or
1991 performance defined in Section 97-29-103.

1992 (cc) Sales or leases 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) of machinery and equipment; special tooling such
1996 as dies, molds, jigs and similar items treated as special tooling
1997 for federal income tax purposes; or repair parts therefor or
1998 replacements thereof; repair services thereon; fuel, supplies,
1999 electricity, coal and natural gas used directly in the

2000 manufacturing/production operations of the project or used to
2001 provide climate control for manufacturing/production areas.

2002 (dd) Sales or leases of component materials, machinery
2003 and equipment used in the construction of a building, or any
2004 addition or improvement thereon to an enterprise owning or
2005 operating a project that has been designated by the Mississippi
2006 Major Economic Impact Authority as a project as defined in Section
2007 57-75-5(f)(xviii) and any other sales or leases required to
2008 establish or operate such project.

2009 (ee) Sales of parts used in the repair and servicing of
2010 aircraft not registered in Mississippi engaged exclusively in the
2011 business of foreign or interstate transportation to businesses
2012 engaged in aircraft repair and maintenance.

2013 (ff) Sales of component materials used in the
2014 construction of a facility, or any addition or improvement
2015 thereon, and sales or leases of machinery and equipment not later
2016 than three (3) months after the completion of construction of the
2017 facility, or any addition or improvement thereto, to be used in
2018 the building or any addition or improvement thereto, to a
2019 permanent business enterprise operating a data/information
2020 enterprise in Tier Three areas (as such areas are designated in
2021 accordance with Section 57-73-21), meeting minimum criteria
2022 established by the Mississippi Development Authority.

2023 (gg) Sales of component materials used in the
2024 construction of a facility, or any addition or improvement
2025 thereto, and sales of machinery and equipment not later than three
2026 (3) months after the completion of construction of the facility,
2027 or any addition or improvement thereto, to be used in the facility
2028 or any addition or improvement thereto, to technology intensive
2029 enterprises for industrial purposes in Tier Three areas (as such
2030 areas are designated in accordance with Section 57-73-21), as
2031 certified by the State Tax Commission. For purposes of this
2032 paragraph, an enterprise must meet the criteria provided for in

2033 Section 27-65-17(1)(f) in order to be considered a technology
2034 intensive enterprise.

2035 (2) Sales of component materials used in the construction of
2036 a building, or any addition or improvement thereon, sales of
2037 machinery and equipment to be used therein, and sales of
2038 manufacturing or processing machinery and equipment which is
2039 permanently attached to the ground or to a permanent foundation
2040 and which is not by its nature intended to be housed within a
2041 building structure, not later than three (3) months after the
2042 initial start-up date, to permanent business enterprises engaging
2043 in manufacturing or processing in Tier Two areas and Tier One
2044 areas (as such areas are designated in accordance with Section
2045 57-73-21), which businesses are certified by the State Tax
2046 Commission as being eligible for the exemption granted in this
2047 paragraph, shall be exempt from one-half (1/2) of the taxes
2048 imposed on such transactions under this chapter.

2049 (3) Sales of component materials used in the construction of
2050 a facility, or any addition or improvement thereon, and sales or
2051 leases of machinery and equipment not later than three (3) months
2052 after the completion of construction of the facility, or any
2053 addition or improvement thereto, to be used in the building or any
2054 addition or improvement thereto, to a permanent business
2055 enterprise operating a data/information enterprise in Tier Two
2056 areas and Tier One areas (as such areas are designated in
2057 accordance with Section 57-73-21), which businesses meet minimum
2058 criteria established by the Mississippi Development Authority,
2059 shall be exempt from one-half (1/2) of the taxes imposed on such
2060 transaction under this chapter.

2061 (4) Sales of component materials used in the construction of
2062 a facility, or any addition or improvement thereto, and sales of
2063 machinery and equipment not later than three (3) months after the
2064 completion of construction of the facility, or any addition or
2065 improvement thereto, to be used in the building or any addition or

2066 improvement thereto, to technology intensive enterprises for
2067 industrial purposes in Tier Two areas and Tier One areas (as such
2068 areas are designated in accordance with Section 57-73-21), which
2069 businesses are certified by the State Tax Commission as being
2070 eligible for the exemption granted in this paragraph, shall be
2071 exempt from one-half (1/2) of the taxes imposed on such
2072 transactions under this chapter. For purposes of this subsection,
2073 an enterprise must meet the criteria provided for in Section
2074 27-65-17(1)(f) in order to be considered a technology intensive
2075 enterprise.

2076 (5) (a) For purposes of this subsection:

2077 (i) "Telecommunications enterprises" shall have
2078 the meaning ascribed to such term in Section 57-73-21 * * *;

2079 (ii) "Tier One areas" mean counties designated as
2080 Tier One areas pursuant to Section 57-73-21 * * *;

2081 (iii) "Tier Two areas" mean counties designated as
2082 Tier Two areas pursuant to Section 57-73-21 * * *;

2083 (iv) "Tier Three areas" mean counties designated
2084 as Tier Three areas pursuant to Section 57-73-21 * * *; and

2085 (v) "Equipment used in the deployment of broadband
2086 technologies" means any equipment capable of being used for or in
2087 connection with the transmission of information at a rate, prior
2088 to taking into account the effects of any signal degradation, that
2089 is not less than three hundred eighty-four (384) kilobits per
2090 second in at least one direction, including, but not limited to,
2091 asynchronous transfer mode switches, digital subscriber line
2092 access multiplexers, routers, servers, multiplexers, fiber optics
2093 and related equipment.

2094 (b) Sales of equipment to telecommunications
2095 enterprises after June 30, 2003, and before July 1, 2013, that is
2096 installed in Tier One areas and used in the deployment of
2097 broadband technologies shall be exempt from one-half (1/2) of the
2098 taxes imposed on such transactions under this chapter.

2099 (c) Sales of equipment to telecommunications
2100 enterprises after June 30, 2003, and before July 1, 2013, that is
2101 installed in Tier Two and Tier Three areas and used in the
2102 deployment of broadband technologies shall be exempt from the
2103 taxes imposed on such transactions under this chapter.

2104 **SECTION 66.** Section 57-73-21, Mississippi Code of 1972, is
2105 amended as follows:

2106 **[In cases involving business enterprises that received or**
2107 **applied for the job tax credit authorized by this section prior to**
2108 **January 1, 2005, this section shall read as follows:]**

2109 57-73-21. (1) Annually by December 31, using the most
2110 current data available from the University Research Center,
2111 Mississippi Department of Employment Security and the United
2112 States Department of Commerce, the State Tax Commission shall rank
2113 and designate the state's counties as provided in this section.
2114 The twenty-eight (28) counties in this state having a combination
2115 of the highest unemployment rate and lowest per capita income for
2116 the most recent thirty-six-month period, with equal weight being
2117 given to each category, are designated Tier Three areas. The
2118 twenty-seven (27) counties in the state with a combination of the
2119 next highest unemployment rate and next lowest per capita income
2120 for the most recent thirty-six-month period, with equal weight
2121 being given to each category, are designated Tier Two areas. The
2122 twenty-seven (27) counties in the state with a combination of the
2123 lowest unemployment rate and the highest per capita income for the
2124 most recent thirty-six-month period, with equal weight being given
2125 to each category, are designated Tier One areas. Counties
2126 designated by the Tax Commission qualify for the appropriate tax
2127 credit for jobs as provided in subsections (2), (3) and (4) of
2128 this section. The designation by the Tax Commission is effective
2129 for the tax years of permanent business enterprises which begin
2130 after the date of designation. For companies which plan an
2131 expansion in their labor forces, the Tax Commission shall

2132 prescribe certification procedures to ensure that the companies
2133 can claim credits in future years without regard to whether or not
2134 a particular county is removed from the list of Tier Three or Tier
2135 Two areas.

2136 (2) Permanent business enterprises primarily engaged in
2137 manufacturing, processing, warehousing, distribution, wholesaling
2138 and research and development, or permanent business enterprises
2139 designated by rule and regulation of the Mississippi Development
2140 Authority as air transportation and maintenance facilities, final
2141 destination or resort hotels having a minimum of one hundred fifty
2142 (150) guest rooms, recreational facilities that impact tourism,
2143 movie industry studios, telecommunications enterprises, data or
2144 information processing enterprises or computer software
2145 development enterprises or any technology intensive facility or
2146 enterprise, in counties designated by the Tax Commission as Tier
2147 Three areas are allowed a job tax credit for taxes imposed by
2148 Section 27-7-5 equal to Two Thousand Dollars (\$2,000.00) annually
2149 for each net new full-time employee job for five (5) years
2150 beginning with years two (2) through six (6) after the creation of
2151 the job. The number of new full-time jobs must be determined by
2152 comparing the monthly average number of full-time employees
2153 subject to the Mississippi income tax withholding for the taxable
2154 year with the corresponding period of the prior taxable year.
2155 Only those permanent businesses that increase employment by ten
2156 (10) or more in a Tier Three area are eligible for the credit.
2157 Credit is not allowed during any of the five (5) years if the net
2158 employment increase falls below ten (10). The Tax Commission
2159 shall adjust the credit allowed each year for the net new
2160 employment fluctuations above the minimum level of ten (10).

