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To: Finance

SENATE BILL NO. 2001

1 AN ACT TO CREATE THE MISSISSIPPI EXISTING INDUSTRY  
2 PRODUCTIVITY LOAN PROGRAM TO BE ADMINISTERED BY THE MISSISSIPPI  
3 DEVELOPMENT AUTHORITY FOR THE PURPOSE OF PROVIDING LOANS TO  
4 CERTAIN INDUSTRIES THAT HAVE BEEN OPERATING IN THIS STATE FOR NOT  
5 LESS THAN TWO YEARS; TO PROVIDE THAT THE LOANS SHALL BE UTILIZED  
6 BY INDUSTRIES TO DEPLOY LONG-TERM FIXED ASSETS THAT THROUGH NEW  
7 TECHNOLOGY WILL IMPROVE PRODUCTIVITY AND COMPETITIVENESS; TO  
8 CREATE THE MISSISSIPPI EXISTING INDUSTRY PRODUCTIVITY LOAN FUND TO  
9 BE ADMINISTERED BY THE MISSISSIPPI DEVELOPMENT AUTHORITY; TO  
10 AUTHORIZE THE ISSUANCE OF \$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 ESTABLISH AN INCOME TAX CREDIT FOR MANUFACTURING ENTERPRISES THAT  
42 HAVE OPERATED IN THIS STATE FOR NOT LESS THAN TWO YEARS IN AN  
43 AMOUNT EQUAL TO A CERTAIN PERCENTAGE OF THE ENTERPRISE'S  
44 INVESTMENT IN BUILDINGS OR EQUIPMENT; TO PROVIDE THAT ANY SUCH TAX  
45 CREDIT CLAIMED BUT NOT USED IN ANY TAXABLE YEAR MAY BE CARRIED  
46 FORWARD FOR FIVE YEARS FROM THE CLOSE OF THE TAX YEAR IN WHICH THE  
47 ELIGIBLE INVESTMENT WAS MADE; TO PROVIDE THAT THE CREDIT TAKEN IN  
48 ANY ONE TAX YEAR IS LIMITED TO AN AMOUNT NOT GREATER THAN 50% OF  
49 THE TAXPAYER'S STATE INCOME TAX LIABILITY WHICH IS ATTRIBUTABLE TO  
50 INCOME DERIVED FROM OPERATIONS IN THE STATE FOR THAT YEAR; TO  
51 PROVIDE THAT THE MANUFACTURING ENTERPRISE MUST INVEST AT LEAST  
52 \$1,000,000.00 TO BE ELIGIBLE FOR THE CREDIT; TO PROVIDE THAT THE

53 MAXIMUM CUMULATIVE CREDIT THAT MAY BE CLAIMED BY A TAXPAYER FOR  
54 ANY ONE PROJECT IS LIMITED TO \$1,000,000.00; TO PROVIDE FOR  
55 RECAPTURE OF THE CREDIT UNDER CERTAIN CIRCUMSTANCES; TO AMEND  
56 SECTION 27-31-101, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE  
57 BOARD OF SUPERVISORS OF COUNTIES AND THE GOVERNING AUTHORITIES OF  
58 MUNICIPALITIES TO GRANT CERTAIN AD VALOREM TAX EXEMPTIONS TO  
59 DATA/INFORMATION PROCESSING ENTERPRISES AND TECHNOLOGY INTENSIVE  
60 ENTERPRISES MEETING MINIMUM CRITERIA ESTABLISHED BY THE  
61 MISSISSIPPI DEVELOPMENT AUTHORITY; TO AMEND SECTION 27-65-17,  
62 MISSISSIPPI CODE OF 1972, TO IMPOSE THE SALES TAX AT A REDUCED  
63 RATE ON CERTAIN SALES OF MACHINERY AND MACHINE PARTS TO A  
64 TECHNOLOGY INTENSIVE BUSINESS FOR PLANT USE; TO AMEND SECTION  
65 27-65-19, MISSISSIPPI CODE OF 1972, TO REDUCE THE SALES TAX ON  
66 CERTAIN FUELS SOLD TO OR USED BY TECHNOLOGY INTENSIVE ENTERPRISES;  
67 TO AMEND SECTION 27-65-101, MISSISSIPPI CODE OF 1972, TO EXEMPT  
68 FROM SALES TAXATION SALES OF COMPONENT MATERIALS USED IN THE  
69 CONSTRUCTION OF A FACILITY, OR ANY ADDITION OR IMPROVEMENT TO SUCH  
70 FACILITY, AND SALES OR LEASES OF MACHINERY AND EQUIPMENT TO BE  
71 USED IN SUCH FACILITIES, ADDITIONS OR IMPROVEMENTS, TO PERMANENT  
72 BUSINESS ENTERPRISES OPERATING A DATA/INFORMATION ENTERPRISE IN A  
73 TIER THREE AREA MEETING MINIMUM CRITERIA ESTABLISHED BY THE  
74 MISSISSIPPI DEVELOPMENT AUTHORITY; TO EXEMPT FROM SALES TAXATION  
75 SALES OF COMPONENT MATERIALS USED IN THE CONSTRUCTION OF A  
76 FACILITY, OR ANY ADDITION OR IMPROVEMENT TO SUCH FACILITY, AND  
77 SALES OF MACHINERY AND EQUIPMENT TO BE USED IN SUCH FACILITIES,  
78 ADDITIONS OR IMPROVEMENTS, TO TECHNOLOGY INTENSIVE ENTERPRISES FOR  
79 INDUSTRIAL PURPOSES IN A TIER THREE AREA; TO REDUCE THE SALES  
80 TAXATION ON SALES OF COMPONENT MATERIALS USED IN THE CONSTRUCTION  
81 OF A FACILITY, OR ANY ADDITION OR IMPROVEMENT TO SUCH BUILDING,  
82 AND SALES OR LEASES OF MACHINERY AND EQUIPMENT TO BE USED IN SUCH  
83 BUILDINGS, ADDITIONS OR IMPROVEMENTS, TO PERMANENT BUSINESS  
84 ENTERPRISES OPERATING A DATA/INFORMATION ENTERPRISE IN A TIER ONE  
85 OR TIER TWO AREA MEETING MINIMUM CRITERIA ESTABLISHED BY THE  
86 MISSISSIPPI DEVELOPMENT AUTHORITY; TO REDUCE THE SALES TAXATION ON  
87 SALES OF COMPONENT MATERIALS USED IN THE CONSTRUCTION OF A  
88 FACILITY, OR ANY ADDITION OR IMPROVEMENT TO SUCH FACILITY, AND  
89 SALES OF MACHINERY AND EQUIPMENT, TO TECHNOLOGY INTENSIVE  
90 ENTERPRISES FOR INDUSTRIAL PURPOSES IN A TIER ONE OR TIER TWO  
91 AREA; TO AMEND SECTION 57-73-21, MISSISSIPPI CODE OF 1972, TO  
92 REVISE THE AMOUNT OF THE JOB TAX CREDIT FOR CERTAIN PERMANENT  
93 BUSINESS ENTERPRISES TO PROVIDE THAT THE AMOUNT OF THE CREDIT  
94 SHALL BE A CERTAIN PERCENTAGE OF SUCH ENTERPRISE'S PAYROLL; TO  
95 AMEND SECTION 57-73-25, MISSISSIPPI CODE OF 1972, IN CONFORMITY  
96 THERETO; TO AMEND SECTION 57-10-401, MISSISSIPPI CODE OF 1972, TO  
97 INCLUDE CERTAIN INFORMATION PROCESSING BUSINESSES, NATIONAL OR  
98 REGIONAL HEADQUARTERS, RESEARCH AND DEVELOPMENT FACILITIES AND  
99 TECHNOLOGY INTENSIVE ENTERPRISES OR FACILITIES WITHIN THE  
100 DEFINITION OF THE TERM "ELIGIBLE COMPANY"; TO AMEND SECTIONS  
101 57-62-5 AND 57-62-9, MISSISSIPPI CODE OF 1972, TO REVISE THE  
102 DEFINITION OF THE TERM "QUALIFIED BUSINESS OR INDUSTRY" UNDER THE  
103 MISSISSIPPI ADVANTAGE JOBS ACT TO ALLOW A BUSINESS TO BE ELIGIBLE  
104 FOR THE INCENTIVE PAYMENT UNDER THE ACT IF IT IS A  
105 DATA/INFORMATION PROCESSING ENTERPRISE, MANUFACTURING OR  
106 DISTRIBUTION ENTERPRISE OR A RESEARCH AND DEVELOPMENT OR  
107 TECHNOLOGY INTENSIVE ENTERPRISE THAT MEETS CERTAIN CRITERIA, AND  
108 TO PROVIDE THAT BUSINESSES OR INDUSTRIES THAT APPLY FOR INCENTIVE  
109 PAYMENTS AFTER JUNE 30, 2009, SHALL NOT BE INCLUDED WITHIN THE  
110 DEFINITION OF THE TERM "QUALIFIED BUSINESS OR INDUSTRY"; TO  
111 REQUIRE APPLICANTS FOR THE INCENTIVE PAYMENTS UNDER THE ACT TO  
112 EXECUTE A PERFORMANCE AGREEMENT WITH THE MISSISSIPPI DEVELOPMENT  
113 AUTHORITY THAT SPECIFIES THE MANNER IN WHICH THE APPLICANT WILL  
114 UTILIZE THE INCENTIVE PAYMENT; TO AMEND SECTION 57-62-13,  
115 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED  
116 PURPOSES.

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

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

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

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

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

126           (ii) Meet criteria established by the Mississippi  
127 Development Authority.

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

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

137           (b) An enterprise desiring a loan under this section  
138 must submit an application to the MDA. The application shall  
139 include:

140           (i) A description of the purpose for which the  
141 loan is requested;

142           (ii) The amount of the loan requested;

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

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

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

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

149 and

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

151 (c) The MDA shall require that binding commitments be  
152 entered into requiring that:

153 (i) The minimum requirements of this section and  
154 such other requirements as the MDA considers proper shall be met;  
155 and

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

159 (d) The amount of a loan under this section shall not  
160 exceed fifty percent (50%) of the total cost of the project.

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

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

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

181 (b) Monies in the fund which are derived from the  
182 proceeds of general obligation bonds may be used to reimburse  
183 reasonable actual and necessary costs incurred by the MDA in

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

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

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

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

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

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

207 **SECTION 3.** (1) The Mississippi Development Authority, at  
208 one time, or from time to time, may declare by resolution the  
209 necessity for issuance of general obligation bonds of the State of  
210 Mississippi to provide funds for the program authorized in Section  
211 1 of Senate Bill No. 2001, 2005 Third Extraordinary Session. Upon  
212 the adoption of a resolution by the Mississippi Development  
213 Authority, declaring the necessity for the issuance of any part or  
214 all of the general obligation bonds authorized by this section,  
215 the Mississippi Development Authority shall deliver a certified  
216 copy of its resolution or resolutions to the commission. Upon

217 receipt of such resolution, the commission, in its discretion, may  
218 act as the issuing agent, prescribe the form of the bonds,  
219 advertise for and accept bids, issue and sell the bonds so  
220 authorized to be sold and do any and all other things necessary  
221 and advisable in connection with the issuance and sale of such  
222 bonds. The total amount of bonds issued under this act shall not  
223 exceed Seven Million Dollars (\$7,000,000.00). No bonds shall be  
224 issued under this act after July 1, 2008.

225 (2) The proceeds of bonds issued pursuant to this act shall  
226 be deposited into the Mississippi Existing Industry Productivity  
227 Loan Fund created pursuant to Section 1 of Senate Bill No. 2001,  
228 2005 Third Extraordinary Session. Any investment earnings on  
229 bonds issued pursuant to this act shall be used to pay debt  
230 service on bonds issued under this act, in accordance with the  
231 proceedings authorizing issuance of such bonds.

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

245 **SECTION 5.** The bonds authorized by this act shall be signed  
246 by the chairman of the commission, or by his facsimile signature,  
247 and the official seal of the commission shall be affixed thereto,  
248 attested by the secretary of the commission. The interest  
249 coupons, if any, to be attached to such bonds may be executed by

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

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

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

283 interest accruing on such bonds so issued shall be payable  
284 semiannually or annually; however, the first interest payment may  
285 be for any period of not more than one (1) year.

286 Notice of the sale of any such bonds shall be published at  
287 least one (1) time, not less than ten (10) days before the date of  
288 sale, and shall be so published in one or more newspapers  
289 published or having a general circulation in the City of Jackson,  
290 Mississippi, and in one or more other newspapers or financial  
291 journals with a national circulation, to be selected by the  
292 commission.

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

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

308 **SECTION 9.** Upon the issuance and sale of bonds under the  
309 provisions of this act, the commission shall transfer the proceeds  
310 of any such sale or sales to the Mississippi Existing Industry  
311 Productivity Loan Fund created in Section 1 of Senate Bill No.  
312 2001, 2005 Third Extraordinary Session. The proceeds of such  
313 bonds shall be disbursed solely upon the order of the Mississippi  
314 Development Authority under such restrictions, if any, as may be



315 contained in the resolution providing for the issuance of the  
316 bonds.

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

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

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

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

348 and all municipalities and political subdivisions for the purpose  
349 of securing the deposit of public funds.

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

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

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

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

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

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

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

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

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

384 **SECTION 19.** (1) The Mississippi Development Authority, at  
385 one time, or from time to time, may declare by resolution the  
386 necessity for issuance of general obligation bonds of the State of  
387 Mississippi to provide funds for the program authorized in Section  
388 57-1-16. Upon the adoption of a resolution by the Mississippi  
389 Development Authority, declaring the necessity for the issuance of  
390 any part or all of the general obligation bonds authorized by this  
391 section, the Mississippi Development Authority shall deliver a  
392 certified copy of its resolution or resolutions to the commission.  
393 Upon receipt of such resolution, the commission, in its  
394 discretion, may act as the issuing agent, prescribe the form of  
395 the bonds, advertise for and accept bids, issue and sell the bonds  
396 so authorized to be sold and do any and all other things necessary  
397 and advisable in connection with the issuance and sale of such  
398 bonds. The total amount of bonds issued under this act shall not  
399 exceed Seven Million Dollars (\$7,000,000.00). No bonds authorized  
400 under this act shall be issued after July 1, 2009.

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

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

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

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

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

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

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

461 Notice of the sale of any such bonds shall be published at  
462 least one (1) time, not less than ten (10) days before the date of  
463 sale, and shall be so published in one or more newspapers  
464 published or having a general circulation in the City of Jackson,  
465 Mississippi, and in one or more other newspapers or financial  
466 journals with a national circulation, to be selected by the  
467 commission.

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

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

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

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

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

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

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

513 performed, in order to provide for the payment of bonds and  
514 interest thereon.

