

By: Representatives Franks, Reeves, Mayo,
Perkins

To: Ways and Means

HOUSE BILL NO. 1644

1 AN ACT TO AUTHORIZE THE ISSUANCE OF STATE GENERAL OBLIGATION
2 BONDS FOR THE PURPOSE OF PROVIDING FUNDS TO THE MISSISSIPPI
3 DEPARTMENT OF AGRICULTURE AND COMMERCE FOR USE IN MAKING PAYMENTS
4 TO ETHANOL AND BIODIESEL PRODUCERS; TO REQUIRE ANY MOTOR VEHICLES
5 PURCHASED BY A STATE AGENCY, DEPARTMENT, INSTITUTION OR AGENCY TO
6 MEET THE FEDERAL CORPORATE AVERAGE FUEL ECONOMY (CAFE) STANDARDS
7 OR TO CONTAIN A HYBRID GAS-ELECTRIC MOTOR OR A MOTOR EQUIPPED FOR
8 USING ALTERNATIVE FUELS; TO REQUIRE A STATE AGENCY, DEPARTMENT,
9 INSTITUTION OR AGENCY TO PURCHASE A CERTAIN PERCENTAGE OF SUCH
10 VEHICLES BY THE SCHEDULED TIME SPECIFIED IN THIS ACT; TO PROVIDE
11 AN INCOME TAX CREDIT FOR CERTAIN TAXPAYERS WHO PURCHASE NEW HYBRID
12 ELECTRIC VEHICLES; TO LIMIT THE AMOUNT OF THE TAX CREDIT TO
13 FEDERAL LIMITS OR THE AMOUNT OF INCOME TAX IMPOSED UPON THE
14 TAXPAYER FOR THE TAXABLE YEAR REDUCED BY THE SUM OF ALL OTHER
15 CREDITS ALLOWABLE TO THE TAXPAYER UNDER THE STATE INCOME TAX LAWS;
16 TO PROVIDE THAT ANY UNUSED PORTION OF THE TAX CREDIT MAY BE
17 CARRIED FORWARD FOR THE NEXT FIVE SUCCEEDING TAX YEARS; TO PROVIDE
18 INCOME TAX CREDITS TO THOSE WHO BUILD NEW BUILDINGS OR
19 REHABILITATE OLD BUILDINGS IN ACCORDANCE WITH THE UNITED STATES
20 GREEN BUILDING COUNCIL; TO AMEND SECTION 27-65-15, MISSISSIPPI
21 CODE OF 1972, TO MAKE IT CLEAR THAT SALES OF COAL AND LIGNITE USED
22 AS FUEL TO PRODUCE ELECTRIC POWER BY A COMPANY PRIMARILY ENGAGED
23 IN THE BUSINESS OF PRODUCING, GENERATING OR DISTRIBUTING ELECTRIC
24 POWER FOR SALE ARE NOT TAXED UNDER THE MISSISSIPPI SALES TAX LAW;
25 TO CLARIFY THAT THE OFFICE OF THE ATTORNEY GENERAL IS TO MONITOR
26 PETROLEUM BASED FUEL PRICES THROUGHOUT THE STATE; AND FOR RELATED
27 PURPOSES.

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

29 **SECTION 1.** As used in this act, the following words shall
30 have the meanings ascribed herein unless the context clearly
31 requires otherwise:

32 (a) "Accreted value" of any bond means, as of any date
33 of computation, an amount equal to the sum of (i) the stated
34 initial value of such bond, plus (ii) the interest accrued thereon
35 from the issue date to the date of computation at the rate,
36 compounded semiannually, that is necessary to produce the
37 approximate yield to maturity shown for bonds of the same
38 maturity.

39 (b) "State" means the State of Mississippi.

40 (c) "Commission" means the State Bond Commission.

41 **SECTION 2.** (1) (a) A special fund, to be designated as the
42 "Ethanol and Bio-diesel Producers Payment Fund" is created within
43 the State Treasury. The fund shall be maintained by the State
44 Treasurer as a separate and special fund, separate and apart from
45 the General Fund of the state. Unexpended amounts remaining in
46 the fund at the end of a fiscal year shall not lapse into the
47 State General Fund, and any interest earned or investment earnings
48 on amounts in the fund shall be deposited into such fund.

49 (b) Monies deposited into the fund shall be disbursed,
50 in the discretion of the Mississippi Department of Agriculture and
51 Commerce, for the purpose of making payments to ethanol and
52 bio-diesel producers under Section 69-51-5.

53 (2) The expenditure of monies deposited into the special
54 fund shall be under the direction of the Mississippi Department of
55 Agriculture and Commerce, and such funds shall be paid by the
56 State Treasurer upon warrants issued by such department, which
57 warrants shall be issued upon requisitions signed by the
58 Commissioner of the Mississippi Department of Agriculture and
59 Commerce, or his designee.