2161 (3) Permanent business enterprises primarily engaged in
2162 manufacturing, processing, warehousing, distribution, wholesaling
2163 and research and development, or permanent business enterprises
2164 designated by rule and regulation of the Mississippi Development

2165 Authority as air transportation and maintenance facilities, final
2166 destination or resort hotels having a minimum of one hundred fifty
2167 (150) guest rooms, recreational facilities that impact tourism,
2168 movie industry studios, telecommunications enterprises, data or
2169 information processing enterprises or computer software
2170 development enterprises or any technology intensive facility or
2171 enterprise, in counties that have been designated by the Tax
2172 Commission as Tier Two areas are allowed a job tax credit for
2173 taxes imposed by Section 27-7-5 equal to One Thousand Dollars
2174 (\$1,000.00) annually for each net new full-time employee job for
2175 five (5) years beginning with years two (2) through six (6) after
2176 the creation of the job. The number of new full-time jobs must be
2177 determined by comparing the monthly average number of full-time
2178 employees subject to Mississippi income tax withholding for the
2179 taxable year with the corresponding period of the prior taxable
2180 year. Only those permanent businesses that increase employment by
2181 fifteen (15) or more in Tier Two areas are eligible for the
2182 credit. The credit is not allowed during any of the five (5)
2183 years if the net employment increase falls below fifteen (15).
2184 The Tax Commission shall adjust the credit allowed each year for
2185 the net new employment fluctuations above the minimum level of
2186 fifteen (15).

2187 (4) Permanent business enterprises primarily engaged in
2188 manufacturing, processing, warehousing, distribution, wholesaling
2189 and research and development, or permanent business enterprises
2190 designated by rule and regulation of the Mississippi Development
2191 Authority as air transportation and maintenance facilities, final
2192 destination or resort hotels having a minimum of one hundred fifty
2193 (150) guest rooms, recreational facilities that impact tourism,
2194 movie industry studios, telecommunications enterprises, data or
2195 information processing enterprises or computer software
2196 development enterprises or any technology intensive facility or
2197 enterprise, in counties designated by the Tax Commission as Tier

2198 One areas are allowed a job tax credit for taxes imposed by
2199 Section 27-7-5 equal to Five Hundred Dollars (\$500.00) annually
2200 for each net new full-time employee job for five (5) years
2201 beginning with years two (2) through six (6) after the creation of
2202 the job. The number of new full-time jobs must be determined by
2203 comparing the monthly average number of full-time employees
2204 subject to Mississippi income tax withholding for the taxable year
2205 with the corresponding period of the prior taxable year. Only
2206 those permanent businesses that increase employment by twenty (20)
2207 or more in Tier One areas are eligible for the credit. The credit
2208 is not allowed during any of the five (5) years if the net
2209 employment increase falls below twenty (20). The Tax Commission
2210 shall adjust the credit allowed each year for the net new
2211 employment fluctuations above the minimum level of twenty (20).

2212 (5) In addition to the credits authorized in subsections
2213 (2), (3) and (4), an additional Five Hundred Dollars (\$500.00)
2214 credit for each net new full-time employee or an additional One
2215 Thousand Dollars (\$1,000.00) credit for each net new full-time
2216 employee who is paid a salary, excluding benefits which are not
2217 subject to Mississippi income taxation, of at least one hundred
2218 twenty-five percent (125%) of the average annual wage of the state
2219 or an additional Two Thousand Dollars (\$2,000.00) credit for each
2220 net new full-time employee who is paid a salary, excluding
2221 benefits which are not subject to Mississippi income taxation, of
2222 at least two hundred percent (200%) of the average annual wage of
2223 the state, shall be allowed for any company establishing or
2224 transferring its national or regional headquarters from within or
2225 outside the State of Mississippi. A minimum of thirty-five (35)
2226 jobs must be created to qualify for the additional credit. The
2227 State Tax Commission shall establish criteria and prescribe
2228 procedures to determine if a company qualifies as a national or
2229 regional headquarters for purposes of receiving the credit awarded
2230 in this subsection. As used in this subsection, the average

2231 annual wage of the state is the most recently published average
2232 annual wage as determined by the Mississippi Department of
2233 Employment Security.

2234 (6) In addition to the credits authorized in subsections
2235 (2), (3), (4) and (5), any job requiring research and development
2236 skills (chemist, engineer, etc.) shall qualify for an additional
2237 One Thousand Dollars (\$1,000.00) credit for each net new full-time
2238 employee.

2239 (7) In lieu of the tax credits provided in subsections (2)
2240 through (6), any commercial or industrial property owner which
2241 remediates contaminated property in accordance with Sections
2242 49-35-1 through 49-35-25, is allowed a job tax credit for taxes
2243 imposed by Section 27-7-5 equal to the amounts provided in
2244 subsection (2), (3) or (4) for each net new full-time employee job
2245 for five (5) years beginning with years two (2) through six (6)
2246 after the creation of the job. The number of new full-time jobs
2247 must be determined by comparing the monthly average number of
2248 full-time employees subject to Mississippi income tax withholding
2249 for the taxable year with the corresponding period of the prior
2250 taxable year. This subsection shall be administered in the same
2251 manner as subsections (2), (3) and (4), except the landowner shall
2252 not be required to increase employment by the levels provided in
2253 subsections (2), (3) and (4) to be eligible for the tax credit.

2254 (8) Tax credits for five (5) years for the taxes imposed by
2255 Section 27-7-5 shall be awarded for additional net new full-time
2256 jobs created by business enterprises qualified under subsections
2257 (2), (3), (4), (5), (6) and (7) of this section. Except as
2258 otherwise provided, the Tax Commission shall adjust the credit
2259 allowed in the event of employment fluctuations during the
2260 additional five (5) years of credit.

2261 (9) The sale, merger, acquisition, reorganization,
2262 bankruptcy or relocation from one county to another county within
2263 the state of any business enterprise may not create new

2264 eligibility in any succeeding business entity, but any unused job
2265 tax credit may be transferred and continued by any transferee of
2266 the business enterprise. The Tax Commission shall determine
2267 whether or not qualifying net increases or decreases have occurred
2268 or proper transfers of credit have been made and may require
2269 reports, promulgate regulations, and hold hearings as needed for
2270 substantiation and qualification.

2271 (10) Any tax credit claimed under this section but not used
2272 in any taxable year may be carried forward for five (5) years from
2273 the close of the tax year in which the qualified jobs were
2274 established but the credit established by this section taken in
2275 any one (1) tax year must be limited to an amount not greater than
2276 fifty percent (50%) of the taxpayer's state income tax liability
2277 which is attributable to income derived from operations in the
2278 state for that year.

2279 (11) No business enterprise for the transportation,
2280 handling, storage, processing or disposal of hazardous waste is
2281 eligible to receive the tax credits provided in this section.

2282 (12) The credits allowed under this section shall not be
2283 used by any business enterprise or corporation other than the
2284 business enterprise actually qualifying for the credits.

2285 (13) The tax credits provided for in this section shall be
2286 in addition to any tax credits described in Sections 57-51-13(b),
2287 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official
2288 action by the Department of Economic Development prior to July 1,
2289 1989, to any business enterprise determined prior to July 1, 1989,
2290 by the Department of Economic Development to be a qualified
2291 business as defined in Section 57-51-5(f) or Section 57-54-5(d) or
2292 a qualified company as described in Section 57-53-1, as the case
2293 may be; however, from and after July 1, 1989, tax credits shall be
2294 allowed only under either this section or Sections 57-51-13(b),
2295 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time
2296 employee.

2297 (14) As used in this section, the term "telecommunications
2298 enterprises" means entities engaged in the creation, display,
2299 management, storage, processing, transmission or distribution for
2300 compensation of images, text, voice, video or data by wire or by
2301 wireless means, or entities engaged in the construction, design,
2302 development, manufacture, maintenance or distribution for
2303 compensation of devices, products, software or structures used in
2304 the above activities. Companies organized to do business as
2305 commercial broadcast radio stations, television stations or news
2306 organizations primarily serving in-state markets shall not be
2307 included within the definition of the term "telecommunications
2308 enterprises."