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

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

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

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

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

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

546 57-1-16. (1) As used in this section:

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

551 (b) "Local economic development entities" means public  
552 or private nonprofit local economic development entities,  
553 including, but not limited to, chambers of commerce, local  
554 authorities, commissions or other entities created by local and  
555 private legislation or districts created pursuant to Section  
556 19-5-99.

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

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

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



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

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

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

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

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

599 (iii) A description, including the cost, of the  
600 requested assistance;

601 (iv) A description of the purpose for which the  
602 assistance is requested;

603 (v) A two-year business plan;

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

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

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

610 (b) The MDA shall require that binding commitments be  
611 entered into requiring that:

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

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

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

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

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

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

643           57-61-25. (1) The seller is authorized to borrow, on the  
644 credit of the state upon receipt of a resolution from the

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

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

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

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

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

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

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

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

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

709 Reimbursements under this subsection shall satisfy any applicable  
710 federal tax law requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



840 community development block grant funds. The maximum amount of  
841 assistance that may be provided to a municipality under this  
842 subsection shall not exceed Seventy-five Thousand Dollars  
843 (\$75,000.00) in the aggregate.

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

845 (a) "Manufacturing enterprise" means an enterprise  
846 that:

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

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

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

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

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

868 (4) The maximum credit that may be claimed by a taxpayer on  
869 any project shall be limited to One Million Dollars  
870 (\$1,000,000.00).

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

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

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

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

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

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

896 27-31-101. (1) County boards of supervisors and municipal  
897 authorities are hereby authorized and empowered, in their  
898 discretion, to grant exemptions from ad valorem taxation, except  
899 state ad valorem taxation; however, such governing authorities  
900 shall not exempt ad valorem taxes for school district purposes on  
901 tangible property used in, or necessary to, the operation of the  
902 manufacturers and other new enterprises enumerated by classes in  
903 this section, except to the extent authorized in Sections  
904 27-31-104 and 27-31-105(2), nor shall they exempt from ad valorem  
905 taxes the products of the manufacturers or other new enterprises

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

933 \* \* \*

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

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

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

951           (a) Warehouse and/or distribution centers;

952           (b) Manufacturing, processors and refineries;

953           (c) Research facilities;

954           (d) Corporate regional and national headquarters

955 meeting minimum criteria established by the Department of Economic  
956 and Community Development;

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

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

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

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

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

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

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

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

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

995           (c) Retail sales of farm implements sold to farmers and  
996 used directly in the production of poultry, ratite, domesticated  
997 fish as defined in Section 69-7-501, livestock, livestock  
998 products, agricultural crops or ornamental plant crops or used for  
999 other agricultural purposes shall be taxed at the rate of three  
1000 percent (3%) when used on the farm. The three percent (3%) rate  
1001 shall also apply to all equipment used in logging, pulpwood  
1002 operations or tree farming which is either:

1003                   (i) Self-propelled, or \* \* \*

1004                   (ii) Mounted so that it is \* \* \* permanently  
1005 attached to other equipment which is self-propelled or \* \* \*  
1006 permanently attached to other equipment drawn by a vehicle which  
1007 is self-propelled.

1008                   (d) Except as otherwise provided in subsection (3) of  
1009 this section, retail sales of aircraft, automobiles, trucks,  
1010 truck-tractors, semitrailers and mobile homes shall be taxed at  
1011 the rate of three percent (3%).

1012                   (e) Sales of manufacturing machinery or manufacturing  
1013 machine parts when made to a manufacturer or custom processor for  
1014 plant use only when the machinery and machine parts will be used  
1015 exclusively and directly within this state in manufacturing a  
1016 commodity for sale, rental or in processing for a fee shall be  
1017 taxed at the rate of one and one-half percent (1-1/2%).

1018                   (f) Sales of machinery and machine parts when made to a  
1019 technology intensive enterprise for plant use only when the  
1020 machinery and machine parts will be used exclusively and directly  
1021 within this state for industrial purposes, including, but not  
1022 limited to, manufacturing or research and development activities,  
1023 shall be taxed at the rate of one and one-half percent (1-1/2%).  
1024 In order to be considered a technology intensive enterprise for  
1025 purposes of this paragraph:

1026                   (i) The enterprise shall meet minimum criteria  
1027 established by the Mississippi Development Authority;

1028                   (ii) The enterprise shall employ at least ten (10)  
1029 persons in full-time jobs;

1030                   (iii) At least ten percent (10%) of the workforce  
1031 in the facility operated by the enterprise shall be scientists,  
1032 engineers or computer specialists;

1033                   (iv) The enterprise shall manufacture plastics,  
1034 chemicals, automobiles, aircraft, computers or electronics; or  
1035 shall be a research and development facility, a computer design or  
1036 related facility, or a software publishing facility or other

1037 technology intensive facility or enterprise as determined by the  
1038 Mississippi Development Authority;

1039 (v) The average wage of all workers employed by  
1040 the enterprise at the facility shall be at least one hundred fifty  
1041 percent (150%) of the state average annual wage; and

1042 (vi) The enterprise must provide a basic health  
1043 care plan to all employees at the facility.

1044 (g) Sales of materials for use in track and track  
1045 structures to a railroad whose rates are fixed by the Interstate  
1046 Commerce Commission or the Mississippi Public Service Commission  
1047 shall be taxed at the rate of three percent (3%).

1048 (h) Sales of tangible personal property to electric  
1049 power associations for use in the ordinary and necessary operation  
1050 of their generating or distribution systems shall be taxed at the  
1051 rate of one percent (1%).

1052 (i) Wholesale sales of beer shall be taxed at the rate  
1053 of seven percent (7%), and the retailer shall file a return and  
1054 compute the retail tax on retail sales but may take credit for the  
1055 amount of the tax paid to the wholesaler on said return covering  
1056 the subsequent sales of same property, provided adequate invoices  
1057 and records are maintained to substantiate the credit.

1058 (j) Wholesale sales of food and drink for human  
1059 consumption to full service vending machine operators to be sold  
1060 through vending machines located apart from and not connected with  
1061 other taxable businesses shall be taxed at the rate of eight  
1062 percent (8%).

1063 (k) Sales of equipment used or designed for the purpose  
1064 of assisting disabled persons, such as wheelchair equipment and  
1065 lifts, that is mounted or attached to or installed on a private  
1066 carrier of passengers or light carrier of property, as defined in  
1067 Section 27-51-101, at the time when the private carrier of  
1068 passengers or light carrier of property is sold shall be taxed at  
1069 the same rate as the sale of such vehicles under this section.

1070           (2) From and after January 1, 1995, retail sales of private  
1071 carriers of passengers and light carriers of property, as defined  
1072 in Section 27-51-101, shall be taxed an additional two percent  
1073 (2%).

1074           (3) In lieu of the tax levied in subsection (1) of this  
1075 section, there is levied on retail sales of truck-tractors and  
1076 semitrailers used in interstate commerce and registered under the  
1077 International Registration Plan (IRP) or any similar reciprocity  
1078 agreement or compact relating to the proportional registration of  
1079 commercial vehicles entered into as provided for in Section  
1080 27-19-143, a tax at the rate of three percent (3%) of the portion  
1081 of the sale that is attributable to the usage of such  
1082 truck-tractor or semitrailer in Mississippi. The portion of the  
1083 retail sale that is attributable to the usage of such  
1084 truck-tractor or semitrailer in Mississippi is the retail sales  
1085 price of the truck-tractor or semitrailer multiplied by the  
1086 percentage of the total miles traveled by the vehicle that are  
1087 traveled in Mississippi. The tax levied pursuant to this  
1088 subsection (3) shall be collected by the State Tax Commission from  
1089 the purchaser of such truck-tractor or semitrailer at the time of  
1090 registration of such truck-tractor or semitrailer.

1091           (4) A manufacturer selling at retail in this state shall be  
1092 required to make returns of the gross proceeds of such sales and  
1093 pay the tax imposed in this section.

1094           (5) Any person exercising any privilege taxable under  
1095 Section 27-65-15 and selling his natural resource products at  
1096 wholesale or to exempt persons shall pay the tax levied by said  
1097 section in lieu of the tax levied by this section.

1098           **SECTION 41.** Section 27-65-19, Mississippi Code of 1972, is  
1099 amended as follows:

1100           27-65-19. (1) (a) Except as otherwise provided in this  
1101 subsection, upon every person selling to consumers, electricity,  
1102 current, power, potable water, steam, coal, natural gas, liquefied



1103 petroleum gas or other fuel, there is hereby levied, assessed and  
1104 shall be collected a tax equal to seven percent (7%) of the gross  
1105 income of the business. Provided, gross income from sales to  
1106 consumers of electricity, current, power, natural gas, liquefied  
1107 petroleum gas or other fuel for residential heating, lighting or  
1108 other residential noncommercial or nonagricultural use, and sales  
1109 of potable water for residential, noncommercial or nonagricultural  
1110 use shall be excluded from taxable gross income of the business.  
1111 Provided further, upon every such seller using electricity,  
1112 current, power, potable water, steam, coal, natural gas, liquefied  
1113 petroleum gas or other fuel for nonindustrial purposes, there is  
1114 hereby levied, assessed and shall be collected a tax equal to  
1115 seven percent (7%) of the cost or value of the product or service  
1116 used.

1117 (b) There is hereby levied, assessed and shall be  
1118 collected a tax equal to one and one-half percent (1-1/2%) of the  
1119 gross income of the business when the electricity, current, power,  
1120 steam, coal, natural gas, liquefied petroleum gas or other fuel is  
1121 sold to or used by a manufacturer, custom processor, technology  
1122 intensive enterprise meeting the criteria provided for in Section  
1123 27-65-17(1)(f), or public service company for industrial purposes,  
1124 which shall include that used to generate electricity, to operate  
1125 an electrical distribution or transmission system, to operate  
1126 pipeline compressor or pumping stations or to operate railroad  
1127 locomotives; however, sales of fuel used to produce electric power  
1128 by a company primarily engaged in the business of producing,  
1129 generating or distributing electric power for sale shall be exempt  
1130 from sales tax as provided in Section 27-65-107.

1131 (c) The one and one-half percent (1-1/2%) industrial  
1132 rate provided for in this subsection shall also apply when the  
1133 electricity, current, power, steam, coal, natural gas, liquefied  
1134 petroleum gas or other fuel is sold to a producer or processor for  
1135 use directly in the production of poultry or poultry products, the

1136 production of livestock and livestock products, the production of  
1137 domesticated fish and domesticated fish products, the production  
1138 of marine aquaculture products, the production of plants or food  
1139 by commercial horticulturists, the processing of milk and milk  
1140 products, the processing of poultry and livestock feed, and the  
1141 irrigation of farm crops.

1142 (d) The one and one-half percent (1-1/2%) rate provided  
1143 for in this subsection shall not apply to sales of fuel for  
1144 automobiles, trucks, truck-tractors, buses, farm tractors or  
1145 airplanes.

1146 (e) Upon every person operating a telegraph or  
1147 telephone business for the transmission of messages or  
1148 conversations between points within this state, there is hereby  
1149 levied, assessed and shall be collected a tax equal to seven  
1150 percent (7%) of the gross income of such business, with no  
1151 deduction or allowance for any part of an intrastate rate charge  
1152 because of routing across a state line. Charges by one  
1153 telecommunications provider to another telecommunications provider  
1154 holding a permit issued under Section 27-65-27 for services that  
1155 are resold by such other telecommunications provider, including,  
1156 but not limited to, access charges, shall not be subject to the  
1157 tax levied pursuant to this paragraph (e). However, any sale of a  
1158 prepaid telephone calling card or prepaid authorization number, or  
1159 both, shall be deemed to be the sale of tangible personal property  
1160 subject only to such taxes imposed by law on the sale of tangible  
1161 personal property. If the sale of a prepaid telephone calling  
1162 card or prepaid authorization number does not take place at the  
1163 vendor's place of business, it shall be conclusively determined to  
1164 take place at the customer's shipping address. The  
1165 reauthorization of a prepaid telephone calling card or a prepaid  
1166 authorization number shall be conclusively determined to take  
1167 place at the customer's billing address. Except for the  
1168 provisions governing the sale of a prepaid telephone calling card

1169 or prepaid authorization number, this paragraph (e) shall not  
1170 apply to persons providing mobile telecommunications services that  
1171 are taxed pursuant to paragraph (g) of this section.

1172 (f) Upon every person operating a telegraph or  
1173 telecommunications business for the transmission of messages or  
1174 conversations originating in this state or terminating in this  
1175 state via interstate telecommunications, which are charged to the  
1176 customer's service address in this state, regardless of where such  
1177 amount is billed or paid, there is hereby levied, assessed and  
1178 shall be collected a tax equal to seven percent (7%) of the gross  
1179 income received by such business from such interstate  
1180 telecommunications. However, a person, upon proof that he has  
1181 paid a tax in another state on such event, shall be allowed a  
1182 credit against the tax imposed in this paragraph (f) on interstate  
1183 telecommunications charges to the extent that the amount of such  
1184 tax is properly due and actually paid in such other state and to  
1185 the extent that the rate of sales tax imposed by and paid to such  
1186 other state does not exceed the rate of sales tax imposed by this  
1187 paragraph (f). Charges by one telecommunications provider to  
1188 another telecommunications provider holding a permit issued under  
1189 Section 27-65-27 for services that are resold by such other  
1190 telecommunications provider, including, but not limited to, access  
1191 charges, shall not be subject to the tax levied pursuant to this  
1192 paragraph (f). This paragraph (f) shall not apply to persons  
1193 providing mobile telecommunications services that are taxed  
1194 pursuant to paragraph (g) of this subsection.

1195 (g) (i) Upon every person providing mobile  
1196 telecommunications services in this state there is hereby levied,  
1197 assessed and shall be collected:

1198 1. A tax equal to seven percent (7%) of the  
1199 gross income received on such services from all charges for  
1200 transmission of messages or conversations between points within

1201 any single state as they shall be construed to be within this  
1202 state; and

1203                   2. A tax equal to seven percent (7%) on the  
1204 gross income received from all charges for services that originate  
1205 in one state and terminate in any other state.

1206           Charges by one telecommunications provider to another  
1207 telecommunications provider holding a permit issued under Section  
1208 27-65-27 for services that are resold by such other  
1209 telecommunications provider, including, but not limited to, access  
1210 charges, shall not be subject to the tax levied pursuant to this  
1211 paragraph (g).

1212                   (ii) Subject to the provisions of 4 USCS 116(c),  
1213 the tax levied by this paragraph (g) shall apply only to those  
1214 charges for mobile telecommunications services subject to tax  
1215 which are deemed to be provided to a customer by a home service  
1216 provider pursuant to 4 USCS 117(a), if the customer's place of  
1217 primary use is located within this state.