60 **SECTION 3.** (1) The commission, at one time, or from time to
61 time, may declare by resolution the necessity for issuance of
62 general obligation bonds of the State of Mississippi to provide
63 funds for all costs incurred or to be incurred for the purposes
64 described in Section 2 of this act. Upon the adoption of a
65 resolution by the Mississippi Department Agriculture and Commerce,
66 declaring the necessity for the issuance of any part or all of the
67 general obligation bonds authorized by this section, the
68 Mississippi Department of Agriculture and Commerce shall deliver a
69 certified copy of its resolution or resolutions to the commission.
70 Upon receipt of such resolution, the commission, in its
71 discretion, may act as the issuing agent, prescribe the form of
72 the bonds, advertise for and accept bids, issue and sell the bonds

73 so authorized to be sold and do any and all other things necessary
74 and advisable in connection with the issuance and sale of such
75 bonds. The total amount of bonds issued under this act shall not
76 exceed Eighteen Million Dollars (\$18,000,000.00).

77 (2) Any investment earnings on amounts deposited into the
78 special fund created in Section 2 of this act shall be used to pay
79 debt service on bonds issued under this act, in accordance with
80 the proceedings authorizing issuance of such bonds.

81 **SECTION 4.** The principal of and interest on the bonds
82 authorized under this act shall be payable in the manner provided
83 in this section. Such bonds shall bear such date or dates, be in
84 such denomination or denominations, bear interest at such rate or
85 rates (not to exceed the limits set forth in Section 75-17-101,
86 Mississippi Code of 1972), be payable at such place or places
87 within or without the State of Mississippi, shall mature
88 absolutely at such time or times not to exceed twenty-five (25)
89 years from date of issue, be redeemable before maturity at such
90 time or times and upon such terms, with or without premium, shall
91 bear such registration privileges, and shall be substantially in
92 such form, all as shall be determined by resolution of the
93 commission.

94 **SECTION 5.** The bonds authorized by this act shall be signed
95 by the chairman of the commission, or by his facsimile signature,
96 and the official seal of the commission shall be affixed thereto,
97 attested by the secretary of the commission. The interest
98 coupons, if any, to be attached to such bonds may be executed by
99 the facsimile signatures of such officers. Whenever any such
100 bonds shall have been signed by the officials designated to sign
101 the bonds who were in office at the time of such signing but who
102 may have ceased to be such officers before the sale and delivery
103 of such bonds, or who may not have been in office on the date such
104 bonds may bear, the signatures of such officers upon such bonds
105 and coupons shall nevertheless be valid and sufficient for all

106 purposes and have the same effect as if the person so officially
107 signing such bonds had remained in office until their delivery to
108 the purchaser, or had been in office on the date such bonds may
109 bear. However, notwithstanding anything herein to the contrary,
110 such bonds may be issued as provided in the Registered Bond Act of
111 the State of Mississippi.

112 **SECTION 6.** All bonds and interest coupons issued under the
113 provisions of this act have all the qualities and incidents of
114 negotiable instruments under the provisions of the Uniform
115 Commercial Code, and in exercising the powers granted by this act,
116 the commission shall not be required to and need not comply with
117 the provisions of the Uniform Commercial Code.

118 **SECTION 7.** The commission shall act as the issuing agent for
119 the bonds authorized under this act, prescribe the form of the
120 bonds, advertise for and accept bids, issue and sell the bonds so
121 authorized to be sold, pay all fees and costs incurred in such
122 issuance and sale, and do any and all other things necessary and
123 advisable in connection with the issuance and sale of such bonds.
124 The commission is authorized and empowered to pay the costs that
125 are incident to the sale, issuance and delivery of the bonds
126 authorized under this act from the proceeds derived from the sale
127 of such bonds. The commission shall sell such bonds on sealed
128 bids at public sale, and for such price as it may determine to be
129 for the best interest of the State of Mississippi, but no such
130 sale shall be made at a price less than par plus accrued interest
131 to the date of delivery of the bonds to the purchaser. All
132 interest accruing on such bonds so issued shall be payable
133 semiannually or annually; however, the first interest payment may
134 be for any period of not more than one (1) year.

135 Notice of the sale of any such bonds shall be published at
136 least one time, not less than ten (10) days before the date of
137 sale, and shall be so published in one or more newspapers
138 published or having a general circulation in the City of Jackson,

139 Mississippi, and in one or more other newspapers or financial
140 journals with a national circulation, to be selected by the
141 commission.

142 The commission, when issuing any bonds under the authority of
143 this act, may provide that bonds, at the option of the State of
144 Mississippi, may be called in for payment and redemption at the
145 call price named therein and accrued interest on such date or
146 dates named therein.