2309 [In cases involving business enterprises that apply for the
2310 job tax credit authorized by this section from and after January
2311 1, 2005, this section shall read as follows:]

2312 57-73-21. (1) Annually by December 31, using the most
2313 current data available from the University Research Center,
2314 Mississippi Department of Employment Security and the United
2315 States Department of Commerce, the State Tax Commission shall rank
2316 and designate the state's counties as provided in this section.
2317 The twenty-eight (28) counties in this state having a combination
2318 of the highest unemployment rate and lowest per capita income for
2319 the most recent thirty-six-month period, with equal weight being
2320 given to each category, are designated Tier Three areas. The
2321 twenty-seven (27) counties in the state with a combination of the
2322 next highest unemployment rate and next lowest per capita income
2323 for the most recent thirty-six-month period, with equal weight
2324 being given to each category, are designated Tier Two areas. The
2325 twenty-seven (27) counties in the state with a combination of the
2326 lowest unemployment rate and the highest per capita income for the
2327 most recent thirty-six-month period, with equal weight being given
2328 to each category, are designated Tier One areas. Counties
2329 designated by the Tax Commission qualify for the appropriate tax

2330 credit for jobs as provided in * * * this section. The
2331 designation by the Tax Commission is effective for the tax years
2332 of permanent business enterprises which begin after the date of
2333 designation. For companies which plan an expansion in their labor
2334 forces, the Tax Commission shall prescribe certification
2335 procedures to ensure that the companies can claim credits in
2336 future years without regard to whether or not a particular county
2337 is removed from the list of Tier Three or Tier Two areas.

2338 (2) Permanent business enterprises * * * in counties
2339 designated by the Tax Commission as Tier Three areas are allowed a
2340 job tax credit for taxes imposed by Section 27-7-5 equal to ten
2341 percent (10%) of the payroll of the enterprise for net new
2342 full-time employee jobs for five (5) years beginning with years
2343 two (2) through six (6) after the creation of the minimum number
2344 of jobs required by this subsection. The number of new full-time
2345 jobs must be determined by comparing the monthly average number of
2346 full-time employees subject to the Mississippi income tax
2347 withholding for the taxable year with the corresponding period of
2348 the prior taxable year. Only those permanent business enterprises
2349 that increase employment by ten (10) or more in a Tier Three area
2350 are eligible for the credit. Credit is not allowed during any of
2351 the five (5) years if the net employment increase falls below ten
2352 (10). The Tax Commission shall adjust the credit allowed each
2353 year for the net new employment fluctuations above the minimum
2354 level of ten (10).

2355 (3) Permanent business enterprises * * * in counties that
2356 have been designated by the Tax Commission as Tier Two areas are
2357 allowed a job tax credit for taxes imposed by Section 27-7-5 equal
2358 to five percent (5%) of the payroll of the enterprise for net new
2359 full-time employee jobs for five (5) years beginning with years
2360 two (2) through six (6) after the creation of the minimum number
2361 of jobs required by this subsection. The number of new full-time
2362 jobs must be determined by comparing the monthly average number of

2363 full-time employees subject to Mississippi income tax withholding
2364 for the taxable year with the corresponding period of the prior
2365 taxable year. Only those permanent business enterprises that
2366 increase employment by fifteen (15) or more in Tier Two areas are
2367 eligible for the credit. The credit is not allowed during any of
2368 the five (5) years if the net employment increase falls below
2369 fifteen (15). The Tax Commission shall adjust the credit allowed
2370 each year for the net new employment fluctuations above the
2371 minimum level of fifteen (15).

2372 (4) Permanent business enterprises * * * in counties
2373 designated by the Tax Commission as Tier One areas are allowed a
2374 job tax credit for taxes imposed by Section 27-7-5 equal to two
2375 and one-half percent (2.5%) of the payroll of the enterprise for
2376 net new full-time employee jobs for five (5) years beginning with
2377 years two (2) through six (6) after the creation of the minimum
2378 number of jobs required by this subsection. The number of new
2379 full-time jobs must be determined by comparing the monthly average
2380 number of full-time employees subject to Mississippi income tax
2381 withholding for the taxable year with the corresponding period of
2382 the prior taxable year. Only those permanent business enterprises
2383 that increase employment by twenty (20) or more in Tier One areas
2384 are eligible for the credit. The credit is not allowed during any
2385 of the five (5) years if the net employment increase falls below
2386 twenty (20). The Tax Commission shall adjust the credit allowed
2387 each year for the net new employment fluctuations above the
2388 minimum level of twenty (20).

2389 (5) In addition to the other credits authorized in this
2390 section, an additional Five Hundred Dollars (\$500.00) credit for
2391 each net new full-time employee or an additional One Thousand
2392 Dollars (\$1,000.00) credit for each net new full-time employee who
2393 is paid a salary, excluding benefits which are not subject to
2394 Mississippi income taxation, of at least one hundred twenty-five
2395 percent (125%) of the average annual wage of the state or an

2396 additional Two Thousand Dollars (\$2,000.00) credit for each net
2397 new full-time employee who is paid a salary, excluding benefits
2398 which are not subject to Mississippi income taxation, of at least
2399 two hundred percent (200%) of the average annual wage of the
2400 state, shall be allowed for any company establishing or
2401 transferring its national or regional headquarters from within or
2402 outside the State of Mississippi. A minimum of thirty-five (35)
2403 jobs must be created to qualify for the additional credit. The
2404 State Tax Commission shall establish criteria and prescribe
2405 procedures to determine if a company qualifies as a national or
2406 regional headquarters for purposes of receiving the credit awarded
2407 in this subsection. As used in this subsection, the average
2408 annual wage of the state is the most recently published average
2409 annual wage as determined by the Mississippi Department of
2410 Employment Security.

2411 (6) In addition to the other credits authorized in this
2412 section, any job requiring research and development skills
2413 (chemist, engineer, etc.) shall qualify for an additional One
2414 Thousand Dollars (\$1,000.00) credit for each net new full-time
2415 employee.

2416 (7) In lieu of the other tax credits provided in this
2417 section, any commercial or industrial property owner which
2418 remediates contaminated property in accordance with Sections
2419 49-35-1 through 49-35-25, is allowed a job tax credit for taxes
2420 imposed by Section 27-7-5 equal to the percentage of payroll
2421 provided in subsection (2), (3) or (4) of this section for * * *
2422 net new full-time employee jobs for five (5) years beginning with
2423 years two (2) through six (6) after the creation of the jobs. The
2424 number of new full-time jobs must be determined by comparing the
2425 monthly average number of full-time employees subject to
2426 Mississippi income tax withholding for the taxable year with the
2427 corresponding period of the prior taxable year. This subsection
2428 shall be administered in the same manner as subsections (2), (3)

2429 and (4), except the landowner shall not be required to increase
2430 employment by the levels provided in subsections (2), (3) and (4)
2431 to be eligible for the tax credit.

2432 (8) (a) Tax credits for five (5) years for the taxes
2433 imposed by Section 27-7-5 shall be awarded for increases in the
2434 annual payroll for net new full-time jobs created by business
2435 enterprises qualified under this section. The Tax Commission
2436 shall adjust the credit allowed in the event of payroll
2437 fluctuations during the additional five (5) years of credit.

2438 (b) Tax credits for five (5) years for the taxes
2439 imposed by Section 27-7-5 shall be awarded for additional net new
2440 full-time jobs created by business enterprises qualified under
2441 subsections * * * (5) and (6) * * * of this section. * * * The
2442 Tax Commission shall adjust the credit allowed in the event of
2443 employment fluctuations during the additional five (5) years of
2444 credit.

2445 (9) The sale, merger, acquisition, reorganization,
2446 bankruptcy or relocation from one county to another county within
2447 the state of any business enterprise may not create new
2448 eligibility in any succeeding business entity, but any unused job
2449 tax credit may be transferred and continued by any transferee of
2450 the business enterprise. The Tax Commission shall determine
2451 whether or not qualifying net increases or decreases have occurred
2452 or proper transfers of credit have been made and may require
2453 reports, promulgate regulations, and hold hearings as needed for
2454 substantiation and qualification.

2455 (10) Any tax credit claimed under this section but not used
2456 in any taxable year may be carried forward for five (5) years from
2457 the close of the tax year in which the qualified jobs were
2458 established but the credit established by this section taken in
2459 any one tax year must be limited to an amount not greater than
2460 fifty percent (50%) of the taxpayer's state income tax liability

2461 which is attributable to income derived from operations in the
2462 state for that year.

2463 (11) No business enterprise for the transportation,
2464 handling, storage, processing or disposal of hazardous waste is
2465 eligible to receive the tax credits provided in this section.

2466 (12) The credits allowed under this section shall not be
2467 used by any business enterprise or corporation other than the
2468 business enterprise actually qualifying for the credits.

2469 (13) As used in this section:

2470 (a) "Business enterprises" means entities primarily
2471 engaged in:

2472 (i) Manufacturing, processing, warehousing,
2473 distribution, wholesaling and research and development, or

2474 (ii) Permanent business enterprises designated by
2475 rule and regulation of the Mississippi Development Authority as
2476 air transportation and maintenance facilities, final destination
2477 or resort hotels having a minimum of one hundred fifty (150) guest
2478 rooms, recreational facilities that impact tourism, movie industry
2479 studios, telecommunications enterprises, data or information
2480 processing enterprises or computer software development
2481 enterprises or any technology intensive facility or enterprise.