1218                   (iii) A home service provider shall be responsible  
1219 for obtaining and maintaining the customer's place of primary use.  
1220 The home service provider shall be entitled to rely on the  
1221 applicable residential or business street address supplied by such  
1222 customer, if the home service provider's reliance is in good  
1223 faith; and the home service provider shall be held harmless from  
1224 liability for any additional taxes based on a different  
1225 determination of the place of primary use for taxes that are  
1226 customarily passed on to the customer as a separate itemized  
1227 charge. A home service provider shall be allowed to treat the  
1228 address used for purposes of the tax levied by this chapter for  
1229 any customer under a service contract in effect on August 1, 2002,  
1230 as that customer's place of primary use for the remaining term of  
1231 such service contract or agreement, excluding any extension or  
1232 renewal of such service contract or agreement. Month-to-month

1233 services provided after the expiration of a contract shall be  
1234 treated as an extension or renewal of such contract or agreement.

1235         If the commissioner determines that the address used by a  
1236 home service provider as a customer's place of primary use does  
1237 not meet the definition of the term "place of primary use" as  
1238 defined in this paragraph, the commissioner shall give binding  
1239 notice to the home service provider to change the place of primary  
1240 use on a prospective basis from the date of notice of  
1241 determination; however, the customer shall have the opportunity,  
1242 prior to such notice of determination, to demonstrate that such  
1243 address satisfies such definition.

1244         The commission has the right to collect any taxes due  
1245 directly from the home service provider's customer that has failed  
1246 to provide an address that meets the definition of the term "place  
1247 of primary use" which resulted in a failure of tax otherwise due  
1248 being remitted.

1249                 (iv) For purposes of this paragraph (g):

1250                         1. "Place of primary use" means the street  
1251 address representative of where the customer's use of mobile  
1252 telecommunications services primarily occurs, which shall be  
1253 either the residential street address of the customer or the  
1254 primary business street address of the customer.

1255                         2. "Customer" means the person or entity that  
1256 contracts with the home service provider for mobile  
1257 telecommunications services. For determining the place of primary  
1258 use, in those instances in which the end user of mobile  
1259 telecommunications services is not the contracting party, the end  
1260 user of the mobile telecommunications services shall be deemed the  
1261 customer. The term "customer" shall not include a reseller of  
1262 mobile telecommunications service, or a serving carrier under an  
1263 arrangement to serve the customer outside the home service  
1264 provider's licensed service area.

1265                               3. "Home service provider" means the  
1266 facilities-based carrier or reseller with which the customer  
1267 contracts for the provision of mobile telecommunications services.

1268                               (h) (i) For purposes of this paragraph (h), "bundled  
1269 transaction" means a transaction that consists of distinct and  
1270 identifiable properties or services which are sold for a single  
1271 nonitemized price but which are treated differently for tax  
1272 purposes.

1273                               (ii) In the case of a bundled transaction that  
1274 includes telecommunications services taxed under this section in  
1275 which the price of the bundled transaction is attributable to  
1276 properties or services that are taxable and nontaxable, the  
1277 portion of the price that is attributable to any nontaxable  
1278 property or service shall be subject to the tax unless the  
1279 provider can reasonably identify that portion from its books and  
1280 records kept in the regular course of business.

1281                               (iii) In the case of a bundled transaction that  
1282 includes telecommunications services subject to tax under this  
1283 section in which the price is attributable to properties or  
1284 services that are subject to the tax but the tax revenue from the  
1285 different properties or services are dedicated to different funds  
1286 or purposes, the provider shall allocate the price among the  
1287 properties or services:

1288                                       1. By reasonably identifying the portion of  
1289 the price attributable to each of the properties and services from  
1290 its books and records kept in the regular course of business; or

1291                                       2. Based on a reasonable allocation  
1292 methodology approved by the commission.

1293                               (iv) This paragraph (h) shall not create a right  
1294 of action for a customer to require that the provider or the  
1295 commission, for purposes of determining the amount of tax  
1296 applicable to a bundled transaction, allocate the price to the  
1297 different portions of the transaction in order to minimize the

1298 amount of tax charged to the customer. A customer shall not be  
1299 entitled to rely on the fact that a portion of the price is  
1300 attributable to properties or services not subject to tax unless  
1301 the provider elects, after receiving a written request from the  
1302 customer in the form required by the provider, to provide  
1303 verifiable data based upon the provider's books and records that  
1304 are kept in the regular course of business that reasonably  
1305 identifies the portion of the price attributable to the properties  
1306 or services not subject to the tax.

1307 (2) Persons making sales to consumers of electricity,  
1308 current, power, natural gas, liquefied petroleum gas or other fuel  
1309 for residential heating, lighting or other residential  
1310 noncommercial or nonagricultural use or sales of potable water for  
1311 residential, noncommercial or nonagricultural use shall indicate  
1312 on each statement rendered to customers that such charges are  
1313 exempt from sales taxes.

1314 (3) There is hereby levied, assessed and shall be paid on  
1315 transportation charges on shipments moving between points within  
1316 this state when paid directly by the consumer, a tax equal to the  
1317 rate applicable to the sale of the property being transported.  
1318 Such tax shall be reported and paid directly to the State Tax  
1319 Commission by the consumer.

1320 **SECTION 42.** Section 27-65-101, Mississippi Code of 1972, is  
1321 amended as follows:

1322 27-65-101. (1) The exemptions from the provisions of this  
1323 chapter which are of an industrial nature or which are more  
1324 properly classified as industrial exemptions than any other  
1325 exemption classification of this chapter shall be confined to  
1326 those persons or property exempted by this section or by the  
1327 provisions of the Constitution of the United States or the State  
1328 of Mississippi. No industrial exemption as now provided by any  
1329 other section except Section 57-3-33 shall be valid as against the  
1330 tax herein levied. Any subsequent industrial exemption from the

1331 tax levied hereunder shall be provided by amendment to this  
1332 section. No exemption provided in this section shall apply to  
1333 taxes levied by Section 27-65-15 or 27-65-21.

1334 The tax levied by this chapter shall not apply to the  
1335 following:

1336 (a) Sales of boxes, crates, cartons, cans, bottles and  
1337 other packaging materials to manufacturers and wholesalers for use  
1338 as containers or shipping materials to accompany goods sold by  
1339 said manufacturers or wholesalers where possession thereof will  
1340 pass to the customer at the time of sale of the goods contained  
1341 therein and sales to anyone of containers or shipping materials  
1342 for use in ships engaged in international commerce.

1343 (b) Sales of raw materials, catalysts, processing  
1344 chemicals, welding gases or other industrial processing gases  
1345 (except natural gas) to a manufacturer for use directly in  
1346 manufacturing or processing a product for sale or rental or  
1347 repairing or reconditioning vessels or barges of fifty (50) tons  
1348 load displacement and over. For the purposes of this exemption,  
1349 electricity used directly in the electrolysis process in the  
1350 production of sodium chlorate shall be considered a raw material.  
1351 This exemption shall not apply to any property used as fuel except  
1352 to the extent that such fuel comprises by-products which have no  
1353 market value.

1354 (c) The gross proceeds of sales of dry docks, offshore  
1355 drilling equipment for use in oil exploitation or production,  
1356 vessels or barges of fifty (50) tons load displacement and over,  
1357 when sold by the manufacturer or builder thereof.

1358 (d) Sales to commercial fishermen of commercial fishing  
1359 boats of over five (5) tons load displacement and not more than  
1360 fifty (50) tons load displacement as registered with the United  
1361 States Coast Guard and licensed by the Mississippi Commission on  
1362 Marine Resources.



1363                   (e) The gross income from repairs to vessels and barges  
1364 engaged in foreign trade or interstate transportation.

1365                   (f) Sales of petroleum products to vessels or barges  
1366 for consumption in marine international commerce or interstate  
1367 transportation businesses.

1368                   (g) Sales and rentals of rail rolling stock (and  
1369 component parts thereof) for ultimate use in interstate commerce  
1370 and gross income from services with respect to manufacturing,  
1371 repairing, cleaning, altering, reconditioning or improving such  
1372 rail rolling stock (and component parts thereof).

1373                   (h) Sales of raw materials, catalysts, processing  
1374 chemicals, welding gases or other industrial processing gases  
1375 (except natural gas) used or consumed directly in manufacturing,  
1376 repairing, cleaning, altering, reconditioning or improving such  
1377 rail rolling stock (and component parts thereof). This exemption  
1378 shall not apply to any property used as fuel.

1379                   (i) Sales of machinery or tools or repair parts  
1380 therefor or replacements thereof, fuel or supplies used directly  
1381 in manufacturing, converting or repairing ships, vessels or barges  
1382 of three thousand (3,000) tons load displacement and over, but not  
1383 to include office and plant supplies or other equipment not  
1384 directly used on the ship, vessel or barge being built, converted  
1385 or repaired. For purposes of this exemption, "ships, vessels or  
1386 barges" shall not include floating structures described in Section  
1387 27-65-18.

1388                   (j) Sales of tangible personal property to persons  
1389 operating ships in international commerce for use or consumption  
1390 on board such ships. This exemption shall be limited to cases in  
1391 which procedures satisfactory to the commissioner, ensuring  
1392 against use in this state other than on such ships, are  
1393 established.

1394                   (k) Sales of materials used in the construction of a  
1395 building, or any addition or improvement thereon, and sales of any

1396 machinery and equipment not later than three (3) months after the  
1397 completion of construction of the building, or any addition  
1398 thereon, to be used therein, to qualified businesses, as defined  
1399 in Section 57-51-5, which are located in a county or portion  
1400 thereof designated as an enterprise zone pursuant to Sections  
1401 57-51-1 through 57-51-15.

1402 (l) Sales of materials used in the construction of a  
1403 building, or any addition or improvement thereon, and sales of any  
1404 machinery and equipment not later than three (3) months after the  
1405 completion of construction of the building, or any addition  
1406 thereon, to be used therein, to qualified businesses, as defined  
1407 in Section 57-54-5.

1408 (m) Income from storage and handling of perishable  
1409 goods by a public storage warehouse.

1410 (n) The value of natural gas lawfully injected into the  
1411 earth for cycling, repressuring or lifting of oil, or lawfully  
1412 vented or flared in connection with the production of oil;  
1413 however, if any gas so injected into the earth is sold for such  
1414 purposes, then the gas so sold shall not be exempt.

1415 (o) The gross collections from self-service commercial  
1416 laundering, drying, cleaning and pressing equipment.

1417 (p) Sales of materials used in the construction of a  
1418 building, or any addition or improvement thereon, and sales of any  
1419 machinery and equipment not later than three (3) months after the  
1420 completion of construction of the building, or any addition  
1421 thereon, to be used therein, to qualified companies, certified as  
1422 such by the Mississippi Development Authority under Section  
1423 57-53-1.

1424 (q) Sales of component materials used in the  
1425 construction of a building, or any addition or improvement  
1426 thereon, sales of machinery and equipment to be used therein, and  
1427 sales of manufacturing or processing machinery and equipment which  
1428 is permanently attached to the ground or to a permanent foundation

1429 and which is not by its nature intended to be housed within a  
1430 building structure, not later than three (3) months after the  
1431 initial start-up date, to permanent business enterprises engaging  
1432 in manufacturing or processing in Tier Three areas (as such term  
1433 is defined in Section 57-73-21), which businesses are certified by  
1434 the State Tax Commission as being eligible for the exemption  
1435 granted in this paragraph (q).

1436 (r) Sales of component materials used in the  
1437 construction of a building, or any addition or improvement  
1438 thereon, and sales of any machinery and equipment not later than  
1439 three (3) months after the completion of the building, addition or  
1440 improvement thereon, to be used therein, for any company  
1441 establishing or transferring its national or regional headquarters  
1442 from within or outside the State of Mississippi and creating a  
1443 minimum of thirty-five (35) jobs at the new headquarters in this  
1444 state. The Tax Commission shall establish criteria and prescribe  
1445 procedures to determine if a company qualifies as a national or  
1446 regional headquarters for the purpose of receiving the exemption  
1447 provided in this paragraph.

1448 (s) The gross proceeds from the sale of semitrailers,  
1449 trailers, boats, travel trailers, motorcycles and all-terrain  
1450 cycles if exported from this state within forty-eight (48) hours  
1451 and registered and first used in another state.

1452 (t) Gross income from the storage and handling of  
1453 natural gas in underground salt domes and in other underground  
1454 reservoirs, caverns, structures and formations suitable for such  
1455 storage.

1456 (u) Sales of machinery and equipment to nonprofit  
1457 organizations if the organization:

1458 (i) Is tax-exempt pursuant to Section 501(c)(4) of  
1459 the Internal Revenue Code of 1986, as amended;

1460 (ii) Assists in the implementation of the national  
1461 contingency plan or area contingency plan, and which is created in

1462 response to the requirements of Title IV, Subtitle B of the Oil  
1463 Pollution Act of 1990, Public Law 101-380; and

1464 (iii) Engages primarily in programs to contain,  
1465 clean up and otherwise mitigate spills of oil or other substances  
1466 occurring in the United States coastal and tidal waters.

1467 For purposes of this exemption, "machinery and equipment"  
1468 means any ocean-going vessels, barges, booms, skimmers and other  
1469 capital equipment used primarily in the operations of nonprofit  
1470 organizations referred to herein.

1471 (v) Sales or leases of materials and equipment to  
1472 approved business enterprises as provided under the Growth and  
1473 Prosperity Act.

1474 (w) From and after July 1, 2001, sales of pollution  
1475 control equipment to manufacturers or custom processors for  
1476 industrial use. For the purposes of this exemption, "pollution  
1477 control equipment" means equipment, devices, machinery or systems  
1478 used or acquired to prevent, control, monitor or reduce air, water  
1479 or groundwater pollution, or solid or hazardous waste as required  
1480 by federal or state law or regulation.

1481 (x) Sales or leases to a manufacturer of motor vehicles  
1482 operating a project that has been certified by the Mississippi  
1483 Major Economic Impact Authority as a project as defined in Section  
1484 57-75-5(f)(iv)1 of machinery and equipment; special tooling such  
1485 as dies, molds, jigs and similar items treated as special tooling  
1486 for federal income tax purposes; or repair parts therefor or  
1487 replacements thereof; repair services thereon; fuel, supplies,  
1488 electricity, coal and natural gas used directly in the manufacture  
1489 of motor vehicles or motor vehicle parts or used to provide  
1490 climate control for manufacturing areas.

1491 (y) Sales or leases of component materials, machinery  
1492 and equipment used in the construction of a building, or any  
1493 addition or improvement thereon to an enterprise operating a  
1494 project that has been certified by the Mississippi Major Economic

1495 Impact Authority as a project as defined in Section  
1496 57-75-5(f)(iv)1 and any other sales or leases required to  
1497 establish or operate such project.

1498 (z) Sales of component materials and equipment to a  
1499 business enterprise as provided under Section 57-64-33.

1500 (aa) The gross income from the stripping and painting  
1501 of commercial aircraft engaged in foreign or interstate  
1502 transportation business.

