

By: Representative Watson

To: Ways and Means

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1682

1 AN ACT TO CREATE THE MISSISSIPPI EXISTING INDUSTRY
2 PRODUCTIVITY LOAN PROGRAM TO BE ADMINISTERED BY THE MISSISSIPPI
3 DEVELOPMENT AUTHORITY FOR THE PURPOSE OF PROVIDING LOANS TO
4 CERTAIN INDUSTRIES THAT HAVE BEEN OPERATING IN THIS STATE FOR NOT
5 LESS THAN TWO YEARS; TO PROVIDE THAT THE LOANS SHALL BE UTILIZED
6 BY INDUSTRIES TO DEPLOY LONG-TERM FIXED ASSETS THAT THROUGH NEW
7 TECHNOLOGY WILL IMPROVE PRODUCTIVITY AND COMPETITIVENESS; TO
8 CREATE THE MISSISSIPPI EXISTING INDUSTRY PRODUCTIVITY LOAN FUND TO
9 BE ADMINISTERED BY THE MISSISSIPPI DEVELOPMENT AUTHORITY; TO
10 AUTHORIZE THE ISSUANCE OF \$6,000,000.00 IN STATE GENERAL
11 OBLIGATION BONDS TO PROVIDE FUNDS FOR THE MISSISSIPPI EXISTING
12 INDUSTRY PRODUCTIVITY LOAN FUND; TO AUTHORIZE THE ISSUANCE OF
13 \$8,000,000.00 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 57-1-307, MISSISSIPPI CODE OF 1972,
24 TO INCREASE FROM \$95,000,000.00 TO \$97,000,000.00 THE AMOUNT OF
25 STATE GENERAL OBLIGATION BONDS THAT MAY BE ISSUED FOR THE LOCAL
26 GOVERNMENTS CAPITAL IMPROVEMENTS REVOLVING LOAN FUND; TO AMEND
27 SECTION 57-61-25, MISSISSIPPI CODE OF 1972, TO INCREASE FROM
28 \$292,000,000.00 TO \$308,000,000.00 THE AMOUNT OF GENERAL
29 OBLIGATION BONDS THAT MAY BE ISSUED UNDER THE MISSISSIPPI BUSINESS
30 INVESTMENT ACT; TO AMEND SECTION 57-61-34, MISSISSIPPI CODE OF
31 1972, TO INCREASE FROM \$9,000,000.00 TO \$19,000,000.00 THE AMOUNT
32 OF BOND PROCEEDS THAT THE MISSISSIPPI DEVELOPMENT AUTHORITY MAY
33 UTILIZE UNDER THE MISSISSIPPI BUSINESS INVESTMENT ACT FOR
34 INTEREST-BEARING LOANS TO MUNICIPALITIES OR PRIVATE COMPANIES TO
35 AID IN THE ESTABLISHMENT OF BUSINESS INCUBATION CENTERS AND THE
36 CREATION OF NEW AND EXPANDING RESEARCH AND DEVELOPMENT AND
37 TECHNOLOGY-BASED BUSINESS AND INDUSTRY; TO AMEND SECTION 57-61-36,
38 MISSISSIPPI CODE OF 1972, TO INCREASE FROM \$10,500,000.00 TO
39 \$16,500,000.00 THE AMOUNT OF BOND PROCEEDS THAT THE MISSISSIPPI
40 DEVELOPMENT AUTHORITY MAY UTILIZE UNDER THE MISSISSIPPI BUSINESS
41 INVESTMENT ACT TO MAKE GRANTS OR LOANS TO COUNTIES AND
42 MUNICIPALITIES THROUGH AN EQUIPMENT AND PUBLIC FACILITIES GRANT
43 AND LOAN FUND TO AID IN INFRASTRUCTURE-RELATED IMPROVEMENTS, THE
44 PURCHASE OF EQUIPMENT AND IN THE PURCHASE, CONSTRUCTION OR REPAIR
45 AND RENOVATION OF PUBLIC FACILITIES; TO ESTABLISH AN INCOME TAX
46 CREDIT FOR MANUFACTURING ENTERPRISES THAT HAVE OPERATED IN THIS
47 STATE FOR NOT LESS THAN TWO YEARS IN AN AMOUNT EQUAL TO A CERTAIN
48 PERCENTAGE OF THE ENTERPRISE'S INVESTMENT IN BUILDINGS OR
49 EQUIPMENT; TO PROVIDE THAT ANY SUCH TAX CREDIT CLAIMED BUT NOT
50 USED IN ANY TAXABLE YEAR MAY BE CARRIED FORWARD FOR FIVE YEARS
51 FROM THE CLOSE OF THE TAX YEAR IN WHICH THE ELIGIBLE INVESTMENT
52 WAS MADE; TO PROVIDE THAT THE CREDIT TAKEN IN ANY ONE TAX YEAR IS