2482 (b) "Telecommunications enterprises" means entities
2483 engaged in the creation, display, management, storage, processing,
2484 transmission or distribution for compensation of images, text,
2485 voice, video or data by wire or by wireless means, or entities
2486 engaged in the construction, design, development, manufacture,
2487 maintenance or distribution for compensation of devices, products,
2488 software or structures used in the above activities. Companies
2489 organized to do business as commercial broadcast radio stations,
2490 television stations or news organizations primarily serving
2491 in-state markets shall not be included within the definition of
2492 the term "telecommunications enterprises."

2493 (14) The tax credits provided for in this section shall be
2494 in addition to any tax credits described in Sections 57-51-13(b),
2495 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official
2496 action by the Department of Economic Development prior to July 1,
2497 1989, to any business enterprise determined prior to July 1, 1989,
2498 by the Department of Economic Development to be a qualified
2499 business as defined in Section 57-51-5(f) or Section 57-54-5(d) or
2500 a qualified company as described in Section 57-53-1, as the case
2501 may be; however, from and after July 1, 1989, tax credits shall be
2502 allowed only under either this section or Sections 57-51-13(b),
2503 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time
2504 employee.

2505 * * *

2506 **SECTION 67.** Section 57-73-25, Mississippi Code of 1972, is
2507 amended as follows:

2508 57-73-25. (1) A fifty percent (50%) income tax credit shall
2509 be granted to any employer (as defined in subsection (4) of this
2510 section) sponsoring skills training. The fifty percent (50%)
2511 credit shall be granted to employers that participate in
2512 employer-sponsored training programs through any community/junior
2513 college in the district within which the employer is located or
2514 training approved by such community/junior college. The credit is
2515 applied to qualified training expenses, which are expenses related
2516 to instructors, instructional materials and equipment, and the
2517 construction and maintenance of facilities by such employer
2518 designated for training purposes which is attributable to training
2519 provided through such community/junior college or training
2520 approved by such community/junior college. The credits allowed
2521 under this section shall only be used by the actual employer
2522 qualifying for the credits. The credit shall not exceed fifty
2523 percent (50%) of the income tax liability in a tax year and may be
2524 carried forward for the five (5) successive years if the amount
2525 allowable as credit exceeds the income tax liability in a tax

2526 year; however, thereafter, if the amount allowable as a credit
2527 exceeds the tax liability, the amount of excess shall not be
2528 refundable or carried forward to any other taxable year. The
2529 credit authorized under this section shall not exceed Two Thousand
2530 Five Hundred Dollars (\$2,500.00) per employee during any one (1)
2531 year. Nothing in this section shall be interpreted in any manner
2532 as to prevent the continuing operation of state-supported
2533 university programs.

2534 (2) Employer-sponsored training shall include an evaluation
2535 by the local community or junior college that serves the employer
2536 to ensure that the training provided is job related and conforms
2537 to the definition of "skills training" as hereinafter defined.

2538 (3) Employers shall be certified as eligible for the tax
2539 credit by the local community or junior college that serves the
2540 employer and the State Tax Commission.

2541 (4) For the purposes of this section:

2542 (a) "Skills training" means any employer-sponsored
2543 training by an appropriate community/junior college or training
2544 approved by such community/junior college that enhances skills
2545 that improve job performance. If the employer provides
2546 pre-employment training, the portion of the pre-employment
2547 training that involves skills training shall be eligible for the
2548 credit.

2549 (b) "Employer-sponsored training" means training
2550 provided by the appropriate community/junior college in the
2551 district within which the employer is located or training approved
2552 by such community/junior college.

2553 (c) "Employer" means those permanent business
2554 enterprises as defined and set out in Section 57-73-21 * * *.

2555 (5) The tax credits provided for in this section shall be in
2556 addition to all other tax credits heretofore granted by the laws
2557 of the state.

2558 (6) A community/junior college may commit to provide
2559 employer-sponsored skills training programs for an employer for a
2560 multiple number of years, not to exceed five (5) years.

2561 (7) The State Board for Community and Junior Colleges shall
2562 make a report to the Legislature by January 30 of each year
2563 summarizing the number of participants, the junior or community
2564 college through which the training was offered and the type
2565 training offered.

2566 (8) This section shall stand repealed from and after July 1,
2567 2006.

2568 **SECTION 68.** Section 57-10-401, Mississippi Code of 1972, is
2569 amended as follows:

2570 **[In cases involving an economic development project for which**
2571 **the Mississippi Business Finance Corporation has issued bonds for**
2572 **the purpose of financing the approved costs of such project prior**
2573 **to July 1, 1994, this section shall read as follows:]**

2574 57-10-401. As used in Sections 57-10-401 through 57-10-445
2575 the following terms shall have the meanings ascribed to them
2576 herein unless the context clearly indicates otherwise:

2577 (a) "Approved company" means any eligible company
2578 seeking to locate an economic development project in a county,
2579 which eligible company is approved by the corporation.

2580 (b) "Approved costs" means:

2581 (i) Obligations incurred for equipment and labor
2582 and to contractors, subcontractors, builders and materialmen in
2583 connection with the acquisition, construction and installation of
2584 an economic development project;

2585 (ii) The cost of acquiring land or rights in land
2586 and any cost incidental thereto, including recording fees;

2587 (iii) The cost of contract bonds and of insurance
2588 of all kinds that may be required or necessary during the course
2589 of acquisition, construction and installation of an economic

2590 development project which is not paid by the contractor or
2591 contractors or otherwise provided for;

2592 (iv) All costs of architectural and engineering
2593 services, including test borings, surveys, estimates, plans and
2594 specifications, preliminary investigations, and supervision of
2595 construction, as well as for the performance of all the duties
2596 required by or consequent upon the acquisition, construction and
2597 installation of an economic development project;

2598 (v) All costs which shall be required to be paid
2599 under the terms of any contract or contracts for the acquisition,
2600 construction and installation of an economic development project;

2601 (vi) All costs, expenses and fees incurred in
2602 connection with the issuance of bonds pursuant to Sections
2603 57-10-401 through 57-10-445;

2604 (vii) All costs funded by a loan made under the
2605 Mississippi Small Enterprise Development Finance Act; and

2606 (viii) All costs of professionals permitted to be
2607 engaged under the Mississippi Small Enterprise Development Finance
2608 Act for a loan made under such act.

2609 (c) "Assessment" means the job development assessment
2610 fee authorized in Section 57-10-413.

2611 (d) "Bonds" means the revenue bonds, notes or other
2612 debt obligations of the corporation authorized to be issued by the
2613 corporation on behalf of an eligible company or other state
2614 agency.

2615 (e) "Corporation" means the Mississippi Business
2616 Finance Corporation created under Section 57-10-167, Mississippi
2617 Code of 1972.

2618 (f) "Economic development project" means and includes
2619 the acquisition of any equipment or real estate in a county and
2620 the construction and installation thereon, and with respect
2621 thereto, of improvements and facilities necessary or desirable for
2622 improvement of the real estate, including surveys, site tests and

2623 inspections, subsurface site work, excavation, removal of
2624 structures, roadways, cemeteries and other surface obstructions,
2625 filling, grading and provision of drainage, storm water detention,
2626 installation of utilities such as water, sewer, sewage treatment,
2627 gas, electricity, communications and similar facilities, off-site
2628 construction of utility extensions to the boundaries of the real
2629 estate, and the acquisition, construction and installation of
2630 manufacturing, telecommunications, data processing, distribution
2631 or warehouse facilities on the real estate, for lease or financial
2632 arrangement by the corporation to an approved company for use and
2633 occupancy by the approved company or its affiliates for
2634 manufacturing, telecommunications, data processing, distribution
2635 or warehouse purposes. Such term also includes, without
2636 limitation, any project the financing of which has been approved
2637 under the Mississippi Small Enterprise Development Finance Act.

2638 (g) "Eligible company" means any corporation,
2639 partnership, sole proprietorship, business trust, or other entity
2640 which is:

2641 (i) Engaged in manufacturing which meets the
2642 standards promulgated by the corporation under Sections 57-10-401
2643 through 57-10-445;

2644 (ii) A private company approved by the corporation
2645 for a loan under the Mississippi Small Enterprise Development
2646 Finance Act;

2647 (iii) A distribution or warehouse facility
2648 employing a minimum of fifty (50) people or employing a minimum of
2649 twenty (20) people and having a capital investment in such
2650 facility of at least Five Million Dollars (\$5,000,000.00); or

2651 (iv) A telecommunications or data processing
2652 business.

2653 (h) "Executive director" means the Executive Director
2654 of the Mississippi Business Finance Corporation.

2655 (i) "Financing agreement" means any financing documents
2656 and agreements, indentures, loan agreements, lease agreements,
2657 security agreements and the like, entered into by and among the
2658 corporation, private lenders and an approved company with respect
2659 to an economic development project.

2660 (j) "Manufacturing" means any activity involving the
2661 manufacturing, processing, assembling or production of any
2662 property, including the processing resulting in a change in the
2663 conditions of the property and any activity functionally related
2664 thereto, together with the storage, warehousing, distribution and
2665 related office facilities in respect thereof as determined by the
2666 Mississippi Business Finance Corporation; however, in no event
2667 shall "manufacturing" include mining, coal or mineral processing,
2668 or extraction of Mississippi minerals.