1503 (bb) Sales of production items used in the production  
1504 of motion pictures such as film; videotape; component building  
1505 materials used in the construction of a set; makeup; fabric used  
1506 as or in the making of costumes; clothing, including, shoes,  
1507 accessories and jewelry used as wardrobes; materials used as set  
1508 dressing; materials used as props on a set or by an actor;  
1509 materials used in the creation of special effects; and expendable  
1510 items purchased for limited use by grip, electric and camera  
1511 departments such as tape, fasteners and compressed air. For the  
1512 purposes of this paragraph (bb), the term "motion picture" means a  
1513 nationally distributed feature-length film, video, television  
1514 series or commercial made in Mississippi, in whole or in part, for  
1515 theatrical or television viewing or as a television pilot. The  
1516 term "motion picture" shall not include the production of  
1517 television coverage of news and athletic events, or a film, video,  
1518 television series or commercial that contains any material or  
1519 performance defined in Section 97-29-103.

1520 (cc) Sales or leases to an enterprise owning or  
1521 operating a project that has been designated by the Mississippi  
1522 Major Economic Impact Authority as a project as defined in Section  
1523 57-75-5(f)(xviii) of machinery and equipment; special tooling such  
1524 as dies, molds, jigs and similar items treated as special tooling  
1525 for federal income tax purposes; or repair parts therefor or  
1526 replacements thereof; repair services thereon; fuel, supplies,  
1527 electricity, coal and natural gas used directly in the

1528 manufacturing/production operations of the project or used to  
1529 provide climate control for manufacturing/production areas.

1530 (dd) Sales or leases of component materials, machinery  
1531 and equipment used in the construction of a building, or any  
1532 addition or improvement thereon to an enterprise owning or  
1533 operating a project that has been designated by the Mississippi  
1534 Major Economic Impact Authority as a project as defined in Section  
1535 57-75-5(f)(xviii) and any other sales or leases required to  
1536 establish or operate such project.

1537 (ee) Sales of parts used in the repair and servicing of  
1538 aircraft not registered in Mississippi engaged exclusively in the  
1539 business of foreign or interstate transportation to businesses  
1540 engaged in aircraft repair and maintenance.

1541 (ff) Sales of component materials used in the  
1542 construction of a facility, or any addition or improvement  
1543 thereon, and sales or leases of machinery and equipment not later  
1544 than three (3) months after the completion of construction of the  
1545 facility, or any addition or improvement thereto, to be used in  
1546 the building or any addition or improvement thereto, to a  
1547 permanent business enterprise operating a data/information  
1548 enterprise in Tier Three areas (as such areas are designated in  
1549 accordance with Section 57-73-21), meeting minimum criteria  
1550 established by the Mississippi Development Authority.

1551 (gg) Sales of component materials used in the  
1552 construction of a facility, or any addition or improvement  
1553 thereto, and sales of machinery and equipment not later than three  
1554 (3) months after the completion of construction of the facility,  
1555 or any addition or improvement thereto, to be used in the facility  
1556 or any addition or improvement thereto, to technology intensive  
1557 enterprises for industrial purposes in Tier Three areas (as such  
1558 areas are designated in accordance with Section 57-73-21), as  
1559 certified by the State Tax Commission. For purposes of this  
1560 paragraph, an enterprise must meet the criteria provided for in

1561 Section 27-65-17(1)(f) in order to be considered a technology  
1562 intensive enterprise.

1563 (2) Sales of component materials used in the construction of  
1564 a building, or any addition or improvement thereon, sales of  
1565 machinery and equipment to be used therein, and sales of  
1566 manufacturing or processing machinery and equipment which is  
1567 permanently attached to the ground or to a permanent foundation  
1568 and which is not by its nature intended to be housed within a  
1569 building structure, not later than three (3) months after the  
1570 initial start-up date, to permanent business enterprises engaging  
1571 in manufacturing or processing in Tier Two areas and Tier One  
1572 areas (as such areas are designated in accordance with Section  
1573 57-73-21), which businesses are certified by the State Tax  
1574 Commission as being eligible for the exemption granted in this  
1575 paragraph, shall be exempt from one-half (1/2) of the taxes  
1576 imposed on such transactions under this chapter.

1577 (3) Sales of component materials used in the construction of  
1578 a facility, or any addition or improvement thereon, and sales or  
1579 leases of machinery and equipment not later than three (3) months  
1580 after the completion of construction of the facility, or any  
1581 addition or improvement thereto, to be used in the building or any  
1582 addition or improvement thereto, to a permanent business  
1583 enterprise operating a data/information enterprise in Tier Two  
1584 areas and Tier One areas (as such areas are designated in  
1585 accordance with Section 57-73-21), which businesses meet minimum  
1586 criteria established by the Mississippi Development Authority,  
1587 shall be exempt from one-half (1/2) of the taxes imposed on such  
1588 transaction under this chapter.

1589 (4) Sales of component materials used in the construction of  
1590 a facility, or any addition or improvement thereto, and sales of  
1591 machinery and equipment not later than three (3) months after the  
1592 completion of construction of the facility, or any addition or  
1593 improvement thereto, to be used in the building or any addition or

1594 improvement thereto, to technology intensive enterprises for  
1595 industrial purposes in Tier Two areas and Tier One areas (as such  
1596 areas are designated in accordance with Section 57-73-21), which  
1597 businesses are certified by the State Tax Commission as being  
1598 eligible for the exemption granted in this paragraph, shall be  
1599 exempt from one-half (1/2) of the taxes imposed on such  
1600 transactions under this chapter. For purposes of this subsection,  
1601 an enterprise must meet the criteria provided for in Section  
1602 27-65-17(1)(f) in order to be considered a technology intensive  
1603 enterprise.

1604       (5) (a) For purposes of this subsection:

1605                   (i) "Telecommunications enterprises" shall have  
1606 the meaning ascribed to such term in Section 57-73-21 \* \* \*;

1607                   (ii) "Tier One areas" mean counties designated as  
1608 Tier One areas pursuant to Section 57-73-21 \* \* \*;

1609                   (iii) "Tier Two areas" mean counties designated as  
1610 Tier Two areas pursuant to Section 57-73-21 \* \* \*;

1611                   (iv) "Tier Three areas" mean counties designated  
1612 as Tier Three areas pursuant to Section 57-73-21 \* \* \*; and

1613                   (v) "Equipment used in the deployment of broadband  
1614 technologies" means any equipment capable of being used for or in  
1615 connection with the transmission of information at a rate, prior  
1616 to taking into account the effects of any signal degradation, that  
1617 is not less than three hundred eighty-four (384) kilobits per  
1618 second in at least one direction, including, but not limited to,  
1619 asynchronous transfer mode switches, digital subscriber line  
1620 access multiplexers, routers, servers, multiplexers, fiber optics  
1621 and related equipment.

1622                   (b) Sales of equipment to telecommunications  
1623 enterprises after June 30, 2003, and before July 1, 2013, that is  
1624 installed in Tier One areas and used in the deployment of  
1625 broadband technologies shall be exempt from one-half (1/2) of the  
1626 taxes imposed on such transactions under this chapter.



1627 (c) Sales of equipment to telecommunications  
1628 enterprises after June 30, 2003, and before July 1, 2013, that is  
1629 installed in Tier Two and Tier Three areas and used in the  
1630 deployment of broadband technologies shall be exempt from the  
1631 taxes imposed on such transactions under this chapter.

1632 **SECTION 43.** Section 57-73-21, Mississippi Code of 1972, is  
1633 amended as follows:

1634 **[In cases involving business enterprises that received or**  
1635 **applied for the job tax credit authorized by this section prior to**  
1636 **January 1, 2005, this section shall read as follows:]**

1637 57-73-21. (1) Annually by December 31, using the most  
1638 current data available from the University Research Center,  
1639 Mississippi Department of Employment Security and the United  
1640 States Department of Commerce, the State Tax Commission shall rank  
1641 and designate the state's counties as provided in this section.  
1642 The twenty-eight (28) counties in this state having a combination  
1643 of the highest unemployment rate and lowest per capita income for  
1644 the most recent thirty-six-month period, with equal weight being  
1645 given to each category, are designated Tier Three areas. The  
1646 twenty-seven (27) counties in the state with a combination of the  
1647 next highest unemployment rate and next lowest per capita income  
1648 for the most recent thirty-six-month period, with equal weight  
1649 being given to each category, are designated Tier Two areas. The  
1650 twenty-seven (27) counties in the state with a combination of the  
1651 lowest unemployment rate and the highest per capita income for the  
1652 most recent thirty-six-month period, with equal weight being given  
1653 to each category, are designated Tier One areas. Counties  
1654 designated by the Tax Commission qualify for the appropriate tax  
1655 credit for jobs as provided in subsections (2), (3) and (4) of  
1656 this section. The designation by the Tax Commission is effective  
1657 for the tax years of permanent business enterprises which begin  
1658 after the date of designation. For companies which plan an  
1659 expansion in their labor forces, the Tax Commission shall

1660 prescribe certification procedures to ensure that the companies  
1661 can claim credits in future years without regard to whether or not  
1662 a particular county is removed from the list of Tier Three or Tier  
1663 Two areas.

1664       (2) Permanent business enterprises primarily engaged in  
1665 manufacturing, processing, warehousing, distribution, wholesaling  
1666 and research and development, or permanent business enterprises  
1667 designated by rule and regulation of the Mississippi Development  
1668 Authority as air transportation and maintenance facilities, final  
1669 destination or resort hotels having a minimum of one hundred fifty  
1670 (150) guest rooms, recreational facilities that impact tourism,  
1671 movie industry studios, telecommunications enterprises, data or  
1672 information processing enterprises or computer software  
1673 development enterprises or any technology intensive facility or  
1674 enterprise, in counties designated by the Tax Commission as Tier  
1675 Three areas are allowed a job tax credit for taxes imposed by  
1676 Section 27-7-5 equal to Two Thousand Dollars (\$2,000.00) annually  
1677 for each net new full-time employee job for five (5) years  
1678 beginning with years two (2) through six (6) after the creation of  
1679 the job. The number of new full-time jobs must be determined by  
1680 comparing the monthly average number of full-time employees  
1681 subject to the Mississippi income tax withholding for the taxable  
1682 year with the corresponding period of the prior taxable year.  
1683 Only those permanent businesses that increase employment by ten  
1684 (10) or more in a Tier Three area are eligible for the credit.  
1685 Credit is not allowed during any of the five (5) years if the net  
1686 employment increase falls below ten (10). The Tax Commission  
1687 shall adjust the credit allowed each year for the net new  
1688 employment fluctuations above the minimum level of ten (10).

1689       (3) Permanent business enterprises primarily engaged in  
1690 manufacturing, processing, warehousing, distribution, wholesaling  
1691 and research and development, or permanent business enterprises  
1692 designated by rule and regulation of the Mississippi Development

1693 Authority as air transportation and maintenance facilities, final  
1694 destination or resort hotels having a minimum of one hundred fifty  
1695 (150) guest rooms, recreational facilities that impact tourism,  
1696 movie industry studios, telecommunications enterprises, data or  
1697 information processing enterprises or computer software  
1698 development enterprises or any technology intensive facility or  
1699 enterprise, in counties that have been designated by the Tax  
1700 Commission as Tier Two areas are allowed a job tax credit for  
1701 taxes imposed by Section 27-7-5 equal to One Thousand Dollars  
1702 (\$1,000.00) annually for each net new full-time employee job for  
1703 five (5) years beginning with years two (2) through six (6) after  
1704 the creation of the job. The number of new full-time jobs must be  
1705 determined by comparing the monthly average number of full-time  
1706 employees subject to Mississippi income tax withholding for the  
1707 taxable year with the corresponding period of the prior taxable  
1708 year. Only those permanent businesses that increase employment by  
1709 fifteen (15) or more in Tier Two areas are eligible for the  
1710 credit. The credit is not allowed during any of the five (5)  
1711 years if the net employment increase falls below fifteen (15).  
1712 The Tax Commission shall adjust the credit allowed each year for  
1713 the net new employment fluctuations above the minimum level of  
1714 fifteen (15).

1715 (4) Permanent business enterprises primarily engaged in  
1716 manufacturing, processing, warehousing, distribution, wholesaling  
1717 and research and development, or permanent business enterprises  
1718 designated by rule and regulation of the Mississippi Development  
1719 Authority as air transportation and maintenance facilities, final  
1720 destination or resort hotels having a minimum of one hundred fifty  
1721 (150) guest rooms, recreational facilities that impact tourism,  
1722 movie industry studios, telecommunications enterprises, data or  
1723 information processing enterprises or computer software  
1724 development enterprises or any technology intensive facility or  
1725 enterprise, in counties designated by the Tax Commission as Tier

1726 One areas are allowed a job tax credit for taxes imposed by  
1727 Section 27-7-5 equal to Five Hundred Dollars (\$500.00) annually  
1728 for each net new full-time employee job for five (5) years  
1729 beginning with years two (2) through six (6) after the creation of  
1730 the job. The number of new full-time jobs must be determined by  
1731 comparing the monthly average number of full-time employees  
1732 subject to Mississippi income tax withholding for the taxable year  
1733 with the corresponding period of the prior taxable year. Only  
1734 those permanent businesses that increase employment by twenty (20)  
1735 or more in Tier One areas are eligible for the credit. The credit  
1736 is not allowed during any of the five (5) years if the net  
1737 employment increase falls below twenty (20). The Tax Commission  
1738 shall adjust the credit allowed each year for the net new  
1739 employment fluctuations above the minimum level of twenty (20).

1740 (5) In addition to the credits authorized in subsections  
1741 (2), (3) and (4), an additional Five Hundred Dollars (\$500.00)  
1742 credit for each net new full-time employee or an additional One  
1743 Thousand Dollars (\$1,000.00) credit for each net new full-time  
1744 employee who is paid a salary, excluding benefits which are not  
1745 subject to Mississippi income taxation, of at least one hundred  
1746 twenty-five percent (125%) of the average annual wage of the state  
1747 or an additional Two Thousand Dollars (\$2,000.00) credit for each  
1748 net new full-time employee who is paid a salary, excluding  
1749 benefits which are not subject to Mississippi income taxation, of  
1750 at least two hundred percent (200%) of the average annual wage of  
1751 the state, shall be allowed for any company establishing or  
1752 transferring its national or regional headquarters from within or  
1753 outside the State of Mississippi. A minimum of thirty-five (35)  
1754 jobs must be created to qualify for the additional credit. The  
1755 State Tax Commission shall establish criteria and prescribe  
1756 procedures to determine if a company qualifies as a national or  
1757 regional headquarters for purposes of receiving the credit awarded  
1758 in this subsection. As used in this subsection, the average

1759 annual wage of the state is the most recently published average  
1760 annual wage as determined by the Mississippi Department of  
1761 Employment Security.

1762 (6) In addition to the credits authorized in subsections  
1763 (2), (3), (4) and (5), any job requiring research and development  
1764 skills (chemist, engineer, etc.) shall qualify for an additional  
1765 One Thousand Dollars (\$1,000.00) credit for each net new full-time  
1766 employee.