53 LIMITED TO AN AMOUNT NOT GREATER THAN 50% OF THE TAXPAYER'S STATE
54 INCOME TAX LIABILITY WHICH IS ATTRIBUTABLE TO INCOME DERIVED FROM
55 OPERATIONS IN THE STATE FOR THAT YEAR; TO PROVIDE THAT THE
56 MANUFACTURING ENTERPRISE MUST INVEST AT LEAST \$1,000,000.00 TO BE
57 ELIGIBLE FOR THE CREDIT; TO PROVIDE THAT THE MAXIMUM CUMULATIVE
58 CREDIT THAT MAY BE CLAIMED BY A TAXPAYER FOR ANY ONE PROJECT IS
59 LIMITED TO \$1,000,000.00; TO PROVIDE FOR RECAPTURE OF THE CREDIT
60 UNDER CERTAIN CIRCUMSTANCES; TO AMEND SECTION 27-31-101,
61 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE BOARD OF SUPERVISORS OF
62 COUNTIES AND THE GOVERNING AUTHORITIES OF MUNICIPALITIES TO GRANT
63 CERTAIN AD VALOREM TAX EXEMPTIONS TO DATA/INFORMATION PROCESSING
64 ENTERPRISES AND TECHNOLOGY INTENSIVE ENTERPRISES MEETING MINIMUM
65 CRITERIA ESTABLISHED BY THE MISSISSIPPI DEVELOPMENT AUTHORITY; TO
66 AMEND SECTION 27-65-17, MISSISSIPPI CODE OF 1972, TO IMPOSE THE
67 SALES TAX AT A REDUCED RATE ON CERTAIN SALES OF MACHINERY AND
68 MACHINE PARTS TO A TECHNOLOGY INTENSIVE BUSINESS FOR PLANT USE; TO
69 AMEND SECTION 27-65-19, MISSISSIPPI CODE OF 1972, TO REDUCE THE
70 SALES TAX ON CERTAIN FUELS SOLD TO OR USED BY TECHNOLOGY INTENSIVE
71 ENTERPRISES; TO AMEND SECTION 27-65-101, MISSISSIPPI CODE OF 1972,
72 TO EXEMPT FROM SALES TAXATION SALES OF COMPONENT MATERIALS USED IN
73 THE CONSTRUCTION OF A FACILITY, OR ANY ADDITION OR IMPROVEMENT TO
74 SUCH FACILITY, AND SALES OR LEASES OF MACHINERY AND EQUIPMENT TO
75 BE USED IN SUCH FACILITIES, ADDITIONS OR IMPROVEMENTS, TO
76 PERMANENT BUSINESS ENTERPRISES OPERATING A DATA/INFORMATION
77 ENTERPRISE IN A TIER THREE AREA MEETING MINIMUM CRITERIA
78 ESTABLISHED BY THE MISSISSIPPI DEVELOPMENT AUTHORITY; TO EXEMPT
79 FROM SALES TAXATION SALES OF COMPONENT MATERIALS USED IN THE
80 CONSTRUCTION OF A FACILITY, OR ANY ADDITION OR IMPROVEMENT TO SUCH
81 FACILITY, AND SALES OF MACHINERY AND EQUIPMENT TO BE USED IN SUCH
82 FACILITIES, ADDITIONS OR IMPROVEMENTS, TO TECHNOLOGY INTENSIVE
83 ENTERPRISES FOR INDUSTRIAL PURPOSES IN A TIER THREE AREA; TO
84 REDUCE THE SALES TAXATION ON SALES OF COMPONENT MATERIALS USED IN
85 THE CONSTRUCTION OF A FACILITY, OR ANY ADDITION OR IMPROVEMENT TO
86 SUCH BUILDING, AND SALES OR LEASES OF MACHINERY AND EQUIPMENT TO
87 BE USED IN SUCH BUILDINGS, ADDITIONS OR IMPROVEMENTS, TO PERMANENT
88 BUSINESS ENTERPRISES OPERATING A DATA/INFORMATION ENTERPRISE IN A
89 TIER ONE OR TIER TWO AREA MEETING MINIMUM CRITERIA ESTABLISHED BY
90 THE MISSISSIPPI DEVELOPMENT AUTHORITY; TO REDUCE THE SALES
91 TAXATION ON SALES OF COMPONENT MATERIALS USED IN THE CONSTRUCTION
92 OF A FACILITY, OR ANY ADDITION OR IMPROVEMENT TO SUCH FACILITY,
93 AND SALES OF MACHINERY AND EQUIPMENT, TO TECHNOLOGY INTENSIVE
94 ENTERPRISES FOR INDUSTRIAL PURPOSES IN A TIER ONE OR TIER TWO
95 AREA; TO AMEND SECTION 57-73-21, MISSISSIPPI CODE OF 1972, TO
96 REVISE THE AMOUNT OF THE JOB TAX CREDIT FOR CERTAIN PERMANENT
97 BUSINESS ENTERPRISES TO PROVIDE THAT THE AMOUNT OF THE CREDIT
98 SHALL BE A CERTAIN PERCENTAGE OF SUCH ENTERPRISE'S PAYROLL; TO
99 REENACT SECTIONS 57-10-401 THROUGH 57-10-445, MISSISSIPPI CODE OF
100 1972, WHICH PROVIDE FOR THE ISSUANCE OF BONDS BY THE MISSISSIPPI
101 BUSINESS FINANCE CORPORATION TO FINANCE ECONOMIC DEVELOPMENT
102 PROJECTS IN ORDER TO INDUCE THE LOCATION OR EXPANSION OF CERTAIN
103 BUSINESSES WITHIN THIS STATE; TO REENACT SECTION 27-7-22.3,
104 MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR A CREDIT AGAINST
105 STATE INCOME TAXES FOR CERTAIN COMPANIES FOR DEBT SERVICE PAID BY
106 SUCH COMPANIES UNDER FINANCING AGREEMENTS ENTERED INTO WITH THE
107 MISSISSIPPI BUSINESS FINANCE CORPORATION UNDER SECTION 57-10-409,
108 MISSISSIPPI CODE OF 1972; TO AMEND SECTION 57-10-401, MISSISSIPPI
109 CODE OF 1972, TO INCLUDE CERTAIN INFORMATION PROCESSING
110 BUSINESSES, NATIONAL OR REGIONAL HEADQUARTERS, RESEARCH AND
111 DEVELOPMENT FACILITIES AND TECHNOLOGY INTENSIVE ENTERPRISES OR
112 FACILITIES WITHIN THE DEFINITION OF THE TERM "ELIGIBLE COMPANY";
113 TO AMEND SECTION 57-10-449, MISSISSIPPI CODE OF 1972, TO EXTEND
114 UNTIL OCTOBER 1, 2006, THE REPEAL DATE ON SECTIONS 57-10-401
115 THROUGH 57-10-445 AND 27-7-22.3, MISSISSIPPI CODE OF 1972; TO
116 AMEND SECTIONS 57-62-5 AND 57-62-9, MISSISSIPPI CODE OF 1972, TO
117 REVISE THE DEFINITION OF THE TERM "QUALIFIED BUSINESS OR INDUSTRY"
118 UNDER THE MISSISSIPPI ADVANTAGE JOBS ACT TO ALLOW A BUSINESS TO BE