147 **SECTION 8.** The bonds issued under the provisions of this act
148 are general obligations of the State of Mississippi, and for the
149 payment thereof the full faith and credit of the State of
150 Mississippi is irrevocably pledged. If the funds appropriated by
151 the Legislature are insufficient to pay the principal of and the
152 interest on such bonds as they become due, then the deficiency
153 shall be paid by the State Treasurer from any funds in the State
154 Treasury not otherwise appropriated. All such bonds shall contain
155 recitals on their faces substantially covering the provisions of
156 this section.

157 **SECTION 9.** Upon the issuance and sale of bonds under the
158 provisions of this act, the commission shall transfer the proceeds
159 of any such sale or sales to the special fund created in Section 2
160 of this act. The proceeds of such bonds shall be disbursed solely
161 upon the order of the Mississippi Department of Agriculture and
162 Commerce under such restrictions, if any, as may be contained in
163 the resolution providing for the issuance of the bonds.

164 **SECTION 10.** The bonds authorized under this act may be
165 issued without any other proceedings or the happening of any other
166 conditions or things other than those proceedings, conditions and
167 things which are specified or required by this act. Any
168 resolution providing for the issuance of bonds under the
169 provisions of this act shall become effective immediately upon its
170 adoption by the commission, and any such resolution may be adopted

171 at any regular or special meeting of the commission by a majority
172 of its members.

173 **SECTION 11.** The bonds authorized under the authority of this
174 act may be validated in the Chancery Court of the First Judicial
175 District of Hinds County, Mississippi, in the manner and with the
176 force and effect provided by Chapter 13, Title 31, Mississippi
177 Code of 1972, for the validation of county, municipal, school
178 district and other bonds. The notice to taxpayers required by
179 such statutes shall be published in a newspaper published or
180 having a general circulation in the City of Jackson, Mississippi.

181 **SECTION 12.** Any holder of bonds issued under the provisions
182 of this act or of any of the interest coupons pertaining thereto
183 may, either at law or in equity, by suit, action, mandamus or
184 other proceeding, protect and enforce any and all rights granted
185 under this act, or under such resolution, and may enforce and
186 compel performance of all duties required by this act to be
187 performed, in order to provide for the payment of bonds and
188 interest thereon.

189 **SECTION 13.** All bonds issued under the provisions of this
190 act shall be legal investments for trustees and other fiduciaries,
191 and for savings banks, trust companies and insurance companies
192 organized under the laws of the State of Mississippi, and such
193 bonds shall be legal securities which may be deposited with and
194 shall be received by all public officers and bodies of this state
195 and all municipalities and political subdivisions for the purpose
196 of securing the deposit of public funds.

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

200 **SECTION 15.** The proceeds of the bonds issued under this act
201 shall be used solely for the purposes herein provided, including
202 the costs incident to the issuance and sale of such bonds.

203 **SECTION 16.** The State Treasurer is authorized, without
204 further process of law, to certify to the Department of Finance
205 and Administration the necessity for warrants, and the Department
206 of Finance and Administration is authorized and directed to issue
207 such warrants, in such amounts as may be necessary to pay when due
208 the principal of, premium, if any, and interest on, or the
209 accreted value of, all bonds issued under this act; and the State
210 Treasurer shall forward the necessary amount to the designated
211 place or places of payment of such bonds in ample time to
212 discharge such bonds, or the interest thereon, on the due dates
213 thereof.

214 **SECTION 17.** This act shall be deemed to be full and complete
215 authority for the exercise of the powers herein granted, but this
216 act shall not be deemed to repeal or to be in derogation of any
217 existing law of this state.

218 **SECTION 18.** (1) Beginning July 1, 2006, any motor vehicle
219 purchased or leased by any state department, institution or agency
220 shall meet the federal Corporate Average Fuel Economy (CAFE)
221 Standards or contain a hybrid motor powered by a combination of
222 gasoline and electricity or a motor equipped for using an
223 alternative fuel. For purposes of this section, the term
224 "alternative fuel" means compressed natural gas, liquefied
225 petroleum gas, reformulated gasoline, methanol, ethanol,
226 electricity, and any other fuel which meet or exceed federal Clean
227 Air Act standards.

228 (2) All state departments, institutions or agencies shall
229 achieve the following percentages of replacement vehicles that
230 exceed twenty-five (25) miles per gallon, contain a hybrid motor
231 powered by a combination of gasoline and electricity, or a motor
232 equipped for using alternative fuels, by the times specified:

233 (a) The percentage shall be equal to or greater than
234 twenty percent (20%) of the number of the department's,

235 institution's or agency's fleet vehicles operated by January 1,
236 2007.

237 (b) The percentage shall be equal to or greater than
238 thirty percent (30%) of the number of the department's,
239 institution's or agency's fleet vehicles operated by January 1,
240 2009.

241 (c) The percentage shall be equal to or greater than
242 fifty percent (50%) of the number of the department's,
243 institution's or agency's fleet vehicles operated by January 1,
244 2011.