1767 (7) In lieu of the tax credits provided in subsections (2)  
1768 through (6), any commercial or industrial property owner which  
1769 remediates contaminated property in accordance with Sections  
1770 49-35-1 through 49-35-25, is allowed a job tax credit for taxes  
1771 imposed by Section 27-7-5 equal to the amounts provided in  
1772 subsection (2), (3) or (4) for each net new full-time employee job  
1773 for five (5) years beginning with years two (2) through six (6)  
1774 after the creation of the job. The number of new full-time jobs  
1775 must be determined by comparing the monthly average number of  
1776 full-time employees subject to Mississippi income tax withholding  
1777 for the taxable year with the corresponding period of the prior  
1778 taxable year. This subsection shall be administered in the same  
1779 manner as subsections (2), (3) and (4), except the landowner shall  
1780 not be required to increase employment by the levels provided in  
1781 subsections (2), (3) and (4) to be eligible for the tax credit.

1782 (8) Tax credits for five (5) years for the taxes imposed by  
1783 Section 27-7-5 shall be awarded for additional net new full-time  
1784 jobs created by business enterprises qualified under subsections  
1785 (2), (3), (4), (5), (6) and (7) of this section. Except as  
1786 otherwise provided, the Tax Commission shall adjust the credit  
1787 allowed in the event of employment fluctuations during the  
1788 additional five (5) years of credit.

1789 (9) The sale, merger, acquisition, reorganization,  
1790 bankruptcy or relocation from one county to another county within  
1791 the state of any business enterprise may not create new

1792 eligibility in any succeeding business entity, but any unused job  
1793 tax credit may be transferred and continued by any transferee of  
1794 the business enterprise. The Tax Commission shall determine  
1795 whether or not qualifying net increases or decreases have occurred  
1796 or proper transfers of credit have been made and may require  
1797 reports, promulgate regulations, and hold hearings as needed for  
1798 substantiation and qualification.

1799 (10) Any tax credit claimed under this section but not used  
1800 in any taxable year may be carried forward for five (5) years from  
1801 the close of the tax year in which the qualified jobs were  
1802 established but the credit established by this section taken in  
1803 any one (1) tax year must be limited to an amount not greater than  
1804 fifty percent (50%) of the taxpayer's state income tax liability  
1805 which is attributable to income derived from operations in the  
1806 state for that year.

1807 (11) No business enterprise for the transportation,  
1808 handling, storage, processing or disposal of hazardous waste is  
1809 eligible to receive the tax credits provided in this section.

1810 (12) The credits allowed under this section shall not be  
1811 used by any business enterprise or corporation other than the  
1812 business enterprise actually qualifying for the credits.

1813 (13) The tax credits provided for in this section shall be  
1814 in addition to any tax credits described in Sections 57-51-13(b),  
1815 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official  
1816 action by the Department of Economic Development prior to July 1,  
1817 1989, to any business enterprise determined prior to July 1, 1989,  
1818 by the Department of Economic Development to be a qualified  
1819 business as defined in Section 57-51-5(f) or Section 57-54-5(d) or  
1820 a qualified company as described in Section 57-53-1, as the case  
1821 may be; however, from and after July 1, 1989, tax credits shall be  
1822 allowed only under either this section or Sections 57-51-13(b),  
1823 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time  
1824 employee.

1825           (14) As used in this section, the term "telecommunications  
1826 enterprises" means entities engaged in the creation, display,  
1827 management, storage, processing, transmission or distribution for  
1828 compensation of images, text, voice, video or data by wire or by  
1829 wireless means, or entities engaged in the construction, design,  
1830 development, manufacture, maintenance or distribution for  
1831 compensation of devices, products, software or structures used in  
1832 the above activities. Companies organized to do business as  
1833 commercial broadcast radio stations, television stations or news  
1834 organizations primarily serving in-state markets shall not be  
1835 included within the definition of the term "telecommunications  
1836 enterprises."

1837           [In cases involving business enterprises that apply for the  
1838 job tax credit authorized by this section from and after January  
1839 1, 2005, this section shall read as follows:]

1840           57-73-21. (1) Annually by December 31, using the most  
1841 current data available from the University Research Center,  
1842 Mississippi Department of Employment Security and the United  
1843 States Department of Commerce, the State Tax Commission shall rank  
1844 and designate the state's counties as provided in this section.  
1845 The twenty-eight (28) counties in this state having a combination  
1846 of the highest unemployment rate and lowest per capita income for  
1847 the most recent thirty-six-month period, with equal weight being  
1848 given to each category, are designated Tier Three areas. The  
1849 twenty-seven (27) counties in the state with a combination of the  
1850 next highest unemployment rate and next lowest per capita income  
1851 for the most recent thirty-six-month period, with equal weight  
1852 being given to each category, are designated Tier Two areas. The  
1853 twenty-seven (27) counties in the state with a combination of the  
1854 lowest unemployment rate and the highest per capita income for the  
1855 most recent thirty-six-month period, with equal weight being given  
1856 to each category, are designated Tier One areas. Counties  
1857 designated by the Tax Commission qualify for the appropriate tax

1858 credit for jobs as provided in \* \* \* this section. The  
1859 designation by the Tax Commission is effective for the tax years  
1860 of permanent business enterprises which begin after the date of  
1861 designation. For companies which plan an expansion in their labor  
1862 forces, the Tax Commission shall prescribe certification  
1863 procedures to ensure that the companies can claim credits in  
1864 future years without regard to whether or not a particular county  
1865 is removed from the list of Tier Three or Tier Two areas.

1866 (2) Permanent business enterprises \* \* \* in counties  
1867 designated by the Tax Commission as Tier Three areas are allowed a  
1868 job tax credit for taxes imposed by Section 27-7-5 equal to ten  
1869 percent (10%) of the payroll of the enterprise for net new  
1870 full-time employee jobs for five (5) years beginning with years  
1871 two (2) through six (6) after the creation of the minimum number  
1872 of jobs required by this subsection. The number of new full-time  
1873 jobs must be determined by comparing the monthly average number of  
1874 full-time employees subject to the Mississippi income tax  
1875 withholding for the taxable year with the corresponding period of  
1876 the prior taxable year. Only those permanent business enterprises  
1877 that increase employment by ten (10) or more in a Tier Three area  
1878 are eligible for the credit. Credit is not allowed during any of  
1879 the five (5) years if the net employment increase falls below ten  
1880 (10). The Tax Commission shall adjust the credit allowed each  
1881 year for the net new employment fluctuations above the minimum  
1882 level of ten (10).

1883 (3) Permanent business enterprises \* \* \* in counties that  
1884 have been designated by the Tax Commission as Tier Two areas are  
1885 allowed a job tax credit for taxes imposed by Section 27-7-5 equal  
1886 to five percent (5%) of the payroll of the enterprise for net new  
1887 full-time employee jobs for five (5) years beginning with years  
1888 two (2) through six (6) after the creation of the minimum number  
1889 of jobs required by this subsection. The number of new full-time  
1890 jobs must be determined by comparing the monthly average number of



1891 full-time employees subject to Mississippi income tax withholding  
1892 for the taxable year with the corresponding period of the prior  
1893 taxable year. Only those permanent business enterprises that  
1894 increase employment by fifteen (15) or more in Tier Two areas are  
1895 eligible for the credit. The credit is not allowed during any of  
1896 the five (5) years if the net employment increase falls below  
1897 fifteen (15). The Tax Commission shall adjust the credit allowed  
1898 each year for the net new employment fluctuations above the  
1899 minimum level of fifteen (15).

1900 (4) Permanent business enterprises \* \* \* in counties  
1901 designated by the Tax Commission as Tier One areas are allowed a  
1902 job tax credit for taxes imposed by Section 27-7-5 equal to two  
1903 and one-half percent (2.5%) of the payroll of the enterprise for  
1904 net new full-time employee jobs for five (5) years beginning with  
1905 years two (2) through six (6) after the creation of the minimum  
1906 number of jobs required by this subsection. The number of new  
1907 full-time jobs must be determined by comparing the monthly average  
1908 number of full-time employees subject to Mississippi income tax  
1909 withholding for the taxable year with the corresponding period of  
1910 the prior taxable year. Only those permanent business enterprises  
1911 that increase employment by twenty (20) or more in Tier One areas  
1912 are eligible for the credit. The credit is not allowed during any  
1913 of the five (5) years if the net employment increase falls below  
1914 twenty (20). The Tax Commission shall adjust the credit allowed  
1915 each year for the net new employment fluctuations above the  
1916 minimum level of twenty (20).

1917 (5) In addition to the other credits authorized in this  
1918 section, an additional Five Hundred Dollars (\$500.00) credit for  
1919 each net new full-time employee or an additional One Thousand  
1920 Dollars (\$1,000.00) credit for each net new full-time employee who  
1921 is paid a salary, excluding benefits which are not subject to  
1922 Mississippi income taxation, of at least one hundred twenty-five  
1923 percent (125%) of the average annual wage of the state or an

1924 additional Two Thousand Dollars (\$2,000.00) credit for each net  
1925 new full-time employee who is paid a salary, excluding benefits  
1926 which are not subject to Mississippi income taxation, of at least  
1927 two hundred percent (200%) of the average annual wage of the  
1928 state, shall be allowed for any company establishing or  
1929 transferring its national or regional headquarters from within or  
1930 outside the State of Mississippi. A minimum of thirty-five (35)  
1931 jobs must be created to qualify for the additional credit. The  
1932 State Tax Commission shall establish criteria and prescribe  
1933 procedures to determine if a company qualifies as a national or  
1934 regional headquarters for purposes of receiving the credit awarded  
1935 in this subsection. As used in this subsection, the average  
1936 annual wage of the state is the most recently published average  
1937 annual wage as determined by the Mississippi Department of  
1938 Employment Security.

1939 (6) In addition to the other credits authorized in this  
1940 section, any job requiring research and development skills  
1941 (chemist, engineer, etc.) shall qualify for an additional One  
1942 Thousand Dollars (\$1,000.00) credit for each net new full-time  
1943 employee.

1944 (7) In lieu of the other tax credits provided in this  
1945 section, any commercial or industrial property owner which  
1946 remediates contaminated property in accordance with Sections  
1947 49-35-1 through 49-35-25, is allowed a job tax credit for taxes  
1948 imposed by Section 27-7-5 equal to the percentage of payroll  
1949 provided in subsection (2), (3) or (4) of this section for \* \* \*  
1950 net new full-time employee jobs for five (5) years beginning with  
1951 years two (2) through six (6) after the creation of the jobs. The  
1952 number of new full-time jobs must be determined by comparing the  
1953 monthly average number of full-time employees subject to  
1954 Mississippi income tax withholding for the taxable year with the  
1955 corresponding period of the prior taxable year. This subsection  
1956 shall be administered in the same manner as subsections (2), (3)

1957 and (4), except the landowner shall not be required to increase  
1958 employment by the levels provided in subsections (2), (3) and (4)  
1959 to be eligible for the tax credit.

1960 (8) (a) Tax credits for five (5) years for the taxes  
1961 imposed by Section 27-7-5 shall be awarded for increases in the  
1962 annual payroll for net new full-time jobs created by business  
1963 enterprises qualified under this section. The Tax Commission  
1964 shall adjust the credit allowed in the event of payroll  
1965 fluctuations during the additional five (5) years of credit.

1966 (b) Tax credits for five (5) years for the taxes  
1967 imposed by Section 27-7-5 shall be awarded for additional net new  
1968 full-time jobs created by business enterprises qualified under  
1969 subsections \* \* \* (5) and (6) \* \* \* of this section. \* \* \* The  
1970 Tax Commission shall adjust the credit allowed in the event of  
1971 employment fluctuations during the additional five (5) years of  
1972 credit.

1973 (9) The sale, merger, acquisition, reorganization,  
1974 bankruptcy or relocation from one county to another county within  
1975 the state of any business enterprise may not create new  
1976 eligibility in any succeeding business entity, but any unused job  
1977 tax credit may be transferred and continued by any transferee of  
1978 the business enterprise. The Tax Commission shall determine  
1979 whether or not qualifying net increases or decreases have occurred  
1980 or proper transfers of credit have been made and may require  
1981 reports, promulgate regulations, and hold hearings as needed for  
1982 substantiation and qualification.

1983 (10) Any tax credit claimed under this section but not used  
1984 in any taxable year may be carried forward for five (5) years from  
1985 the close of the tax year in which the qualified jobs were  
1986 established but the credit established by this section taken in  
1987 any one tax year must be limited to an amount not greater than  
1988 fifty percent (50%) of the taxpayer's state income tax liability

1989 which is attributable to income derived from operations in the  
1990 state for that year.

1991 (11) No business enterprise for the transportation,  
1992 handling, storage, processing or disposal of hazardous waste is  
1993 eligible to receive the tax credits provided in this section.

1994 (12) The credits allowed under this section shall not be  
1995 used by any business enterprise or corporation other than the  
1996 business enterprise actually qualifying for the credits.

1997 (13) As used in this section:

1998 (a) "Business enterprises" means entities primarily  
1999 engaged in:

2000 (i) Manufacturing, processing, warehousing,  
2001 distribution, wholesaling and research and development, or

2002 (ii) Permanent business enterprises designated by  
2003 rule and regulation of the Mississippi Development Authority as  
2004 air transportation and maintenance facilities, final destination  
2005 or resort hotels having a minimum of one hundred fifty (150) guest  
2006 rooms, recreational facilities that impact tourism, movie industry  
2007 studios, telecommunications enterprises, data or information  
2008 processing enterprises or computer software development  
2009 enterprises or any technology intensive facility or enterprise.

2010 (b) "Telecommunications enterprises" means entities  
2011 engaged in the creation, display, management, storage, processing,  
2012 transmission or distribution for compensation of images, text,  
2013 voice, video or data by wire or by wireless means, or entities  
2014 engaged in the construction, design, development, manufacture,  
2015 maintenance or distribution for compensation of devices, products,  
2016 software or structures used in the above activities. Companies  
2017 organized to do business as commercial broadcast radio stations,  
2018 television stations or news organizations primarily serving  
2019 in-state markets shall not be included within the definition of  
2020 the term "telecommunications enterprises."

2021           (14) The tax credits provided for in this section shall be  
2022 in addition to any tax credits described in Sections 57-51-13(b),  
2023 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official  
2024 action by the Department of Economic Development prior to July 1,  
2025 1989, to any business enterprise determined prior to July 1, 1989,  
2026 by the Department of Economic Development to be a qualified  
2027 business as defined in Section 57-51-5(f) or Section 57-54-5(d) or  
2028 a qualified company as described in Section 57-53-1, as the case  
2029 may be; however, from and after July 1, 1989, tax credits shall be  
2030 allowed only under either this section or Sections 57-51-13(b),  
2031 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time  
2032 employee.