119 ELIGIBLE FOR THE INCENTIVE PAYMENT UNDER THE ACT IF IT IS A
120 DATA/INFORMATION PROCESSING ENTERPRISE, MANUFACTURING OR
121 DISTRIBUTION ENTERPRISE OR A RESEARCH AND DEVELOPMENT OR
122 TECHNOLOGY INTENSIVE ENTERPRISE THAT MEETS CERTAIN CRITERIA; TO
123 REQUIRE APPLICANTS FOR THE INCENTIVE PAYMENTS UNDER THE ACT TO
124 EXECUTE A PERFORMANCE AGREEMENT WITH THE MISSISSIPPI DEVELOPMENT
125 AUTHORITY THAT SPECIFIES THE MANNER IN WHICH THE APPLICANT WILL
126 UTILIZE THE INCENTIVE PAYMENT; TO AMEND SECTION 57-62-13,
127 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO CREATE THE
128 MISSISSIPPI DEVELOPMENT AUTHORITY LEGISLATIVE OVERSIGHT COMMITTEE
129 TO SERVE IN AN ADVISORY CAPACITY TO THE MISSISSIPPI DEVELOPMENT
130 AUTHORITY REGARDING MATTERS UNDER THE JURISDICTION OF THE
131 MISSISSIPPI DEVELOPMENT AUTHORITY; TO PROVIDE THAT THE OVERSIGHT
132 COMMITTEE WILL CONSIST OF THE SPEAKER OF THE HOUSE OF
133 REPRESENTATIVES, OR HIS DESIGNEE, THE LIEUTENANT GOVERNOR, OR HIS
134 DESIGNEE, TWO REPRESENTATIVES APPOINTED BY THE SPEAKER OF THE
135 HOUSE OF REPRESENTATIVES, AND TWO SENATORS APPOINTED BY THE
136 LIEUTENANT GOVERNOR; TO PROVIDE THAT THE OVERSIGHT COMMITTEE SHALL
137 HAVE NO JURISDICTION OR VOTE ON ANY MATTER WITHIN THE JURISDICTION
138 OF THE MISSISSIPPI DEVELOPMENT AUTHORITY; AND FOR RELATED
139 PURPOSES.