245 (3) The State Auditor in its annual report to the Senate and
246 House Conservation and Water Committees and the Joint Legislative
247 Budget Committee shall show the progress in achieving the
248 percentage requirements prescribed in paragraph (b).

249 **SECTION 19.** (1) For the purposes of this section, the term
250 "hybrid electric vehicle" means a private carrier of passengers or
251 light carrier of property, as defined in Section 27-51-101, that:

252 (a) Meets all applicable federal and state regulatory
253 requirements;

254 (b) Meets the current vehicle exhaust standard set
255 under the National Low-Emission Vehicle Program for gasoline
256 powered passenger cars; and

257 (c) Draws propulsion energy from the following sources:

258 (i) An internal combustion engine or heat engine
259 using any combustible fuel; and

260 (ii) An onboard rechargeable energy storage
261 system.

262 (2) Subject to the provisions of this section, any taxpayer
263 who purchases a new hybrid electric vehicle without the intent to
264 resell the vehicle and who does not resell the vehicle within five
265 (5) years from the date of purchase shall be entitled to a credit
266 against the taxes imposed by this chapter in an amount equal to
267 the amount established by federal law or the amount of income tax

268 imposed upon the taxpayer for the taxable year reduced by the sum
269 of all other credits allowable to the taxpayer under the state
270 income tax laws, except credit for tax payments made by or on
271 behalf of the taxpayer. In the case of married individuals filing
272 separate returns, each person may claim an amount not to exceed
273 one-half (1/2) of the tax credit that would have been allowed for
274 a joint return. The tax credit is available only for the taxable
275 year during which the hybrid electric vehicle was purchased, and a
276 hybrid electric vehicle may qualify for the credit only one (1)
277 time. To the extent that the allowable tax credit exceeds the
278 amount of the taxpayer's liability for the taxable year, the
279 unused portion of the tax credit may be carried forward for the
280 next five (5) succeeding tax years until the full amount of the
281 tax credit has been used.

282 **SECTION 20.** Section 19 of this act shall be codified as a
283 separate section in Chapter 7, Title 27, Mississippi Code of 1972.

284 **SECTION 21.** Nothing in this act shall affect or defeat any
285 claim, assessment, appeal, suit, right or cause of action for
286 taxes due or accrued under the income tax laws before the date on
287 which this act becomes effective, whether those claims,
288 assessments, appeals, suits or actions have been begun before the
289 date on which this act becomes effective or are begun after; and
290 the provisions of the income tax laws are expressly continued in
291 full force, effect and operation for the purpose of the
292 assessment, collection and enrollment of liens for any taxes due
293 or accrued and the execution of any warrant under those laws
294 before the date on which this act becomes effective, and for the
295 imposition of any penalties, forfeitures or claims for failure to
296 comply with those laws.

297 **SECTION 22.** (1) As used in this section, the following
298 words shall have the meanings ascribed herein unless the context
299 clearly requires otherwise:

300 (a) "Department" means the Department of Environmental
301 Quality.

302 (b) (i) "Allowable costs" means amounts that are paid
303 or incurred on or after July 1, 2006, for construction or
304 rehabilitation, commissioning costs, interest paid or incurred
305 during the construction or rehabilitation period, architectural,
306 engineering or other fees able to be allocated to construction or
307 rehabilitation, closing costs for construction, rehabilitation, or
308 mortgage loans, recording taxes and filing fees incurred with
309 respect to construction or rehabilitation, finishes and
310 furnishings consistent with the regulations adopted by the
311 department under this section, lighting, plumbing, electrical
312 wiring, and ventilation.

313 (ii) "Allowable costs" does not include: the cost
314 of telephone systems and computers, other than electrical wiring
315 costs, legal fees allocable to construction or rehabilitation,
316 site costs, including temporary electric wiring, scaffolding,
317 demolition costs, and fencing and security facilities, finishes or
318 furnishings that are not consistent with the regulations adopted
319 by the department under this section, the cost of purchasing or
320 installing fuel cells, wind turbines, or photovoltaic module.

321 (c) "Applicable energy efficiency standards" means
322 ASHRAE/IESNA Standard 90.1-1999, Energy Standard for Buildings
323 Except Low-Rise Residential Buildings, published by the American
324 Society of Heating, Refrigerating and Air-Conditioning Engineers
325 and the Leadership in Energy and Environmental Design (LEED) Green
326 Building Rating System and any applicable standard established by
327 the federal Department of Energy.

328 (d) "Base building" means all areas of a building not
329 intended for occupancy by a tenant or owner, including the
330 structural components of the building, exterior walls, floors,
331 windows, roofs, foundations, chimneys and stacks, parking areas,
332 mechanical rooms and mechanical systems, and owner-controlled or

333 operated service spaces, sidewalks, main lobby, shafts and
334 vertical transportation mechanisms, stairways, and corridors.