2669 (k) "State agency" means any state board, commission,
2670 committee, council, university, department or unit thereof created
2671 by the Constitution or laws of this state.

2672 (l) "Revenues" shall not be considered state funds.

2673 (m) "State" means the State of Mississippi.

2674 (n) "Mississippi Small Enterprise Development Finance
2675 Act" means the provisions of law contained in Section 57-71-1 et
2676 seq.

2677 **[In cases involving an economic development project for which**
2678 **the Mississippi Business Finance Corporation has not issued bonds**
2679 **for the purpose of financing the approved costs of such project**
2680 **prior to July 1, 1994, this section shall read as follows:]**

2681 57-10-401. As used in Sections 57-10-401 through 57-10-445
2682 the following terms shall have the meanings ascribed to them
2683 herein unless the context clearly indicates otherwise:

2684 (a) "Approved company" means any eligible company
2685 seeking to locate an economic development project in a county,
2686 which eligible company is approved by the corporation.

2687 (b) "Approved costs" means:

2688 (i) Obligations incurred for equipment and labor
2689 and to contractors, subcontractors, builders and materialmen in
2690 connection with the acquisition, construction and installation of
2691 an economic development project;

2692 (ii) The cost of acquiring land or rights in land
2693 and any cost incidental thereto, including recording fees;

2694 (iii) The cost of contract bonds and of insurance
2695 of all kinds that may be required or necessary during the course
2696 of acquisition, construction and installation of an economic
2697 development project which is not paid by the contractor or
2698 contractors or otherwise provided for;

2699 (iv) All costs of architectural and engineering
2700 services, including test borings, surveys, estimates, plans and
2701 specifications, preliminary investigations, and supervision of
2702 construction, as well as for the performance of all the duties
2703 required by or consequent upon the acquisition, construction and
2704 installation of an economic development project;

2705 (v) All costs which shall be required to be paid
2706 under the terms of any contract or contracts for the acquisition,
2707 construction and installation of an economic development project;

2708 (vi) All costs, expenses and fees incurred in
2709 connection with the issuance of bonds pursuant to Sections
2710 57-10-401 through 57-10-445;

2711 (vii) All costs funded by a loan made under the
2712 Mississippi Small Enterprise Development Finance Act; and

2713 (viii) All costs of professionals permitted to be
2714 engaged under the Mississippi Small Enterprise Development Finance
2715 Act for a loan made under such act.

2716 (c) "Assessment" means the job development assessment
2717 fee authorized in Section 57-10-413.

2718 (d) "Bonds" means the revenue bonds, notes or other
2719 debt obligations of the corporation authorized to be issued by the

2720 corporation on behalf of an eligible company or other state
2721 agency.

2722 (e) "Corporation" means the Mississippi Business
2723 Finance Corporation created under Section 57-10-167, Mississippi
2724 Code of 1972.

2725 (f) "Economic development project" means and includes
2726 the acquisition of any equipment or real estate in a county and
2727 the construction and installation thereon, and with respect
2728 thereto, of improvements and facilities necessary or desirable for
2729 improvement of the real estate, including surveys, site tests and
2730 inspections, subsurface site work, excavation, removal of
2731 structures, roadways, cemeteries and other surface obstructions,
2732 filling, grading and provision of drainage, storm water detention,
2733 installation of utilities such as water, sewer, sewage treatment,
2734 gas, electricity, communications and similar facilities, off-site
2735 construction of utility extensions to the boundaries of the real
2736 estate, and the acquisition, construction and installation of
2737 manufacturing, telecommunications, data processing, distribution
2738 or warehouse facilities on the real estate, for lease or financial
2739 arrangement by the corporation to an approved company for use and
2740 occupancy by the approved company or its affiliates for
2741 manufacturing, telecommunications, data processing, distribution
2742 or warehouse purposes. Such term also includes, without
2743 limitation, any project the financing of which has been approved
2744 under the Mississippi Small Enterprise Development Finance Act.

2745 If an eligible company closes a facility in this state and
2746 becomes an approved company under the provisions of Sections
2747 57-10-401 through 57-10-449, only that portion of the project for
2748 which such company is attempting to obtain financing that is in
2749 excess of the value of the closed facility shall be included
2750 within the definition of the term "economic development project."
2751 The Mississippi Business Finance Corporation shall promulgate
2752 rules and regulations to govern the determination of the

2753 difference between the value of the closed facility and the new
2754 facility.

2755 (g) "Eligible company" means any corporation,
2756 partnership, sole proprietorship, business trust, or other entity
2757 which:

2758 (i) Engaged in manufacturing which meets the
2759 standards promulgated by the corporation under Sections 57-10-401
2760 through 57-10-445;

2761 (ii) A private company approved by the corporation
2762 for a loan under the Mississippi Small Enterprise Development
2763 Finance Act;

2764 (iii) A distribution or warehouse facility
2765 employing a minimum of fifty (50) people or employing a minimum of
2766 twenty (20) people and having a capital investment in such
2767 facility of at least Five Million Dollars (\$5,000,000.00); * * *

2768 (iv) A telecommunications or data/information
2769 processing business meeting criteria established by the
2770 Mississippi Business Finance Corporation;

2771 (v) National or regional headquarters meeting
2772 criteria established by the Mississippi Business Finance
2773 Corporation;

2774 (vi) Research and development facilities meeting
2775 criteria established by the Mississippi Business Finance
2776 Corporation; or

2777 (vii) Technology intensive enterprises or
2778 facilities meeting criteria established by the Mississippi
2779 Business Finance Corporation.

2780 (h) "Executive director" means the Executive Director
2781 of the Mississippi Business Finance Corporation.

2782 (i) "Financing agreement" means any financing documents
2783 and agreements, indentures, loan agreements, lease agreements,
2784 security agreements and the like, entered into by and among the

2785 corporation, private lenders and an approved company with respect
2786 to an economic development project.

2787 (j) "Manufacturing" means any activity involving the
2788 manufacturing, processing, assembling or production of any
2789 property, including the processing resulting in a change in the
2790 conditions of the property and any activity functionally related
2791 thereto, together with the storage, warehousing, distribution and
2792 related office facilities in respect thereof as determined by the
2793 Mississippi Business Finance Corporation; however, in no event
2794 shall "manufacturing" include mining, coal or mineral processing,
2795 or extraction of Mississippi minerals.

2796 (k) "State agency" means any state board, commission,
2797 committee, council, university, department or unit thereof created
2798 by the Constitution or laws of this state.

2799 (l) "Revenues" shall not be considered state funds.

2800 (m) "State" means the State of Mississippi.

2801 (n) "Mississippi Small Enterprise Development Finance
2802 Act" means the provisions of law contained in Section 57-71-1 et
2803 seq.

2804 **SECTION 69.** Section 57-62-5, Mississippi Code of 1972, is
2805 amended as follows:

2806 **[For businesses or industries that received or applied for**
2807 **incentive payments prior to July 1, 2005, this section shall read**
2808 **as follows:]**

2809 57-62-5. As used in this chapter, the following words and
2810 phrases shall have the meanings ascribed in this section unless
2811 the context clearly indicates otherwise:

2812 (a) "Qualified business or industry" means any
2813 corporation, limited liability company, partnership, sole
2814 proprietorship, business trust or other legal entity and subunits
2815 or affiliates thereof, pursuant to rules and regulations of the
2816 MDA, which provides an average annual salary, excluding benefits
2817 which are not subject to Mississippi income taxes, of at least one

2818 hundred twenty-five percent (125%) of the most recently published
2819 state average annual wage or the most recently published average
2820 annual wage of the county in which the qualified business or
2821 industry is located as determined by the Mississippi Department of
2822 Employment Security, whichever is the lesser. An establishment
2823 shall not be considered to be a qualified business or industry
2824 unless it offers, or will offer within one hundred eighty (180)
2825 days of the date it receives the first incentive payment pursuant
2826 to the provisions of this chapter, a basic health benefits plan to
2827 the individuals it employs in new direct jobs in this state which
2828 is approved by the MDA. Qualified business or industry does not
2829 include retail business or gaming business;

2830 (b) "New direct job" means full-time employment in this
2831 state in a qualified business or industry that has qualified to
2832 receive an incentive payment pursuant to this chapter, which
2833 employment did not exist in this state before the date of approval
2834 by the MDA of the application of the qualified business or
2835 industry pursuant to the provisions of this chapter. "New direct
2836 job" shall include full-time employment in this state of employees
2837 who are employed by an entity other than the establishment that
2838 has qualified to receive an incentive payment and who are leased
2839 to the qualified business or industry, if such employment did not
2840 exist in this state before the date of approval by the MDA of the
2841 application of the establishment;

2842 (c) "Full-time job" means a job of at least thirty-five
2843 (35) hours per week;

2844 (d) "Estimated direct state benefits" means the tax
2845 revenues projected by the MDA to accrue to the state as a result
2846 of the qualified business or industry;

2847 (e) "Estimated direct state costs" means the costs
2848 projected by the MDA to accrue to the state as a result of the
2849 qualified business or industry;

2850 (f) "Estimated net direct state benefits" means the
2851 estimated direct state benefits less the estimated direct state
2852 costs;

2853 (g) "Net benefit rate" means the estimated net direct
2854 state benefits computed as a percentage of gross payroll, provided
2855 that:

2856 (i) Except as otherwise provided in this paragraph
2857 (g), the net benefit rate may be variable and shall not exceed
2858 four percent (4%) of the gross payroll; and shall be set in the
2859 sole discretion of the MDA;

2860 (ii) In no event shall incentive payments,
2861 cumulatively, exceed the estimated net direct state benefits;

2862 (h) "Gross payroll" means wages for new direct jobs of
2863 the qualified business or industry; and

2864 (i) "MDA" means the Mississippi Development Authority.