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

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

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

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

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

149 (ii) Meet criteria established by the Mississippi
150 Development Authority.

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

152 (2) (a) There is established the Mississippi Existing
153 Industry Productivity Loan Program to be administered by the MDA
154 for the purpose of providing loans to existing industries to
155 deploy long-term fixed assets that through new technology will
156 improve productivity and competitiveness. An existing industry
157 that accepts a loan under this program shall not reduce employment
158 by more than twenty percent (20%) through the use of the long-term
159 fixed assets for which the loan is granted.

160 (b) An enterprise desiring a loan under this section
161 must submit an application to the MDA. The application shall
162 include:

163 (i) A description of the purpose for which the
164 loan is requested;

165 (ii) The amount of the loan requested;

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

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

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

170 (vi) Credit reports on all persons with a twenty
171 percent (20%) or greater interest in the enterprise; and

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

173 (c) The MDA shall require that binding commitments be
174 entered into requiring that:

175 (i) The minimum requirements of this section and
176 such other requirements as the MDA considers proper shall be met;
177 and

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

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

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

187 (f) The MDA shall have all powers necessary to
188 implement and administer the program established under this
189 section, and the MDA shall promulgate rules and regulations, in
190 accordance with the Mississippi Administrative Procedures Law,
191 necessary for the implementation of this section.

192 (2) (a) There is created in the State Treasury a special
193 fund to be designated as the "Mississippi Existing Industry
194 Productivity Loan Fund," which shall consist of funds appropriated
195 or otherwise made available by the Legislature in any manner and
196 funds from any other source designated for deposit into such fund.
197 Unexpended amounts remaining in the fund at the end of a fiscal
198 year shall not lapse into the State General Fund, and any
199 investment earnings or interest earned on amounts in the fund
200 shall be deposited to the credit of the fund. Monies in the fund
201 shall be used by the MDA for the purposes described in this
202 section.

203 (b) Monies in the fund which are derived from the
204 proceeds of general obligation bonds may be used to reimburse
205 reasonable actual and necessary costs incurred by the MDA in
206 providing loans under this section through the use of general
207 obligation bonds. An accounting of actual costs incurred for
208 which reimbursement is sought shall be maintained for each loan by
209 the MDA. Reimbursement of reasonable actual and necessary costs
210 shall not exceed three percent (3%) of the proceeds of bonds
211 issued under Sections 2 through 17 of this act. Monies authorized
212 for a particular loan may not be used to reimburse administrative
213 costs for unrelated loans. Reimbursements made under this
214 subsection shall satisfy any applicable federal tax law
215 requirements.

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

219 (a) "Accreted value" of any bonds means, as of any date
220 of computation, an amount equal to the sum of (i) the stated
221 initial value of such bond, plus (ii) the interest accrued thereon
222 from the issue date to the date of computation at the rate,
223 compounded semiannually, that is necessary to produce the

224 approximate yield to maturity shown for bonds of the same
225 maturity.

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

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

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

229 **SECTION 3.** (1) The Mississippi Development Authority, at
230 one time, or from time to time, may declare by resolution the
231 necessity for issuance of general obligation bonds of the State of
232 Mississippi to provide funds for the program authorized in Section
233 1 of House Bill No. 1682, 2005 Regular Session. Upon the adoption
234 of a resolution by the Mississippi Development Authority,
235 declaring the necessity for the issuance of any part or all of the
236 general obligation bonds authorized by this section, the
237 Mississippi Development Authority shall deliver a certified copy
238 of its resolution or resolutions to the commission. Upon receipt
239 of such resolution, the commission, in its discretion, may act as
240 the issuing agent, prescribe the form of the bonds, advertise for
241 and accept bids, issue and sell the bonds so authorized to be sold
242 and do any and all other things necessary and advisable in
243 connection with the issuance and sale of such bonds. The total
244 amount of bonds issued under this act shall not exceed Six Million
245 Dollars (\$6,000,000.00). No bonds shall be issued under this act
246 after July 1, 2008.