335 (e) "Commissioning" has the following meanings: (i) the
336 testing and fine-tuning of heat, ventilating, and air-conditioning
337 systems and other systems to assure proper functioning and
338 adherence to design criteria; and (ii) the preparation of system
339 operation manuals and instruction of maintenance personnel.

340 (f) "Credit allowance year" means the later of: (i)
341 the taxable year during which the property, construction,
342 completion, or rehabilitation on which the credit allowed under
343 this section is based is originally placed in service; or a fuel
344 cell, wind turbine, or photovoltaic module constitutes a
345 qualifying alternate energy source and is fully operational;
346 or the earliest taxable year for which the credit may be claimed
347 under the initial credit certificate issued under subsection (k)
348 of this section.

349 (g) "Eligible building" means a building located in the
350 state that:

351 (i) Is a building used primarily for residential
352 purposes;

353 (ii) 1. Is a building used primarily for
354 nonresidential purposes if the building contains at least twenty
355 thousand (20,000) square feet of interior space; or 2. Is a
356 residential multifamily building with at least twelve (12)
357 dwelling units that contains at least twenty thousand (20,000)
358 square feet of interior space; or 3. Is any combination of
359 buildings described in this subparagraph (g);

360 (iii) Is a newly constructed building for which a
361 certificate of occupancy was not issued before the effective date
362 of this act, and: 1. Is located on a qualified brownfields site,
363 as defined under state law; 2. Is located in a priority funding
364 area and is not located on wetlands, the alteration of which

365 requires a permit under § 404 of the federal Clean Water Act, 33
366 USCS § 1344; or

367 (iv) Is a rehabilitated building that is not an
368 increase of more than twenty-five percent (25%) in the square
369 footage of the building, meet applicable energy efficiency
370 standards.

371 (h) "Fuel cell" means a device that produces
372 electricity directly from hydrogen or hydrocarbon fuel through a
373 noncombustive electrochemical process.

374 (i) "Green base building" means a base building that is
375 part of an eligible building and meets the requirements set out in
376 this section.

377 (j) "Green whole building" means a building for which
378 the base building is a green base building and all space is green
379 space.

380 (k) "Green tenant space" means tenant space in a
381 building if the building is an eligible building and the tenant
382 space meets the requirements of this section.

383 (l) "Incremental cost of building-integrated
384 photovoltaic modules" means:

385 (i) The cost of building-integrated photovoltaic
386 modules and any associated inverter, additional wiring or other
387 electrical equipment for the photovoltaic modules, or additional
388 mounting or structural materials, less the cost of spandrel glass
389 or other building material that would have been used if
390 building-integrated photovoltaic modules were not installed;

391 (ii) Incremental labor costs properly allocable to
392 on-site preparation, assembly, and original installation of
393 photovoltaic modules; and

394 (iii) Incremental costs of architectural and
395 engineering services and designs and plans directly related to the
396 construction or installation of photovoltaic modules.

397 (m) "Qualifying alternate energy sources" means
398 building-integrated and nonbuilding-integrated photovoltaic
399 modules, wind turbines, and fuel cells installed to serve the base
400 building or tenant space that:

401 (i) Have the capability to monitor their actual
402 power output;

403 (ii) Are fully commissioned upon installation, and
404 annually thereafter, to ensure that the systems meet their design
405 specifications; and

406 (iii) In the case of wind turbines, meet any
407 applicable noise ordinances.

408 (n) "Tenant improvements" means improvements that are
409 necessary or appropriate to support or conduct the business of a
410 tenant or occupying owner.

411 (o) "Tenant space" means the portion of a building
412 intended for occupancy by a tenant or occupying owner.

413 (2) **Credit authorized.** (a) An individual or a corporation
414 may claim a credit against the state income tax as provided under
415 this section for green buildings and green building components.

416 (b) If the credit allowed under this section exceeds
417 the state income tax, any unused credit may be carried forward and
418 applied for succeeding taxable years until the earlier of:

419 (i) The full amount of the credit is used; or

420 (ii) The expiration of the tenth (10th) year after
421 the taxable year for which the credit was allowed.

422 (c) For each of the credits under this section, the
423 credit may not be allowed for any taxable year unless:

424 (i) The taxpayer has obtained and filed an initial
425 credit certificate and an eligibility certificate issued under
426 this section;

427 (ii) A certificate of occupancy for the building
428 has been issued; and

429 (iii) The property with respect to which the
430 credit is claimed is in service during the taxable year.

431 (d) The total amount allowed in the aggregate for all
432 credits under this section may not exceed the maximum set forth in
433 the initial credit certificate obtained under this section.

434 (e) In determining the amount of the credits under this
435 section, a cost paid or incurred may not be the basis for more
436 than one credit.