2865 **[For businesses or industries that apply for incentive**
2866 **payments from and after July 1, 2005, this section shall read as**
2867 **follows:]**

2868 57-62-5. As used in this chapter, the following words and
2869 phrases shall have the meanings ascribed in this section unless
2870 the context clearly indicates otherwise:

2871 (a) "Qualified business or industry" means any
2872 corporation, limited liability company, partnership, sole
2873 proprietorship, business trust or other legal entity and subunits
2874 or affiliates thereof, pursuant to rules and regulations of the
2875 MDA, which:

2876 (i) Is a data/information processing enterprise
2877 meeting minimum criteria established by the MDA that provides an
2878 average annual salary, excluding benefits which are not subject to
2879 Mississippi income taxes, of at least one hundred percent (100%)
2880 of the most recently published state average annual wage or the
2881 most recently published average annual wage of the county in which
2882 the qualified business or industry is located as determined by the

2883 Mississippi Department of Employment Security, whichever is the
2884 lesser, and creates not less than two hundred (200) new direct
2885 jobs if the enterprise is located in a Tier One or Tier Two area
2886 (as such areas are designated in accordance with Section
2887 57-73-21), or which creates not less than one hundred (100) new
2888 jobs if the enterprise is located in a Tier Three area (as such
2889 areas are designated in accordance with Section 57-73-21);

2890 (ii)_ Is a manufacturing or distribution enterprise
2891 meeting minimum criteria established by the MDA that provides an
2892 average annual salary, excluding benefits which are not subject to
2893 Mississippi income taxes, of at least one hundred ten percent
2894 (110%) of the most recently published state average annual wage or
2895 the most recently published average annual wage of the county in
2896 which the qualified business or industry is located as determined
2897 by the Mississippi Department of Employment Security, whichever is
2898 the lesser, invests not less than Twenty Million Dollars
2899 (\$20,000,000.00) in land, buildings and equipment, and creates not
2900 less than fifty (50) new direct jobs if the enterprise is located
2901 in a Tier One or Tier Two area (as such areas are designated in
2902 accordance with Section 57-73-21), or which creates not less than
2903 twenty (20) new jobs if the enterprise is located in a Tier Three
2904 area (as such areas are designated in accordance with Section
2905 57-73-21);

2906 (iii)_ Is a corporation, limited liability company,
2907 partnership, sole proprietorship, business trust or other legal
2908 entity and subunits or affiliates thereof, pursuant to rules and
2909 regulations of the MDA, which provides an average annual salary,
2910 excluding benefits which are not subject to Mississippi income
2911 taxes, of at least one hundred twenty-five percent (125%) of the
2912 most recently published state average annual wage or the most
2913 recently published average annual wage of the county in which the
2914 qualified business or industry is located as determined by the
2915 Mississippi Department of Employment Security, whichever is the

2916 lesser, and creates not less than twenty-five (25) new direct jobs
2917 if the enterprise is located in a Tier One or Tier Two area (as
2918 such areas are designated in accordance with Section 57-73-21), or
2919 which creates not less than ten (10) new jobs if the enterprise is
2920 located in a Tier Three area (as such areas are designated in
2921 accordance with Section 57-73-21). An establishment shall not be
2922 considered to be a qualified business or industry unless it
2923 offers, or will offer within one hundred eighty (180) days of the
2924 date it receives the first incentive payment pursuant to the
2925 provisions of this chapter, a basic health benefits plan to the
2926 individuals it employs in new direct jobs in this state which is
2927 approved by the MDA. Qualified business or industry does not
2928 include retail business or gaming business; or
2929 (iv) Is a research and development or a technology
2930 intensive enterprise meeting minimum criteria established by the
2931 MDA that provides an average annual salary, excluding benefits
2932 which are not subject to Mississippi income taxes, of at least one
2933 hundred fifty percent (150%) of the most recently published state
2934 average annual wage or the most recently published average annual
2935 wage of the county in which the qualified business or industry is
2936 located as determined by the Mississippi Department of Employment
2937 Security, whichever is the lesser, and creates not less than ten
2938 (10) new direct jobs.

2939 An establishment shall not be considered to be a qualified
2940 business or industry unless it offers, or will offer within one
2941 hundred eighty (180) days of the date it receives the first
2942 incentive payment pursuant to the provisions of this chapter, a
2943 basic health benefits plan to the individuals it employs in new
2944 direct jobs in this state which is approved by the MDA. Qualified
2945 business or industry does not include retail business or gaming
2946 business.

2947 (b) "New direct job" means full-time employment in this
2948 state in a qualified business or industry that has qualified to

2949 receive an incentive payment pursuant to this chapter, which
2950 employment did not exist in this state before the date of approval
2951 by the MDA of the application of the qualified business or
2952 industry pursuant to the provisions of this chapter. "New direct
2953 job" shall include full-time employment in this state of employees
2954 who are employed by an entity other than the establishment that
2955 has qualified to receive an incentive payment and who are leased
2956 to the qualified business or industry, if such employment did not
2957 exist in this state before the date of approval by the MDA of the
2958 application of the establishment.

2959 (c) "Full-time job" or "full-time employment" means a
2960 job of at least thirty-five (35) hours per week.

2961 (d) "Estimated direct state benefits" means the tax
2962 revenues projected by the MDA to accrue to the state as a result
2963 of the qualified business or industry.

2964 (e) "Estimated direct state costs" means the costs
2965 projected by the MDA to accrue to the state as a result of the
2966 qualified business or industry.

2967 (f) "Estimated net direct state benefits" means the
2968 estimated direct state benefits less the estimated direct state
2969 costs.

2970 (g) "Net benefit rate" means the estimated net direct
2971 state benefits computed as a percentage of gross payroll, provided
2972 that:

2973 (i) Except as otherwise provided in this paragraph
2974 (g), the net benefit rate may be variable and shall not exceed
2975 four percent (4%) of the gross payroll; and shall be set in the
2976 sole discretion of the MDA;

2977 (ii) In no event shall incentive payments,
2978 cumulatively, exceed the estimated net direct state benefits.

2979 (h) "Gross payroll" means wages for new direct jobs of
2980 the qualified business or industry.

2981 (i) "MDA" means the Mississippi Development Authority.

2982 **SECTION 70.** Section 57-62-9, Mississippi Code of 1972, is
2983 amended as follows:

2984 **[For businesses or industries that received or applied for**
2985 **incentive payments prior to July 1, 2005, this section shall read**
2986 **as follows:]**

2987 57-62-9. (1) Except as otherwise provided in this section,
2988 a qualified business or industry that meets the qualifications
2989 specified in the Mississippi Advantage Jobs Act may receive
2990 quarterly incentive payments for a period not to exceed ten (10)
2991 years from the State Tax Commission pursuant to the provisions of
2992 the Mississippi Advantage Jobs Act in an amount which shall be
2993 equal to the net benefit rate multiplied by the actual gross
2994 payroll of new direct jobs for a calendar quarter as verified by
2995 the Mississippi Department of Employment Security, but not to
2996 exceed the amount of money previously paid into the fund by the
2997 employer. A qualified business or industry that is a project as
2998 defined in Section 57-75-5(f)(iv)1 may elect the date upon which
2999 the ten-year period will begin. Such date may not be later than
3000 sixty (60) months after the date the business or industry applied
3001 for incentive payments.

3002 (2) (a) A qualified business or industry that is a project
3003 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to
3004 receive incentive payments for an additional period not to exceed
3005 five (5) years beyond the expiration date of the initial ten-year
3006 period if:

3007 (i) The qualified business or industry creates at
3008 least three thousand (3,000) new direct jobs within five (5) years
3009 after the date the business or industry commences commercial
3010 production;

3011 (ii) Within five (5) years after the date the
3012 business or industry commences commercial production, the average
3013 annual wage of the jobs is at least one hundred fifty percent
3014 (150%) of the most recently published state average annual wage or

3015 the most recently published average annual wage of the county in
3016 which the qualified business or industry is located as determined
3017 by the Mississippi Department of Employment Security, whichever is
3018 the lesser. The criteria for the average annual wage requirement
3019 shall be based upon the state average annual wage or the average
3020 annual wage of the county whichever is appropriate, at the time of
3021 creation of the minimum number of jobs, and the threshold
3022 established at that time will remain constant for the duration of
3023 the additional period; and

3024 (iii) The qualified business or industry meets and
3025 maintains the job and wage requirements of subparagraphs (i) and
3026 (ii) of this paragraph (a) for four (4) consecutive calendar
3027 quarters.