2033           \* \* \*

2034           **SECTION 44.** Section 57-73-25, Mississippi Code of 1972, is  
2035 amended as follows:

2036           57-73-25. (1) A fifty percent (50%) income tax credit shall  
2037 be granted to any employer (as defined in subsection (4) of this  
2038 section) sponsoring skills training. The fifty percent (50%)  
2039 credit shall be granted to employers that participate in  
2040 employer-sponsored training programs through any community/junior  
2041 college in the district within which the employer is located or  
2042 training approved by such community/junior college. The credit is  
2043 applied to qualified training expenses, which are expenses related  
2044 to instructors, instructional materials and equipment, and the  
2045 construction and maintenance of facilities by such employer  
2046 designated for training purposes which is attributable to training  
2047 provided through such community/junior college or training  
2048 approved by such community/junior college. The credits allowed  
2049 under this section shall only be used by the actual employer  
2050 qualifying for the credits. The credit shall not exceed fifty  
2051 percent (50%) of the income tax liability in a tax year and may be  
2052 carried forward for the five (5) successive years if the amount  
2053 allowable as credit exceeds the income tax liability in a tax

2054 year; however, thereafter, if the amount allowable as a credit  
2055 exceeds the tax liability, the amount of excess shall not be  
2056 refundable or carried forward to any other taxable year. The  
2057 credit authorized under this section shall not exceed Two Thousand  
2058 Five Hundred Dollars (\$2,500.00) per employee during any one (1)  
2059 year. Nothing in this section shall be interpreted in any manner  
2060 as to prevent the continuing operation of state-supported  
2061 university programs.

2062 (2) Employer-sponsored training shall include an evaluation  
2063 by the local community or junior college that serves the employer  
2064 to ensure that the training provided is job related and conforms  
2065 to the definition of "skills training" as hereinafter defined.

2066 (3) Employers shall be certified as eligible for the tax  
2067 credit by the local community or junior college that serves the  
2068 employer and the State Tax Commission.

2069 (4) For the purposes of this section:

2070 (a) "Skills training" means any employer-sponsored  
2071 training by an appropriate community/junior college or training  
2072 approved by such community/junior college that enhances skills  
2073 that improve job performance. If the employer provides  
2074 pre-employment training, the portion of the pre-employment  
2075 training that involves skills training shall be eligible for the  
2076 credit.

2077 (b) "Employer-sponsored training" means training  
2078 provided by the appropriate community/junior college in the  
2079 district within which the employer is located or training approved  
2080 by such community/junior college.

2081 (c) "Employer" means those permanent business  
2082 enterprises as defined and set out in Section 57-73-21 \* \* \*.

2083 (5) The tax credits provided for in this section shall be in  
2084 addition to all other tax credits heretofore granted by the laws  
2085 of the state.

2086           (6) A community/junior college may commit to provide  
2087 employer-sponsored skills training programs for an employer for a  
2088 multiple number of years, not to exceed five (5) years.

2089           (7) The State Board for Community and Junior Colleges shall  
2090 make a report to the Legislature by January 30 of each year  
2091 summarizing the number of participants, the junior or community  
2092 college through which the training was offered and the type  
2093 training offered.

2094           (8) This section shall stand repealed from and after July 1,  
2095 2006.

2096           **SECTION 45.** Section 57-10-401, Mississippi Code of 1972, is  
2097 amended as follows:

2098           **[In cases involving an economic development project for which**  
2099 **the Mississippi Business Finance Corporation has issued bonds for**  
2100 **the purpose of financing the approved costs of such project prior**  
2101 **to July 1, 1994, this section shall read as follows:]**

2102           57-10-401. As used in Sections 57-10-401 through 57-10-445  
2103 the following terms shall have the meanings ascribed to them  
2104 herein unless the context clearly indicates otherwise:

2105           (a) "Approved company" means any eligible company  
2106 seeking to locate an economic development project in a county,  
2107 which eligible company is approved by the corporation.

2108           (b) "Approved costs" means:

2109           (i) Obligations incurred for equipment and labor  
2110 and to contractors, subcontractors, builders and materialmen in  
2111 connection with the acquisition, construction and installation of  
2112 an economic development project;

2113           (ii) The cost of acquiring land or rights in land  
2114 and any cost incidental thereto, including recording fees;

2115           (iii) The cost of contract bonds and of insurance  
2116 of all kinds that may be required or necessary during the course  
2117 of acquisition, construction and installation of an economic

2118 development project which is not paid by the contractor or  
2119 contractors or otherwise provided for;

2120 (iv) All costs of architectural and engineering  
2121 services, including test borings, surveys, estimates, plans and  
2122 specifications, preliminary investigations, and supervision of  
2123 construction, as well as for the performance of all the duties  
2124 required by or consequent upon the acquisition, construction and  
2125 installation of an economic development project;

2126 (v) All costs which shall be required to be paid  
2127 under the terms of any contract or contracts for the acquisition,  
2128 construction and installation of an economic development project;

2129 (vi) All costs, expenses and fees incurred in  
2130 connection with the issuance of bonds pursuant to Sections  
2131 57-10-401 through 57-10-445;

2132 (vii) All costs funded by a loan made under the  
2133 Mississippi Small Enterprise Development Finance Act; and

2134 (viii) All costs of professionals permitted to be  
2135 engaged under the Mississippi Small Enterprise Development Finance  
2136 Act for a loan made under such act.

2137 (c) "Assessment" means the job development assessment  
2138 fee authorized in Section 57-10-413.

2139 (d) "Bonds" means the revenue bonds, notes or other  
2140 debt obligations of the corporation authorized to be issued by the  
2141 corporation on behalf of an eligible company or other state  
2142 agency.

2143 (e) "Corporation" means the Mississippi Business  
2144 Finance Corporation created under Section 57-10-167, Mississippi  
2145 Code of 1972.

2146 (f) "Economic development project" means and includes  
2147 the acquisition of any equipment or real estate in a county and  
2148 the construction and installation thereon, and with respect  
2149 thereto, of improvements and facilities necessary or desirable for  
2150 improvement of the real estate, including surveys, site tests and



2151 inspections, subsurface site work, excavation, removal of  
2152 structures, roadways, cemeteries and other surface obstructions,  
2153 filling, grading and provision of drainage, storm water detention,  
2154 installation of utilities such as water, sewer, sewage treatment,  
2155 gas, electricity, communications and similar facilities, off-site  
2156 construction of utility extensions to the boundaries of the real  
2157 estate, and the acquisition, construction and installation of  
2158 manufacturing, telecommunications, data processing, distribution  
2159 or warehouse facilities on the real estate, for lease or financial  
2160 arrangement by the corporation to an approved company for use and  
2161 occupancy by the approved company or its affiliates for  
2162 manufacturing, telecommunications, data processing, distribution  
2163 or warehouse purposes. Such term also includes, without  
2164 limitation, any project the financing of which has been approved  
2165 under the Mississippi Small Enterprise Development Finance Act.

2166 (g) "Eligible company" means any corporation,  
2167 partnership, sole proprietorship, business trust, or other entity  
2168 which is:

2169 (i) Engaged in manufacturing which meets the  
2170 standards promulgated by the corporation under Sections 57-10-401  
2171 through 57-10-445;

2172 (ii) A private company approved by the corporation  
2173 for a loan under the Mississippi Small Enterprise Development  
2174 Finance Act;

2175 (iii) A distribution or warehouse facility  
2176 employing a minimum of fifty (50) people or employing a minimum of  
2177 twenty (20) people and having a capital investment in such  
2178 facility of at least Five Million Dollars (\$5,000,000.00); or

2179 (iv) A telecommunications or data processing  
2180 business.

2181 (h) "Executive director" means the Executive Director  
2182 of the Mississippi Business Finance Corporation.

2183 (i) "Financing agreement" means any financing documents  
2184 and agreements, indentures, loan agreements, lease agreements,  
2185 security agreements and the like, entered into by and among the  
2186 corporation, private lenders and an approved company with respect  
2187 to an economic development project.

2188 (j) "Manufacturing" means any activity involving the  
2189 manufacturing, processing, assembling or production of any  
2190 property, including the processing resulting in a change in the  
2191 conditions of the property and any activity functionally related  
2192 thereto, together with the storage, warehousing, distribution and  
2193 related office facilities in respect thereof as determined by the  
2194 Mississippi Business Finance Corporation; however, in no event  
2195 shall "manufacturing" include mining, coal or mineral processing,  
2196 or extraction of Mississippi minerals.

2197 (k) "State agency" means any state board, commission,  
2198 committee, council, university, department or unit thereof created  
2199 by the Constitution or laws of this state.

2200 (l) "Revenues" shall not be considered state funds.

2201 (m) "State" means the State of Mississippi.

2202 (n) "Mississippi Small Enterprise Development Finance  
2203 Act" means the provisions of law contained in Section 57-71-1 et  
2204 seq.

2205 **[In cases involving an economic development project for which**  
2206 **the Mississippi Business Finance Corporation has not issued bonds**  
2207 **for the purpose of financing the approved costs of such project**  
2208 **prior to July 1, 1994, this section shall read as follows:]**

2209 57-10-401. As used in Sections 57-10-401 through 57-10-445  
2210 the following terms shall have the meanings ascribed to them  
2211 herein unless the context clearly indicates otherwise:

2212 (a) "Approved company" means any eligible company  
2213 seeking to locate an economic development project in a county,  
2214 which eligible company is approved by the corporation.

2215 (b) "Approved costs" means:

2216 (i) Obligations incurred for equipment and labor  
2217 and to contractors, subcontractors, builders and materialmen in  
2218 connection with the acquisition, construction and installation of  
2219 an economic development project;

2220 (ii) The cost of acquiring land or rights in land  
2221 and any cost incidental thereto, including recording fees;

2222 (iii) The cost of contract bonds and of insurance  
2223 of all kinds that may be required or necessary during the course  
2224 of acquisition, construction and installation of an economic  
2225 development project which is not paid by the contractor or  
2226 contractors or otherwise provided for;

2227 (iv) All costs of architectural and engineering  
2228 services, including test borings, surveys, estimates, plans and  
2229 specifications, preliminary investigations, and supervision of  
2230 construction, as well as for the performance of all the duties  
2231 required by or consequent upon the acquisition, construction and  
2232 installation of an economic development project;

2233 (v) All costs which shall be required to be paid  
2234 under the terms of any contract or contracts for the acquisition,  
2235 construction and installation of an economic development project;

2236 (vi) All costs, expenses and fees incurred in  
2237 connection with the issuance of bonds pursuant to Sections  
2238 57-10-401 through 57-10-445;

2239 (vii) All costs funded by a loan made under the  
2240 Mississippi Small Enterprise Development Finance Act; and

2241 (viii) All costs of professionals permitted to be  
2242 engaged under the Mississippi Small Enterprise Development Finance  
2243 Act for a loan made under such act.

2244 (c) "Assessment" means the job development assessment  
2245 fee authorized in Section 57-10-413.

2246 (d) "Bonds" means the revenue bonds, notes or other  
2247 debt obligations of the corporation authorized to be issued by the

2248 corporation on behalf of an eligible company or other state  
2249 agency.

2250 (e) "Corporation" means the Mississippi Business  
2251 Finance Corporation created under Section 57-10-167, Mississippi  
2252 Code of 1972.

2253 (f) "Economic development project" means and includes  
2254 the acquisition of any equipment or real estate in a county and  
2255 the construction and installation thereon, and with respect  
2256 thereto, of improvements and facilities necessary or desirable for  
2257 improvement of the real estate, including surveys, site tests and  
2258 inspections, subsurface site work, excavation, removal of  
2259 structures, roadways, cemeteries and other surface obstructions,  
2260 filling, grading and provision of drainage, storm water detention,  
2261 installation of utilities such as water, sewer, sewage treatment,  
2262 gas, electricity, communications and similar facilities, off-site  
2263 construction of utility extensions to the boundaries of the real  
2264 estate, and the acquisition, construction and installation of  
2265 manufacturing, telecommunications, data processing, distribution  
2266 or warehouse facilities on the real estate, for lease or financial  
2267 arrangement by the corporation to an approved company for use and  
2268 occupancy by the approved company or its affiliates for  
2269 manufacturing, telecommunications, data processing, distribution  
2270 or warehouse purposes. Such term also includes, without  
2271 limitation, any project the financing of which has been approved  
2272 under the Mississippi Small Enterprise Development Finance Act.

2273 If an eligible company closes a facility in this state and  
2274 becomes an approved company under the provisions of Sections  
2275 57-10-401 through 57-10-449, only that portion of the project for  
2276 which such company is attempting to obtain financing that is in  
2277 excess of the value of the closed facility shall be included  
2278 within the definition of the term "economic development project."  
2279 The Mississippi Business Finance Corporation shall promulgate  
2280 rules and regulations to govern the determination of the

2281 difference between the value of the closed facility and the new  
2282 facility.

2283 (g) "Eligible company" means any corporation,  
2284 partnership, sole proprietorship, business trust, or other entity  
2285 which:

2286 (i) Engaged in manufacturing which meets the  
2287 standards promulgated by the corporation under Sections 57-10-401  
2288 through 57-10-445;

2289 (ii) A private company approved by the corporation  
2290 for a loan under the Mississippi Small Enterprise Development  
2291 Finance Act;

2292 (iii) A distribution or warehouse facility  
2293 employing a minimum of fifty (50) people or employing a minimum of  
2294 twenty (20) people and having a capital investment in such  
2295 facility of at least Five Million Dollars (\$5,000,000.00); \* \* \*

2296 (iv) A telecommunications or data/information  
2297 processing business meeting criteria established by the  
2298 Mississippi Business Finance Corporation;

2299 (v) National or regional headquarters meeting  
2300 criteria established by the Mississippi Business Finance  
2301 Corporation;

2302 (vi) Research and development facilities meeting  
2303 criteria established by the Mississippi Business Finance  
2304 Corporation; or

2305 (vii) Technology intensive enterprises or  
2306 facilities meeting criteria established by the Mississippi  
2307 Business Finance Corporation.

2308 (h) "Executive director" means the Executive Director  
2309 of the Mississippi Business Finance Corporation.

2310 (i) "Financing agreement" means any financing documents  
2311 and agreements, indentures, loan agreements, lease agreements,  
2312 security agreements and the like, entered into by and among the

2313 corporation, private lenders and an approved company with respect  
2314 to an economic development project.

2315 (j) "Manufacturing" means any activity involving the  
2316 manufacturing, processing, assembling or production of any  
2317 property, including the processing resulting in a change in the  
2318 conditions of the property and any activity functionally related  
2319 thereto, together with the storage, warehousing, distribution and  
2320 related office facilities in respect thereof as determined by the  
2321 Mississippi Business Finance Corporation; however, in no event  
2322 shall "manufacturing" include mining, coal or mineral processing,  
2323 or extraction of Mississippi minerals.

2324 (k) "State agency" means any state board, commission,  
2325 committee, council, university, department or unit thereof created  
2326 by the Constitution or laws of this state.