437 (3) **Amount of credit - Green whole building.** (a) For the
438 taxable year that is the credit allowance year, an owner or tenant
439 may claim a credit in an amount equal to ten percent (10%) of the
440 allowable costs paid or incurred by the owner or tenant for the
441 construction of a green whole building or the rehabilitation of a
442 building that is not a green whole building to be a green whole
443 building.

444 (b) The allowable costs used to determine the credit
445 amount allowed under this subsection for a green whole building
446 may not exceed in the aggregate:

447 (i) One Hundred Twenty Dollars (\$120) per square
448 foot for that portion of the building that comprises the base
449 building; and

450 (ii) Sixty Dollars (\$60) per square foot for that
451 portion of the building that comprises the tenant space.

452 (4) **Amount of credit - Green base building.** (a) For the
453 taxable year that is the credit allowance year, an owner may claim
454 a credit in an amount equal to ten percent (10%) of the allowable
455 costs paid or incurred by the owner for the construction of a
456 green base building or the rehabilitation of a building that is
457 not a green base building to be a green base building.

458 (b) The allowable costs used to determine the credit
459 amount allowed under this subsection for a green base building may
460 not exceed, in the aggregate, One Hundred Twenty Dollars (\$120.00)
461 per square foot.

462 (5) **Amount of credit - Green tenant space.** (a) For the
463 taxable year that is the credit allowance year, an owner or tenant
464 may claim a credit in an amount equal to six percent (6%) of the
465 allowable costs for tenant improvements paid or incurred by the
466 owner or tenant in the construction or completion of green tenant
467 space or the rehabilitation of tenant space that is not green
468 tenant space to be green tenant space.

469 (b) (i) The allowable costs used to determine the
470 credit amount allowed under this subsection for green tenant space
471 may not exceed, in the aggregate, Sixty Dollars (\$60) per square
472 foot.

473 (ii) If an owner and tenant both incur allowable
474 costs for tenant improvements under this subsection and the costs
475 exceed Sixty Dollars (\$60) per square foot in the aggregate, the
476 owner has priority as to costs constituting the basis for the
477 green tenant space credit under this subsection.

478 (c) The credit under this subsection for green tenant
479 space may not be claimed by an owner of a building that occupies
480 fewer than ten thousand (10,000) square feet of the building.

481 (d) The credit under this subsection for green tenant
482 space may not be claimed by a tenant that occupies fewer than five
483 thousand (5,000) square feet.

484 (6) **Amount of credit - Fuel cell.** (a) For the taxable year
485 that is the credit allowance year, an owner or tenant may claim a
486 credit in the amount determined under this subsection for the
487 installation of a fuel cell that is a qualifying alternate energy
488 source and is installed to serve a green whole building, green
489 base building, or green tenant space.

490 (b) The amount of the credit allowed under this
491 subsection is twenty percent (20%) of the sum of the capitalized
492 costs paid or incurred by an owner or tenant with respect to each
493 fuel cell installed, including the cost of the foundation or
494 platform and the labor costs associated with installation.

495 (c) The costs used to determine the credit amount
496 allowed under this subsection for installation of a fuel cell:
497 (i) May not exceed One Thousand Dollars (\$1,000)
498 per kilowatt of installed DC rated capacity of the fuel cell; and
499 (ii) Shall be reduced by the amount of any
500 federal, State, or local grant:

501 1. Received by the taxpayer and used for the
502 purchase or installation of the fuel cell; and

503 2. Not included in the federal gross income
504 of the taxpayer.

505 (7) **Amount of credit - Photovoltaic modules.** (a) For the
506 taxable year that is the credit allowance year, an owner or tenant
507 may claim a credit in the amount determined under this subsection
508 for the installation of photovoltaic modules that constitute a
509 qualifying alternate energy source and are installed to serve a
510 green whole building, green base building, or green tenant space

511 (b) The amount of the credit allowed under this
512 subsection is:

513 (i) Twenty percent (20%) of the incremental cost
514 paid or incurred by an owner or tenant for building-integrated
515 photovoltaic modules; and

516 (ii) Twenty-five (25%) of the cost of
517 nonbuilding-integrated photovoltaic modules, including the cost of
518 the foundation or platform and the labor costs associated with
519 installation.

520 (c) The costs used to determine the credit amount
521 allowed under this subsection for installation of photovoltaic
522 modules:

523 (i) May not exceed the product obtained by
524 multiplying Three Dollars (\$3) times the number of watts included
525 in the DC rated capacity of the photovoltaic modules; and

526 (ii) Shall be reduced by the amount of any
527 federal, state, or local grant:

528 1. Received by the taxpayer and used for the
529 purchase or installation of the photovoltaic equipment; and

530 2. Not included in the federal gross income
531 of the taxpayer.

532 (d) A credit may not be claimed under this subsection
533 for the installation of photovoltaic modules if the credit under
534 subtitle is claimed with respect to the photovoltaic modules.