3028 (b) A qualified business or industry that is a project
3029 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
3030 incentive payments for the additional period provided in paragraph
3031 (a) of this subsection (2) may apply to the MDA to receive
3032 incentive payments for an additional period not to exceed ten (10)
3033 years beyond the expiration date of the additional period provided
3034 in paragraph (a) of this subsection (2) if:

3035 (i) The qualified business or industry creates at
3036 least four thousand (4,000) new direct jobs after qualifying for
3037 the additional incentive period provided in paragraph (a) of this
3038 subsection (2) but before the expiration of the additional period.
3039 For purposes of determining whether the business or industry meets
3040 the minimum jobs requirement of this subparagraph (i), the number
3041 of jobs the business or industry created in order to meet the
3042 minimum jobs requirement of paragraph (a) of this subsection (2)
3043 shall be subtracted from the minimum jobs requirement of this
3044 subparagraph (i);

3045 (ii) The average annual wage of the jobs is at
3046 least one hundred fifty percent (150%) of the most recently
3047 published state average annual wage or the most recently published

3048 average annual wage of the county in which the qualified business
3049 or industry is located as determined by the Mississippi Department
3050 of Employment Security, whichever is the lesser. The criteria for
3051 the average annual wage requirement shall be based upon the state
3052 average annual wage or the average annual wage of the county
3053 whichever is appropriate, at the time of creation of the minimum
3054 number of jobs, and the threshold established at that time will
3055 remain constant for the duration of the additional period; and
3056 (iii) The qualified business or industry meets and
3057 maintains the job and wage requirements of subparagraphs (i) and
3058 (ii) of this paragraph (b) for four (4) consecutive calendar
3059 quarters.

3060 (3) In order to receive incentive payments, an establishment
3061 shall apply to the MDA. The application shall be on a form
3062 prescribed by the MDA and shall contain such information as may be
3063 required by the MDA to determine if the applicant is qualified.

3064 (4) In order to qualify to receive such payments, the
3065 establishment applying shall be required to:

3066 (a) Be engaged in a qualified business or industry;

3067 (b) Provide an average salary, excluding benefits which
3068 are not subject to Mississippi income taxes, of at least one
3069 hundred twenty-five percent (125%) of the most recently published
3070 state average annual wage or the most recently published average
3071 annual wage of the county in which the qualified business or
3072 industry is located as determined by the Mississippi Department of
3073 Employment Security, whichever is the lesser. The criteria for
3074 this requirement shall be based upon the state average annual wage
3075 or the average annual wage of the county whichever is appropriate,
3076 at the time of application, and the threshold established upon
3077 application will remain constant for the duration of the project;

3078 (c) The business or industry must create and maintain a
3079 minimum of ten (10) full-time jobs in counties that have an
3080 average unemployment rate over the previous twelve-month period

3081 which is at least one hundred fifty percent (150%) of the most
3082 recently published state unemployment rate, as determined by the
3083 Mississippi Department of Employment Security or in Tier Three
3084 counties as determined under Section 57-73-21. In all other
3085 counties, the business or industry must create and maintain a
3086 minimum of twenty-five (25) full-time jobs. The criteria for this
3087 requirement shall be based on the designation of the county at the
3088 time of the application. The threshold established upon the
3089 application will remain constant for the duration of the project.
3090 The business or industry must meet its job creation commitment
3091 within twenty-four (24) months of the application approval.
3092 However, if the qualified business or industry is applying for
3093 incentive payments for an additional period under subsection (2)
3094 of this section, the business or industry must comply with the
3095 applicable job and wage requirements of subsection (2) of this
3096 section.

3097 (5) The MDA shall determine if the applicant is qualified to
3098 receive incentive payments. If the applicant is determined to be
3099 qualified by the MDA, the MDA shall conduct a cost/benefit
3100 analysis to determine the estimated net direct state benefits and
3101 the net benefit rate applicable for a period not to exceed ten
3102 (10) years and to estimate the amount of gross payroll for the
3103 period. If the applicant is determined to be qualified to receive
3104 incentive payments for an additional period under subsection (2)
3105 of this section, the MDA shall conduct a cost/benefit analysis to
3106 determine the estimated net direct state benefits and the net
3107 benefit rate applicable for the appropriate additional period and
3108 to estimate the amount of gross payroll for the additional period.
3109 In conducting such cost/benefit analysis, the MDA shall consider
3110 quantitative factors, such as the anticipated level of new tax
3111 revenues to the state along with the cost to the state of the
3112 qualified business or industry, and such other criteria as deemed
3113 appropriate by the MDA, including the adequacy of retirement

3114 benefits that the business or industry provides to individuals it
3115 employs in new direct jobs in this state. In no event shall
3116 incentive payments, cumulatively, exceed the estimated net direct
3117 state benefits. Once the qualified business or industry is
3118 approved by the MDA, an agreement shall be deemed to exist between
3119 the qualified business or industry and the State of Mississippi,
3120 requiring the continued incentive payment to be made as long as
3121 the qualified business or industry retains its eligibility.

3122 (6) Upon approval of such an application, the MDA shall
3123 notify the State Tax Commission and shall provide it with a copy
3124 of the approved application and the estimated net direct state
3125 benefits. The State Tax Commission may require the qualified
3126 business or industry to submit such additional information as may
3127 be necessary to administer the provisions of this chapter. The
3128 qualified business or industry shall report to the State Tax
3129 Commission periodically to show its continued eligibility for
3130 incentive payments. The qualified business or industry may be
3131 audited by the State Tax Commission to verify such eligibility.

3132 **[For businesses or industries that apply for incentive**
3133 **payments from and after July 1, 2005, this section shall read as**
3134 **follows:]**

3135 57-62-9. (1) (a) Except as otherwise provided in this
3136 section, a qualified business or industry that meets the
3137 qualifications specified in the Mississippi Advantage Jobs Act may
3138 receive quarterly incentive payments for a period not to exceed
3139 ten (10) years from the State Tax Commission pursuant to the
3140 provisions of the Mississippi Advantage Jobs Act in an amount
3141 which shall be equal to the net benefit rate multiplied by the
3142 actual gross payroll of new direct jobs for a calendar quarter as
3143 verified by the Mississippi Department of Employment Security, but
3144 not to exceed:

3145 (i) Ninety percent (90%) of the amount of money
3146 previously paid into the fund by the employer if the employer

3147 provides an average annual salary, excluding benefits which are
3148 not subject to Mississippi income taxes, of at least one hundred
3149 seventy-five percent (175%) of the most recently published state
3150 average annual wage or the most recently published average annual
3151 wage of the county in which the qualified business or industry is
3152 located as determined by the Mississippi Department of Employment
3153 Security, whichever is the lesser;

3154 (ii) Eighty percent (80%) of the amount of money
3155 previously paid into the fund by the employer if the employer
3156 provides an average annual salary, excluding benefits which are
3157 not subject to Mississippi income taxes, of at least one hundred
3158 twenty-five percent (125%) but less than one hundred seventy-five
3159 percent (175%) of the most recently published state average annual
3160 wage or the most recently published average annual wage of the
3161 county in which the qualified business or industry is located as
3162 determined by the Mississippi Department of Employment Security,
3163 whichever is the lesser; or

3164 (iii) Seventy percent (70%) of the amount of money
3165 previously paid into the fund by the employer if the employer
3166 provides an average annual salary, excluding benefits which are
3167 not subject to Mississippi income taxes, of less than one hundred
3168 twenty-five percent (125%) of the most recently published state
3169 average annual wage or the most recently published average annual
3170 wage of the county in which the qualified business or industry is
3171 located as determined by the Mississippi Department of Employment
3172 Security, whichever is the lesser.

3173 (b) A qualified business or industry that is a project
3174 as defined in Section 57-75-5(f)(iv)1 may elect the date upon
3175 which the ten-year period will begin. Such date may not be later
3176 than sixty (60) months after the date the business or industry
3177 applied for incentive payments.