2327 (l) "Revenues" shall not be considered state funds.

2328 (m) "State" means the State of Mississippi.

2329 (n) "Mississippi Small Enterprise Development Finance  
2330 Act" means the provisions of law contained in Section 57-71-1 et  
2331 seq.

2332 **SECTION 46.** Section 57-62-5, Mississippi Code of 1972, is  
2333 amended as follows:

2334 **[For businesses or industries that received or applied for**  
2335 **incentive payments prior to July 1, 2005, this section shall read**  
2336 **as follows:]**

2337 57-62-5. As used in this chapter, the following words and  
2338 phrases shall have the meanings ascribed in this section unless  
2339 the context clearly indicates otherwise:

2340 (a) "Qualified business or industry" means any  
2341 corporation, limited liability company, partnership, sole  
2342 proprietorship, business trust or other legal entity and subunits  
2343 or affiliates thereof, pursuant to rules and regulations of the  
2344 MDA, which provides an average annual salary, excluding benefits  
2345 which are not subject to Mississippi income taxes, of at least one

2346 hundred twenty-five percent (125%) of the most recently published  
2347 state average annual wage or the most recently published average  
2348 annual wage of the county in which the qualified business or  
2349 industry is located as determined by the Mississippi Department of  
2350 Employment Security, whichever is the lesser. An establishment  
2351 shall not be considered to be a qualified business or industry  
2352 unless it offers, or will offer within one hundred eighty (180)  
2353 days of the date it receives the first incentive payment pursuant  
2354 to the provisions of this chapter, a basic health benefits plan to  
2355 the individuals it employs in new direct jobs in this state which  
2356 is approved by the MDA. Qualified business or industry does not  
2357 include retail business or gaming business;

2358 (b) "New direct job" means full-time employment in this  
2359 state in a qualified business or industry that has qualified to  
2360 receive an incentive payment pursuant to this chapter, which  
2361 employment did not exist in this state before the date of approval  
2362 by the MDA of the application of the qualified business or  
2363 industry pursuant to the provisions of this chapter. "New direct  
2364 job" shall include full-time employment in this state of employees  
2365 who are employed by an entity other than the establishment that  
2366 has qualified to receive an incentive payment and who are leased  
2367 to the qualified business or industry, if such employment did not  
2368 exist in this state before the date of approval by the MDA of the  
2369 application of the establishment;

2370 (c) "Full-time job" means a job of at least thirty-five  
2371 (35) hours per week;

2372 (d) "Estimated direct state benefits" means the tax  
2373 revenues projected by the MDA to accrue to the state as a result  
2374 of the qualified business or industry;

2375 (e) "Estimated direct state costs" means the costs  
2376 projected by the MDA to accrue to the state as a result of the  
2377 qualified business or industry;

2378 (f) "Estimated net direct state benefits" means the  
2379 estimated direct state benefits less the estimated direct state  
2380 costs;

2381 (g) "Net benefit rate" means the estimated net direct  
2382 state benefits computed as a percentage of gross payroll, provided  
2383 that:

2384 (i) Except as otherwise provided in this paragraph  
2385 (g), the net benefit rate may be variable and shall not exceed  
2386 four percent (4%) of the gross payroll; and shall be set in the  
2387 sole discretion of the MDA;

2388 (ii) In no event shall incentive payments,  
2389 cumulatively, exceed the estimated net direct state benefits;

2390 (h) "Gross payroll" means wages for new direct jobs of  
2391 the qualified business or industry; and

2392 (i) "MDA" means the Mississippi Development Authority.

2393 **[For businesses or industries that apply for incentive**  
2394 **payments from and after July 1, 2005, this section shall read as**  
2395 **follows:]**

2396 57-62-5. As used in this chapter, the following words and  
2397 phrases shall have the meanings ascribed in this section unless  
2398 the context clearly indicates otherwise:

2399 (a) "Qualified business or industry" means any  
2400 corporation, limited liability company, partnership, sole  
2401 proprietorship, business trust or other legal entity and subunits  
2402 or affiliates thereof, pursuant to rules and regulations of the  
2403 MDA, which:

2404 (i) Is a data/information processing enterprise  
2405 meeting minimum criteria established by the MDA that provides an  
2406 average annual salary, excluding benefits which are not subject to  
2407 Mississippi income taxes, of at least one hundred percent (100%)  
2408 of the most recently published state average annual wage or the  
2409 most recently published average annual wage of the county in which  
2410 the qualified business or industry is located as determined by the



2411 Mississippi Department of Employment Security, whichever is the  
2412 lesser, and creates not less than two hundred (200) new direct  
2413 jobs if the enterprise is located in a Tier One or Tier Two area  
2414 (as such areas are designated in accordance with Section  
2415 57-73-21), or which creates not less than one hundred (100) new  
2416 jobs if the enterprise is located in a Tier Three area (as such  
2417 areas are designated in accordance with Section 57-73-21);

2418 (ii)\_ Is a manufacturing or distribution enterprise  
2419 meeting minimum criteria established by the MDA that provides an  
2420 average annual salary, excluding benefits which are not subject to  
2421 Mississippi income taxes, of at least one hundred ten percent  
2422 (110%) of the most recently published state average annual wage or  
2423 the most recently published average annual wage of the county in  
2424 which the qualified business or industry is located as determined  
2425 by the Mississippi Department of Employment Security, whichever is  
2426 the lesser, invests not less than Twenty Million Dollars  
2427 (\$20,000,000.00) in land, buildings and equipment, and creates not  
2428 less than fifty (50) new direct jobs if the enterprise is located  
2429 in a Tier One or Tier Two area (as such areas are designated in  
2430 accordance with Section 57-73-21), or which creates not less than  
2431 twenty (20) new jobs if the enterprise is located in a Tier Three  
2432 area (as such areas are designated in accordance with Section  
2433 57-73-21);

2434 (iii)\_ Is a corporation, limited liability company,  
2435 partnership, sole proprietorship, business trust or other legal  
2436 entity and subunits or affiliates thereof, pursuant to rules and  
2437 regulations of the MDA, which provides an average annual salary,  
2438 excluding benefits which are not subject to Mississippi income  
2439 taxes, of at least one hundred twenty-five percent (125%) of the  
2440 most recently published state average annual wage or the most  
2441 recently published average annual wage of the county in which the  
2442 qualified business or industry is located as determined by the  
2443 Mississippi Department of Employment Security, whichever is the

2444 lesser. An establishment shall not be considered to be a  
2445 qualified business or industry unless it offers, or will offer  
2446 within one hundred eighty (180) days of the date it receives the  
2447 first incentive payment pursuant to the provisions of this  
2448 chapter, a basic health benefits plan to the individuals it  
2449 employs in new direct jobs in this state which is approved by the  
2450 MDA. Qualified business or industry does not include retail  
2451 business or gaming business; or

2452 (iv) Is a research and development or a technology  
2453 intensive enterprise meeting minimum criteria established by the  
2454 MDA that provides an average annual salary, excluding benefits  
2455 which are not subject to Mississippi income taxes, of at least one  
2456 hundred fifty percent (150%) of the most recently published state  
2457 average annual wage or the most recently published average annual  
2458 wage of the county in which the qualified business or industry is  
2459 located as determined by the Mississippi Department of Employment  
2460 Security, whichever is the lesser, and creates not less than ten  
2461 (10) new direct jobs.

2462 An establishment shall not be considered to be a qualified  
2463 business or industry unless it offers, or will offer within one  
2464 hundred eighty (180) days of the date it receives the first  
2465 incentive payment pursuant to the provisions of this chapter, a  
2466 basic health benefits plan to the individuals it employs in new  
2467 direct jobs in this state which is approved by the MDA. Qualified  
2468 business or industry does not include any business or industry  
2469 that applies for incentive payments after June 30, 2009.

2470 Qualified business or industry does not include retail business or  
2471 gaming business.

2472 (b) "New direct job" means full-time employment in this  
2473 state in a qualified business or industry that has qualified to  
2474 receive an incentive payment pursuant to this chapter, which  
2475 employment did not exist in this state before the date of approval  
2476 by the MDA of the application of the qualified business or

2477 industry pursuant to the provisions of this chapter. "New direct  
2478 job" shall include full-time employment in this state of employees  
2479 who are employed by an entity other than the establishment that  
2480 has qualified to receive an incentive payment and who are leased  
2481 to the qualified business or industry, if such employment did not  
2482 exist in this state before the date of approval by the MDA of the  
2483 application of the establishment.

2484 (c) "Full-time job" or "full-time employment" means a  
2485 job of at least thirty-five (35) hours per week.

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

2489 (e) "Estimated direct state costs" means the costs  
2490 projected by the MDA to accrue to the state as a result of the  
2491 qualified business or industry.

2492 (f) "Estimated net direct state benefits" means the  
2493 estimated direct state benefits less the estimated direct state  
2494 costs.

2495 (g) "Net benefit rate" means the estimated net direct  
2496 state benefits computed as a percentage of gross payroll, provided  
2497 that:

2498 (i) Except as otherwise provided in this paragraph  
2499 (g), the net benefit rate may be variable and shall not exceed  
2500 four percent (4%) of the gross payroll; and shall be set in the  
2501 sole discretion of the MDA;

2502 (ii) In no event shall incentive payments,  
2503 cumulatively, exceed the estimated net direct state benefits.

2504 (h) "Gross payroll" means wages for new direct jobs of  
2505 the qualified business or industry. \* \* \*

2506 (i) "MDA" means the Mississippi Development Authority.

2507 **SECTION 47.** Section 57-62-9, Mississippi Code of 1972, is  
2508 amended as follows:

2509           [For businesses or industries that received or applied for  
2510 incentive payments prior to July 1, 2005, this section shall read  
2511 as follows:]

2512           57-62-9. (1) Except as otherwise provided in this section,  
2513 a qualified business or industry that meets the qualifications  
2514 specified in the Mississippi Advantage Jobs Act may receive  
2515 quarterly incentive payments for a period not to exceed ten (10)  
2516 years from the State Tax Commission pursuant to the provisions of  
2517 the Mississippi Advantage Jobs Act in an amount which shall be  
2518 equal to the net benefit rate multiplied by the actual gross  
2519 payroll of new direct jobs for a calendar quarter as verified by  
2520 the Mississippi Department of Employment Security, but not to  
2521 exceed the amount of money previously paid into the fund by the  
2522 employer. A qualified business or industry that is a project as  
2523 defined in Section 57-75-5(f)(iv)1 may elect the date upon which  
2524 the ten-year period will begin. Such date may not be later than  
2525 sixty (60) months after the date the business or industry applied  
2526 for incentive payments.

2527           (2) (a) A qualified business or industry that is a project  
2528 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to  
2529 receive incentive payments for an additional period not to exceed  
2530 five (5) years beyond the expiration date of the initial ten-year  
2531 period if:

2532                   (i) The qualified business or industry creates at  
2533 least three thousand (3,000) new direct jobs within five (5) years  
2534 after the date the business or industry commences commercial  
2535 production;

2536                   (ii) Within five (5) years after the date the  
2537 business or industry commences commercial production, the average  
2538 annual wage of the jobs is at least one hundred fifty percent  
2539 (150%) of the most recently published state average annual wage or  
2540 the most recently published average annual wage of the county in  
2541 which the qualified business or industry is located as determined

2542 by the Mississippi Department of Employment Security, whichever is  
2543 the lesser. The criteria for the average annual wage requirement  
2544 shall be based upon the state average annual wage or the average  
2545 annual wage of the county whichever is appropriate, at the time of  
2546 creation of the minimum number of jobs, and the threshold  
2547 established at that time will remain constant for the duration of  
2548 the additional period; and

2549 (iii) The qualified business or industry meets and  
2550 maintains the job and wage requirements of subparagraphs (i) and  
2551 (ii) of this paragraph (a) for four (4) consecutive calendar  
2552 quarters.

2553 (b) A qualified business or industry that is a project  
2554 as defined in Section 57-75-5(f)(iv)1 and qualified to receive  
2555 incentive payments for the additional period provided in paragraph  
2556 (a) of this subsection (2) may apply to the MDA to receive  
2557 incentive payments for an additional period not to exceed ten (10)  
2558 years beyond the expiration date of the additional period provided  
2559 in paragraph (a) of this subsection (2) if:

2560 (i) The qualified business or industry creates at  
2561 least four thousand (4,000) new direct jobs after qualifying for  
2562 the additional incentive period provided in paragraph (a) of this  
2563 subsection (2) but before the expiration of the additional period.  
2564 For purposes of determining whether the business or industry meets  
2565 the minimum jobs requirement of this subparagraph (i), the number  
2566 of jobs the business or industry created in order to meet the  
2567 minimum jobs requirement of paragraph (a) of this subsection (2)  
2568 shall be subtracted from the minimum jobs requirement of this  
2569 subparagraph (i);

2570 (ii) The average annual wage of the jobs is at  
2571 least one hundred fifty percent (150%) of the most recently  
2572 published state average annual wage or the most recently published  
2573 average annual wage of the county in which the qualified business  
2574 or industry is located as determined by the Mississippi Department

2575 of Employment Security, whichever is the lesser. The criteria for  
2576 the average annual wage requirement shall be based upon the state  
2577 average annual wage or the average annual wage of the county  
2578 whichever is appropriate, at the time of creation of the minimum  
2579 number of jobs, and the threshold established at that time will  
2580 remain constant for the duration of the additional period; and

2581 (iii) The qualified business or industry meets and  
2582 maintains the job and wage requirements of subparagraphs (i) and  
2583 (ii) of this paragraph (b) for four (4) consecutive calendar  
2584 quarters.

2585 (3) In order to receive incentive payments, an establishment  
2586 shall apply to the MDA. The application shall be on a form  
2587 prescribed by the MDA and shall contain such information as may be  
2588 required by the MDA to determine if the applicant is qualified.

2589 (4) In order to qualify to receive such payments, the  
2590 establishment applying shall be required to:

2591 (a) Be engaged in a qualified business or industry;

2592 (b) Provide an average salary, excluding benefits which  
2593 are not subject to Mississippi income taxes, of at least one  
2594 hundred twenty-five percent (125%) of the most recently published  
2595 state average annual wage or the most recently published average  
2596 annual wage of the county in which the qualified business or  
2597 industry is located as determined by the Mississippi Department of  
2598 Employment Security, whichever is the lesser. The criteria for  
2599 this requirement shall be based upon the state average annual wage  
2600 or the average annual wage of the county whichever is appropriate,  
2601 at the time of application, and the threshold established upon  
2602 application will remain constant for the duration of the project;

2603 (c) The business or industry must create and maintain a  
2604 minimum of ten (10) full-time jobs in counties that have an  
2605 average unemployment rate over the previous twelve-month period  
2606 which is at least one hundred fifty percent (150%) of the most  
2607 recently published state unemployment rate, as determined by the

2608 Mississippi Department of Employment Security or in Tier Three  
2609 counties as determined under Section 57-73-21. In all other  
2610 counties, the business or industry must create and maintain a  
2611 minimum of twenty-five (25) full-time jobs. The criteria for this  
2612 requirement shall be based on the designation of the county at the  
2613 time of the application. The threshold established upon the  
2614 application will remain constant for the duration of the project.  
2615 The business or industry must meet its job creation commitment  
2616 within twenty-four (24) months of the application approval.  
2617 However, if the qualified business or industry is applying for  
2618 incentive payments for an additional period under subsection (2)  
2619 of this section, the business or industry must comply with the  
2620 applicable job and wage requirements of subsection (2) of this  
2621 section.