535 (8) **Amount of credit - Wind turbine.** (a) For the taxable
536 year that is the credit allowance year, an owner or tenant may
537 claim a credit in the amount determined under this subsection for
538 the installation of a wind turbine that is a qualifying alternate
539 energy source and is installed to serve a green whole building,
540 green base building, or green tenant space.

541 (b) The amount of the credit allowed under this
542 subsection is twenty-five percent (25%) of the sum of the
543 capitalized costs paid or incurred by an owner or tenant with
544 respect to each wind turbine installed, including the cost of the
545 foundation or platform and the labor costs associated with
546 installation.

547 (9) **Regulations - Green base building.** (a) By regulation,
548 the department shall adopt applicable energy efficiency standards
549 for a building to qualify as a green base building eligible for
550 the tax credits under this section that are consistent with the
551 criteria for green base buildings set forth by the United States
552 Green Building Council or other similar criteria.

553 (b) The regulations adopted under this subsection shall
554 provide that the energy use shall be no more than sixty-five
555 percent (65%) for new construction of a base building, or
556 seventy-five percent (75%) in the case of rehabilitation of a base
557 building, of the energy use attributable to a reference building
558 which meets the requirements of applicable energy efficiency
559 standards.

560 (10) **Regulations - Green tenant.** (a) By regulation, the
561 department shall adopt standards for tenant space to qualify as
562 green tenant space eligible for the tax credits under this section
563 that are consistent with the criteria for green tenant space set
564 forth by the United States Green Building Council or other similar
565 criteria.

566 (b) The regulations adopted under this subsection shall
567 provide that the energy use shall be no more than sixty-five
568 percent (65%) for new construction, or seventy-five percent (75%)
569 in the case of rehabilitation, of the energy use attributable to a
570 reference building which meets the requirements of applicable
571 energy efficiency standards.

572 (11) **Initial credit certificate; eligibility certificate;**
573 **written report.** (1) (a) On application by a taxpayer, the
574 Department shall issue an initial credit certificate if the
575 taxpayer has made a showing that the taxpayer is likely within a
576 reasonable time to place in service property for which a credit
577 under this section would be allowed.

578 (b) The initial credit certificate issued under this
579 paragraph:

580 (i) Shall state the earliest taxable year for
581 which the credit may be claimed and an expiration date; and

582 (ii) Shall apply only to property placed in
583 service on or before the expiration date.

584 (c) To avoid unwarranted hardship, the Department at
585 its discretion may extend the expiration date stated under an
586 initial credit certificate.

587 (d) The initial credit certificate shall state the
588 maximum amount of credit allowable in the aggregate for all
589 credits allowed under this section.

590 (e) The department may not issue initial credit
591 certificates during a state fiscal year, in the aggregate, for

592 more than Twenty-five Million Dollars (\$25,000,000) worth of
593 credits.

594 (f) Except as otherwise provided in this section,
595 initial credit certificates shall be limited in their
596 applicability, as follows:

597 Credits in the aggregate may	With respect to taxable
598 not be allowed for more than:	years beginning:
599 \$1 million	2005
600 \$2 million	2006
601 \$3 million	2007
602 \$4 million	2008
603 \$5 million	2009
604 \$4 million	2010
605 \$3 million	2011
606 \$2 million	2012
607 \$1 million	2013

608 (g) As of the end of a calendar year, if certificates
609 for credit amounts totaling less than the amount permitted with
610 respect to taxable years beginning in that calendar year have been
611 issued, the maximum amount that may be allowed for taxable years
612 beginning in the subsequent calendar year shall be increased by
613 the amount of the preceding year's shortfall.

614 (h) The department may not issue an initial credit
615 certificate after December 31, 2011.

616 (i) On January 1, 2006, and each year thereafter, the
617 department shall provide to the Tax Commission a list of all
618 taxpayers in the prior taxable year that have been issued an
619 initial credit certificate and shall specify for each taxpayer the
620 earliest taxable year for which the credit may be claimed and the
621 maximum amount of the credit allowable in the aggregate for all
622 credits allowed under this section.

623 (2) (a) For each taxable year for which a taxpayer claims a
624 credit under this section with respect to a green whole building,

625 green base building, green tenant space, fuel cell, photovoltaic
626 module, or wind turbine, the taxpayer shall obtain an eligibility
627 certificate from an architect or professional engineer licensed to
628 practice in this state.

629 (b) An eligibility certificate issued under this
630 paragraph shall consist of a certification, under the seal of the
631 architect or engineer, that the property that is the basis for the
632 credit that is claimed is in service and that:

633 (i) The building, base building, or tenant space
634 with respect to which the credit is claimed is a green whole
635 building, green base building, or green tenant space;

636 (ii) Any fuel cell, photovoltaic module, or wind
637 turbine with respect to which the credit is claimed constitutes a
638 qualifying alternate energy source and is fully operational;

639 (iii) The certification under subparagraph (ii) of
640 this paragraph:

641 1. Shall be made in accordance with the
642 regulations adopted by the department under this section
643 specifying the standards and guidelines for each credit under this
644 section; and

645 2. Shall set forth the specific findings on
646 which the certification was based.