3178 (2) (a) A qualified business or industry that is a project
3179 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to

3180 receive incentive payments for an additional period not to exceed
3181 five (5) years beyond the expiration date of the initial ten-year
3182 period if:

3183 (i) The qualified business or industry creates at
3184 least three thousand (3,000) new direct jobs within five (5) years
3185 after the date the business or industry commences commercial
3186 production;

3187 (ii) Within five (5) years after the date the
3188 business or industry commences commercial production, the average
3189 annual wage of the jobs is at least one hundred fifty percent
3190 (150%) of the most recently published state average annual wage or
3191 the most recently published average annual wage of the county in
3192 which the qualified business or industry is located as determined
3193 by the Mississippi Department of Employment Security, whichever is
3194 the lesser. The criteria for the average annual wage requirement
3195 shall be based upon the state average annual wage or the average
3196 annual wage of the county whichever is appropriate, at the time of
3197 creation of the minimum number of jobs, and the threshold
3198 established at that time will remain constant for the duration of
3199 the additional period; and

3200 (iii) The qualified business or industry meets and
3201 maintains the job and wage requirements of subparagraphs (i) and
3202 (ii) of this paragraph (a) for four (4) consecutive calendar
3203 quarters.

3204 (b) A qualified business or industry that is a project
3205 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
3206 incentive payments for the additional period provided in paragraph
3207 (a) of this subsection (2) may apply to the MDA to receive
3208 incentive payments for an additional period not to exceed ten (10)
3209 years beyond the expiration date of the additional period provided
3210 in paragraph (a) of this subsection (2) if:

3211 (i) The qualified business or industry creates at
3212 least four thousand (4,000) new direct jobs after qualifying for

3213 the additional incentive period provided in paragraph (a) of this
3214 subsection (2) but before the expiration of the additional period.
3215 For purposes of determining whether the business or industry meets
3216 the minimum jobs requirement of this subparagraph (i), the number
3217 of jobs the business or industry created in order to meet the
3218 minimum jobs requirement of paragraph (a) of this subsection (2)
3219 shall be subtracted from the minimum jobs requirement of this
3220 subparagraph (i);

3221 (ii) The average annual wage of the jobs is at
3222 least one hundred fifty percent (150%) of the most recently
3223 published state average annual wage or the most recently published
3224 average annual wage of the county in which the qualified business
3225 or industry is located as determined by the Mississippi Department
3226 of Employment Security, whichever is the lesser. The criteria for
3227 the average annual wage requirement shall be based upon the state
3228 average annual wage or the average annual wage of the county
3229 whichever is appropriate, at the time of creation of the minimum
3230 number of jobs, and the threshold established at that time will
3231 remain constant for the duration of the additional period; and

3232 (iii) The qualified business or industry meets and
3233 maintains the job and wage requirements of subparagraphs (i) and
3234 (ii) of this paragraph (b) for four (4) consecutive calendar
3235 quarters.

3236 (3) In order to receive incentive payments, an establishment
3237 shall apply to the MDA. The application shall be on a form
3238 prescribed by the MDA and shall contain such information as may be
3239 required by the MDA to determine if the applicant is qualified.

3240 (4) (a) In order to qualify to receive such payments, the
3241 establishment applying shall be required to meet the definition of
3242 the term "qualified business or industry";

3243 (b) * * * The criteria for the average annual salary
3244 requirement shall be based upon the state average annual wage or
3245 the average annual wage of the county whichever is appropriate, at

3246 the time of application, and the threshold established upon
3247 application will remain constant for the duration of the project;

3248 (c) * * * The business or industry must meet its job
3249 creation commitment within twenty-four (24) months of the
3250 application approval. However, if the qualified business or
3251 industry is applying for incentive payments for an additional
3252 period under subsection (2) of this section, the business or
3253 industry must comply with the applicable job and wage requirements
3254 of subsection (2) of this section.

3255 (5) (a) The MDA shall determine if the applicant is
3256 qualified to receive incentive payments. If the applicant is
3257 determined to be qualified by the MDA, the MDA shall:

3258 (i) Conduct a cost/benefit analysis to determine
3259 the estimated net direct state benefits and the net benefit rate
3260 applicable for a period not to exceed ten (10) years and to
3261 estimate the amount of gross payroll for the period; and

3262 (ii) Require the applicant to execute a
3263 performance agreement with the MDA that specifies the manner in
3264 which the applicant will utilize the incentive payments made to it
3265 under this chapter.

3266 (b) If the applicant is determined to be qualified to
3267 receive incentive payments for an additional period under
3268 subsection (2) of this section, the MDA shall conduct a
3269 cost/benefit analysis to determine the estimated net direct state
3270 benefits and the net benefit rate applicable for the appropriate
3271 additional period and to estimate the amount of gross payroll for
3272 the additional period. In conducting such cost/benefit analysis,
3273 the MDA shall consider quantitative factors, such as the
3274 anticipated level of new tax revenues to the state along with the
3275 cost to the state of the qualified business or industry, and such
3276 other criteria as deemed appropriate by the MDA, including the
3277 adequacy of retirement benefits that the business or industry
3278 provides to individuals it employs in new direct jobs in this

3279 state. In no event shall incentive payments, cumulatively, exceed
3280 the estimated net direct state benefits. Once the qualified
3281 business or industry is approved by the MDA, an agreement shall be
3282 deemed to exist between the qualified business or industry and the
3283 State of Mississippi, requiring the continued incentive payment to
3284 be made as long as the qualified business or industry retains its
3285 eligibility.

3286 (6) Upon approval of such an application, the MDA shall
3287 notify the State Tax Commission and shall provide it with a copy
3288 of the approved application and the estimated net direct state
3289 benefits. The State Tax Commission may require the qualified
3290 business or industry to submit such additional information as may
3291 be necessary to administer the provisions of this chapter. The
3292 qualified business or industry shall report to the State Tax
3293 Commission periodically to show its continued eligibility for
3294 incentive payments. The qualified business or industry may be
3295 audited by the State Tax Commission to verify such eligibility.

3296 **SECTION 71.** Section 57-62-13, Mississippi Code of 1972, is
3297 amended as follows:

3298 57-62-13. (1) As soon as practicable after the end of a
3299 calendar quarter for which a qualified business or industry has
3300 qualified to receive an incentive payment, the qualified business
3301 or industry shall file a claim for the payment with the State Tax
3302 Commission and shall specify the actual number of new direct jobs
3303 created and maintained by the business or industry for the
3304 calendar quarter and the gross payroll thereof. The State Tax
3305 Commission shall verify the actual number of new direct jobs
3306 created and maintained by the business or industry and compliance
3307 with the average annual wage requirements for such business or
3308 industry under this chapter. If the qualified business or
3309 industry files a claim for an incentive payment during an
3310 additional incentive period provided under Section 57-62-9(2), the
3311 State Tax Commission shall verify the actual number of new direct

3312 jobs created and maintained by the business or industry and
3313 compliance with the average annual wage requirements for such
3314 business or industry under this chapter. If the State Tax
3315 Commission is not able to provide such verification utilizing all
3316 available resources, the State Tax Commission may request such
3317 additional information from the business or industry as may be
3318 necessary.

3319 (2) (a) The business or industry must meet the salary and
3320 job requirements of this chapter for four (4) consecutive calendar
3321 quarters prior to payment of the first incentive payment. If the
3322 business or industry does not maintain the salary or job
3323 requirements of this chapter at any other time during the ten-year
3324 period after the date the first payment was made, the incentive
3325 payments shall not be made and shall not be resumed until such
3326 time as the actual verified number of new direct jobs created and
3327 maintained by the business or industry equals or exceeds the
3328 requirements of this chapter for one (1) calendar quarter.

3329 (b) If the business or industry is qualified to receive
3330 incentive payments for an additional period provided under Section
3331 57-62-9(2), the business or industry must meet the wage and job
3332 requirements of Section 57-62-9(2), for four (4) consecutive
3333 calendar quarters prior to payment of the first incentive payment.
3334 If the business or industry does not maintain the wage or job
3335 requirements of Section 57-62-9(2), at any other time during the
3336 appropriate additional period after the date the first payment was
3337 made, the incentive payments shall not be made and shall not be
3338 resumed until such time as the actual verified number of new
3339 direct jobs created and maintained by the business or industry
3340 equals or exceeds the amounts specified in Section 57-62-9(2), for
3341 one (1) calendar quarter.

3342 (3) An establishment that has qualified pursuant to this
3343 chapter may receive payments only in accordance with the provision
3344 under which it initially applied and was approved. If an

3345 establishment that is receiving incentive payments expands, it may
3346 apply for additional incentive payments based on the new gross
3347 payroll for new direct jobs anticipated from the expansion only,
3348 pursuant to this chapter.

3349 (4) As soon as practicable after verification of the
3350 qualified business or industry meeting the requirements of this
3351 chapter and all rules and regulations, the Department of Finance
3352 and Administration, upon requisition of the State Tax Commission,
3353 shall issue a warrant drawn on the Mississippi Advantage Jobs
3354 Incentive Payment Fund to the establishment in the amount of the
3355 net benefit rate multiplied by the actual gross payroll as
3356 determined pursuant to subsection (1) of this section for the
3357 calendar quarter.

3358 **SECTION 72.** Section 57 of this act shall take effect and be
3359 in force from and after January 1, 2005, and the remainder of this
3360 act shall take effect and be in force from and after July 1, 2005.