2622 (5) The MDA shall determine if the applicant is qualified to  
2623 receive incentive payments. If the applicant is determined to be  
2624 qualified by the MDA, the MDA shall conduct a cost/benefit  
2625 analysis to determine the estimated net direct state benefits and  
2626 the net benefit rate applicable for a period not to exceed ten  
2627 (10) years and to estimate the amount of gross payroll for the  
2628 period. If the applicant is determined to be qualified to receive  
2629 incentive payments for an additional period under subsection (2)  
2630 of this section, the MDA shall conduct a cost/benefit analysis to  
2631 determine the estimated net direct state benefits and the net  
2632 benefit rate applicable for the appropriate additional period and  
2633 to estimate the amount of gross payroll for the additional period.  
2634 In conducting such cost/benefit analysis, the MDA shall consider  
2635 quantitative factors, such as the anticipated level of new tax  
2636 revenues to the state along with the cost to the state of the  
2637 qualified business or industry, and such other criteria as deemed  
2638 appropriate by the MDA, including the adequacy of retirement  
2639 benefits that the business or industry provides to individuals it  
2640 employs in new direct jobs in this state. In no event shall

2641 incentive payments, cumulatively, exceed the estimated net direct  
2642 state benefits. Once the qualified business or industry is  
2643 approved by the MDA, an agreement shall be deemed to exist between  
2644 the qualified business or industry and the State of Mississippi,  
2645 requiring the continued incentive payment to be made as long as  
2646 the qualified business or industry retains its eligibility.

2647 (6) Upon approval of such an application, the MDA shall  
2648 notify the State Tax Commission and shall provide it with a copy  
2649 of the approved application and the estimated net direct state  
2650 benefits. The State Tax Commission may require the qualified  
2651 business or industry to submit such additional information as may  
2652 be necessary to administer the provisions of this chapter. The  
2653 qualified business or industry shall report to the State Tax  
2654 Commission periodically to show its continued eligibility for  
2655 incentive payments. The qualified business or industry may be  
2656 audited by the State Tax Commission to verify such eligibility.

2657 **[For businesses or industries that apply for incentive**  
2658 **payments from and after July 1, 2005, this section shall read as**  
2659 **follows:]**

2660 57-62-9. (1) (a) Except as otherwise provided in this  
2661 section, a qualified business or industry that meets the  
2662 qualifications specified in the Mississippi Advantage Jobs Act may  
2663 receive quarterly incentive payments for a period not to exceed  
2664 ten (10) years from the State Tax Commission pursuant to the  
2665 provisions of the Mississippi Advantage Jobs Act in an amount  
2666 which shall be equal to the net benefit rate multiplied by the  
2667 actual gross payroll of new direct jobs for a calendar quarter as  
2668 verified by the Mississippi Department of Employment Security, but  
2669 not to exceed:

2670 (i) Ninety percent (90%) of the amount of money  
2671 previously paid into the fund by the employer if the employer  
2672 provides an average annual salary, excluding benefits which are  
2673 not subject to Mississippi income taxes, of at least one hundred



2674 seventy-five percent (175%) of the most recently published state  
2675 average annual wage or the most recently published average annual  
2676 wage of the county in which the qualified business or industry is  
2677 located as determined by the Mississippi Department of Employment  
2678 Security, whichever is the lesser;

2679 (ii) Eighty percent (80%) of the amount of money  
2680 previously paid into the fund by the employer if the employer  
2681 provides an average annual salary, excluding benefits which are  
2682 not subject to Mississippi income taxes, of at least one hundred  
2683 twenty-five percent (125%) but less than one hundred seventy-five  
2684 percent (175%) of the most recently published state average annual  
2685 wage or the most recently published average annual wage of the  
2686 county in which the qualified business or industry is located as  
2687 determined by the Mississippi Department of Employment Security,  
2688 whichever is the lesser; or

2689 (iii) Seventy percent (70%) of the amount of money  
2690 previously paid into the fund by the employer if the employer  
2691 provides an average annual salary, excluding benefits which are  
2692 not subject to Mississippi income taxes, of less than one hundred  
2693 twenty-five percent (125%) of the most recently published state  
2694 average annual wage or the most recently published average annual  
2695 wage of the county in which the qualified business or industry is  
2696 located as determined by the Mississippi Department of Employment  
2697 Security, whichever is the lesser.

2698 (b) A qualified business or industry that is a project  
2699 as defined in Section 57-75-5(f)(iv)1 may elect the date upon  
2700 which the ten-year period will begin. Such date may not be later  
2701 than sixty (60) months after the date the business or industry  
2702 applied for incentive payments.

2703 (2) (a) A qualified business or industry that is a project  
2704 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to  
2705 receive incentive payments for an additional period not to exceed

2706 five (5) years beyond the expiration date of the initial ten-year  
2707 period if:

2708 (i) The qualified business or industry creates at  
2709 least three thousand (3,000) new direct jobs within five (5) years  
2710 after the date the business or industry commences commercial  
2711 production;

2712 (ii) Within five (5) years after the date the  
2713 business or industry commences commercial production, the average  
2714 annual wage of the jobs is at least one hundred fifty percent  
2715 (150%) of the most recently published state average annual wage or  
2716 the most recently published average annual wage of the county in  
2717 which the qualified business or industry is located as determined  
2718 by the Mississippi Department of Employment Security, whichever is  
2719 the lesser. The criteria for the average annual wage requirement  
2720 shall be based upon the state average annual wage or the average  
2721 annual wage of the county whichever is appropriate, at the time of  
2722 creation of the minimum number of jobs, and the threshold  
2723 established at that time will remain constant for the duration of  
2724 the additional period; and

2725 (iii) The qualified business or industry meets and  
2726 maintains the job and wage requirements of subparagraphs (i) and  
2727 (ii) of this paragraph (a) for four (4) consecutive calendar  
2728 quarters.

2729 (b) A qualified business or industry that is a project  
2730 as defined in Section 57-75-5(f)(iv)1 and qualified to receive  
2731 incentive payments for the additional period provided in paragraph  
2732 (a) of this subsection (2) may apply to the MDA to receive  
2733 incentive payments for an additional period not to exceed ten (10)  
2734 years beyond the expiration date of the additional period provided  
2735 in paragraph (a) of this subsection (2) if:

2736 (i) The qualified business or industry creates at  
2737 least four thousand (4,000) new direct jobs after qualifying for  
2738 the additional incentive period provided in paragraph (a) of this

2739 subsection (2) but before the expiration of the additional period.  
2740 For purposes of determining whether the business or industry meets  
2741 the minimum jobs requirement of this subparagraph (i), the number  
2742 of jobs the business or industry created in order to meet the  
2743 minimum jobs requirement of paragraph (a) of this subsection (2)  
2744 shall be subtracted from the minimum jobs requirement of this  
2745 subparagraph (i);

2746                   (ii) The average annual wage of the jobs is at  
2747 least one hundred fifty percent (150%) of the most recently  
2748 published state average annual wage or the most recently published  
2749 average annual wage of the county in which the qualified business  
2750 or industry is located as determined by the Mississippi Department  
2751 of Employment Security, whichever is the lesser. The criteria for  
2752 the average annual wage requirement shall be based upon the state  
2753 average annual wage or the average annual wage of the county  
2754 whichever is appropriate, at the time of creation of the minimum  
2755 number of jobs, and the threshold established at that time will  
2756 remain constant for the duration of the additional period; and

2757                   (iii) The qualified business or industry meets and  
2758 maintains the job and wage requirements of subparagraphs (i) and  
2759 (ii) of this paragraph (b) for four (4) consecutive calendar  
2760 quarters.

2761           (3) In order to receive incentive payments, an establishment  
2762 shall apply to the MDA. The application shall be on a form  
2763 prescribed by the MDA and shall contain such information as may be  
2764 required by the MDA to determine if the applicant is qualified.

2765           (4) (a) In order to qualify to receive such payments, the  
2766 establishment applying shall be required to meet the definition of  
2767 the term "qualified business or industry";

2768                   (b) \* \* \* The criteria for the average annual salary  
2769 requirement shall be based upon the state average annual wage or  
2770 the average annual wage of the county whichever is appropriate, at

2771 the time of application, and the threshold established upon  
2772 application will remain constant for the duration of the project;

2773 (c) \* \* \* The business or industry must meet its job  
2774 creation commitment within twenty-four (24) months of the  
2775 application approval. However, if the qualified business or  
2776 industry is applying for incentive payments for an additional  
2777 period under subsection (2) of this section, the business or  
2778 industry must comply with the applicable job and wage requirements  
2779 of subsection (2) of this section.

2780 (5) (a) The MDA shall determine if the applicant is  
2781 qualified to receive incentive payments. If the applicant is  
2782 determined to be qualified by the MDA, the MDA shall:

2783 (i) Conduct a cost/benefit analysis to determine  
2784 the estimated net direct state benefits and the net benefit rate  
2785 applicable for a period not to exceed ten (10) years and to  
2786 estimate the amount of gross payroll for the period; and

2787 (ii) Require the applicant to execute a  
2788 performance agreement with the MDA that specifies the manner in  
2789 which the applicant will utilize the incentive payments made to it  
2790 under this chapter.

2791 (b) If the applicant is determined to be qualified to  
2792 receive incentive payments for an additional period under  
2793 subsection (2) of this section, the MDA shall conduct a  
2794 cost/benefit analysis to determine the estimated net direct state  
2795 benefits and the net benefit rate applicable for the appropriate  
2796 additional period and to estimate the amount of gross payroll for  
2797 the additional period. In conducting such cost/benefit analysis,  
2798 the MDA shall consider quantitative factors, such as the  
2799 anticipated level of new tax revenues to the state along with the  
2800 cost to the state of the qualified business or industry, and such  
2801 other criteria as deemed appropriate by the MDA, including the  
2802 adequacy of retirement benefits that the business or industry  
2803 provides to individuals it employs in new direct jobs in this

2804 state. In no event shall incentive payments, cumulatively, exceed  
2805 the estimated net direct state benefits. Once the qualified  
2806 business or industry is approved by the MDA, an agreement shall be  
2807 deemed to exist between the qualified business or industry and the  
2808 State of Mississippi, requiring the continued incentive payment to  
2809 be made as long as the qualified business or industry retains its  
2810 eligibility.

2811 (6) Upon approval of such an application, the MDA shall  
2812 notify the State Tax Commission and shall provide it with a copy  
2813 of the approved application and the estimated net direct state  
2814 benefits. The State Tax Commission may require the qualified  
2815 business or industry to submit such additional information as may  
2816 be necessary to administer the provisions of this chapter. The  
2817 qualified business or industry shall report to the State Tax  
2818 Commission periodically to show its continued eligibility for  
2819 incentive payments. The qualified business or industry may be  
2820 audited by the State Tax Commission to verify such eligibility.

2821 **SECTION 48.** Section 57-62-13, Mississippi Code of 1972, is  
2822 amended as follows:

2823 57-62-13. (1) As soon as practicable after the end of a  
2824 calendar quarter for which a qualified business or industry has  
2825 qualified to receive an incentive payment, the qualified business  
2826 or industry shall file a claim for the payment with the State Tax  
2827 Commission and shall specify the actual number of new direct jobs  
2828 created and maintained by the business or industry for the  
2829 calendar quarter and the gross payroll thereof. The State Tax  
2830 Commission shall verify the actual number of new direct jobs  
2831 created and maintained by the business or industry and compliance  
2832 with the average annual wage requirements for such business or  
2833 industry under this chapter. If the qualified business or  
2834 industry files a claim for an incentive payment during an  
2835 additional incentive period provided under Section 57-62-9(2), the  
2836 State Tax Commission shall verify the actual number of new direct

2837 jobs created and maintained by the business or industry and  
2838 compliance with the average annual wage requirements for such  
2839 business or industry under this chapter. If the State Tax  
2840 Commission is not able to provide such verification utilizing all  
2841 available resources, the State Tax Commission may request such  
2842 additional information from the business or industry as may be  
2843 necessary.

2844 (2) (a) The business or industry must meet the salary and  
2845 job requirements of this chapter for four (4) consecutive calendar  
2846 quarters prior to payment of the first incentive payment. If the  
2847 business or industry does not maintain the salary or job  
2848 requirements of this chapter at any other time during the ten-year  
2849 period after the date the first payment was made, the incentive  
2850 payments shall not be made and shall not be resumed until such  
2851 time as the actual verified number of new direct jobs created and  
2852 maintained by the business or industry equals or exceeds the  
2853 requirements of this chapter for one (1) calendar quarter.

2854 (b) If the business or industry is qualified to receive  
2855 incentive payments for an additional period provided under Section  
2856 57-62-9(2), the business or industry must meet the wage and job  
2857 requirements of Section 57-62-9(2), for four (4) consecutive  
2858 calendar quarters prior to payment of the first incentive payment.  
2859 If the business or industry does not maintain the wage or job  
2860 requirements of Section 57-62-9(2), at any other time during the  
2861 appropriate additional period after the date the first payment was  
2862 made, the incentive payments shall not be made and shall not be  
2863 resumed until such time as the actual verified number of new  
2864 direct jobs created and maintained by the business or industry  
2865 equals or exceeds the amounts specified in Section 57-62-9(2), for  
2866 one (1) calendar quarter.

2867 (3) An establishment that has qualified pursuant to this  
2868 chapter may receive payments only in accordance with the provision  
2869 under which it initially applied and was approved. If an

2870 establishment that is receiving incentive payments expands, it may  
2871 apply for additional incentive payments based on the new gross  
2872 payroll for new direct jobs anticipated from the expansion only,  
2873 pursuant to this chapter.

2874 (4) As soon as practicable after verification of the  
2875 qualified business or industry meeting the requirements of this  
2876 chapter and all rules and regulations, the Department of Finance  
2877 and Administration, upon requisition of the State Tax Commission,  
2878 shall issue a warrant drawn on the Mississippi Advantage Jobs  
2879 Incentive Payment Fund to the establishment in the amount of the  
2880 net benefit rate multiplied by the actual gross payroll as  
2881 determined pursuant to subsection (1) of this section for the  
2882 calendar quarter.

2883 **SECTION 49.** Section 38 of this act shall take effect and be  
2884 in force from and after January 1, 2005, and the remainder of this  
2885 act shall take effect and be in force from and after July 1, 2005.