647 (iv) The taxpayer shall file the eligibility
648 certificate and the associated initial credit certificate with the
649 taxpayer's income tax return and shall file duplicate copies of
650 the eligibility certificate with the department; and

651 (v) The eligibility certificate shall include:

652 1. Sufficient information to identify each
653 building or space; and

654 2. Any other information that the department
655 or the Tax Commission requires by regulation.

656 (3) If the department has reason to believe that an
657 architect or professional engineer, in making any certification

658 under this subsection, engaged in professional misconduct, the
659 department shall inform the appropriate professional board of the
660 suspected misconduct.

661 (4) (a) The department may adopt regulations necessary to
662 carry out the provisions of this section.

663 (b) Regulations adopted under this section shall
664 construe the provisions of this section in such a manner as to
665 encourage the development of green whole buildings, green base
666 buildings, and green tenant space and to maintain high, but
667 commercially reasonable, standards for obtaining tax credits under
668 this section.

669 (5) On or before April 1, 2007, the Tax Commission and the
670 department, jointly and in consultation with the Department of the
671 Environment, shall submit to the Legislature:

672 (a) The number of certifications and taxpayers claiming
673 the credit under this section;

674 (b) The amount of the credits claimed;

675 (c) The geographical distribution of the credits
676 claimed; and

677 (d) Any other available information the department
678 determines to be meaningful and appropriate.

679 (6) The Tax Commission shall ensure that the information is
680 presented and classified in a manner consistent with the
681 confidentiality of tax return information.

682 **SECTION 23.** Section 27-65-15, Mississippi Code of 1972, is
683 amended as follows:

684 27-65-15. (1) Upon every person engaging or continuing
685 within this state in the business of mining, quarrying, drilling
686 or otherwise producing, or causing to be produced for sale,
687 profit, or commercial use, limestone, sand, gravel, dirt, coal,
688 lignite or other mineral or natural resource products, except
689 timber, oil, natural gas and salt, there is hereby levied and
690 assessed and shall be collected taxes as follows:

691 (a) Sales to consumers within this state shall be taxed
692 under Section 27-65-17 or Section 27-65-19, as the case may be.

693 (b) Sales defined as wholesale or exempt, used by the
694 producers as a component material of a contract taxable under
695 Section 27-65-21, as a raw material of a manufactured product, or
696 delivered outside this state, shall be taxed at seven percent (7%)
697 of the gross proceeds of sales, exclusive of delivery charges, or
698 value when converted to use, whichever is greater, but not to
699 exceed Five Cents (5¢) per ton with respect to sand, gravel, dirt,
700 clay or limestone.

701 (2) The sale of coal and lignite used as fuel to produce
702 electric power by a company primarily engaged in the business of
703 producing, generating or distributing electric power for sale,
704 shall be exempt from the provisions of this section.

705 (3) The commission shall prescribe equitable and uniform
706 rules for ascertaining value.

707 (4) All privilege taxes levied upon persons engaged in the
708 production of natural resource products by this chapter shall be a
709 lien upon all such products so produced and such lien shall be
710 entitled to preference over all judgments, executions,
711 encumbrances or liens, whensoever created. All persons to or
712 through whom the title to such products pass shall be jointly and
713 severally liable for such tax until the same is paid in full.

714 (5) The tax imposed in this section shall be collected by
715 the commissioner from the person in charge of the production
716 operations, and the commissioner is hereby authorized to make such
717 investigations and inspections of the production operations, from
718 time to time, as he may deem necessary for the purpose of
719 ascertaining the correct amount of tax due.

720 **SECTION 24.** (1) The Legislature finds and determines that
721 the petroleum industry is an essential element of the Mississippi
722 economy and is therefore of vital importance to the health and
723 welfare of all Mississippians.

724 The Legislature further finds and determines that a complete
725 and thorough understanding of the operations of the petroleum
726 industry is required by state government at all times to enable it
727 to respond to possible shortages, oversupplies or other
728 disruptions and to assess whether all consumers including
729 emergency service agencies, state and local government agencies,
730 and agricultural and business consumers of petroleum products have
731 adequate and economic supplies of fuel.

732 (2) The Attorney General is authorized to monitor petroleum
733 based fuel prices throughout the state, using the Oil Price
734 Information Services (OPIS) or any other service, approved by the
735 Attorney General, that monitors petroleum based fuel prices
736 throughout the state. The Attorney General may promulgate such
737 rules and regulations necessary to effectuate only his authority
738 to monitor petroleum based fuel prices.

739 **SECTION 25.** This act shall take effect and be in force from
740 and after July 1, 2006.