247 (2) The proceeds of bonds issued pursuant to this act shall
248 be deposited into the Mississippi Existing Industry Productivity
249 Loan Fund created pursuant to Section 1 of House Bill No. 1682,
250 2005 Regular Session. Any investment earnings on bonds issued
251 pursuant to this act shall be used to pay debt service on bonds
252 issued under this act, in accordance with the proceedings
253 authorizing issuance of such bonds.

254 **SECTION 4.** The principal of and interest on the bonds
255 authorized under this act shall be payable in the manner provided
256 in this section. Such bonds shall bear such date or dates, be in

257 such denomination or denominations, bear interest at such rate or
258 rates (not to exceed the limits set forth in Section 75-17-101,
259 Mississippi Code of 1972), be payable at such place or places
260 within or without the State of Mississippi, shall mature
261 absolutely at such time or times not to exceed twenty-five (25)
262 years from date of issue, be redeemable before maturity at such
263 time or times and upon such terms, with or without premium, shall
264 bear such registration privileges, and shall be substantially in
265 such form, all as shall be determined by resolution of the
266 commission.

267 **SECTION 5.** The bonds authorized by this act shall be signed
268 by the chairman of the commission, or by his facsimile signature,
269 and the official seal of the commission shall be affixed thereto,
270 attested by the secretary of the commission. The interest
271 coupons, if any, to be attached to such bonds may be executed by
272 the facsimile signatures of such officers. Whenever any such
273 bonds shall have been signed by the officials designated to sign
274 the bonds who were in office at the time of such signing but who
275 may have ceased to be such officers before the sale and delivery
276 of such bonds, or who may not have been in office on the date such
277 bonds may bear, the signatures of such officers upon such bonds
278 and coupons shall nevertheless be valid and sufficient for all
279 purposes and have the same effect as if the person so officially
280 signing such bonds had remained in office until their delivery to
281 the purchaser, or had been in office on the date such bonds may
282 bear. However, notwithstanding anything herein to the contrary,
283 such bonds may be issued as provided in the Registered Bond Act of
284 the State of Mississippi.

285 **SECTION 6.** All bonds and interest coupons issued under the
286 provisions of this act have all the qualities and incidents of
287 negotiable instruments under the provisions of the Uniform
288 Commercial Code, and in exercising the powers granted by this act,

289 the commission shall not be required to and need not comply with
290 the provisions of the Uniform Commercial Code.

291 **SECTION 7.** The commission shall act as the issuing agent for
292 the bonds authorized under this act, prescribe the form of the
293 bonds, advertise for and accept bids, issue and sell the bonds so
294 authorized to be sold, pay all fees and costs incurred in such
295 issuance and sale, and do any and all other things necessary and
296 advisable in connection with the issuance and sale of such bonds.
297 The commission is authorized and empowered to pay the costs that
298 are incident to the sale, issuance and delivery of the bonds
299 authorized under this act from the proceeds derived from the sale
300 of such bonds. The commission shall sell such bonds on sealed
301 bids at public sale, and for such price as it may determine to be
302 for the best interest of the State of Mississippi, but no such
303 sale shall be made at a price less than par plus accrued interest
304 to the date of delivery of the bonds to the purchaser. All
305 interest accruing on such bonds so issued shall be payable
306 semiannually or annually; however, the first interest payment may
307 be for any period of not more than one (1) year.

308 Notice of the sale of any such bonds shall be published at
309 least one time, not less than ten (10) days before the date of
310 sale, and shall be so published in one or more newspapers
311 published or having a general circulation in the City of Jackson,
312 Mississippi, and in one or more other newspapers or financial
313 journals with a national circulation, to be selected by the
314 commission.

315 The commission, when issuing any bonds under the authority of
316 this act, may provide that bonds, at the option of the State of
317 Mississippi, may be called in for payment and redemption at the
318 call price named therein and accrued interest on such date or
319 dates named therein.

320 **SECTION 8.** The bonds issued under the provisions of this act
321 are general obligations of the State of Mississippi, and for the

322 payment thereof the full faith and credit of the State of
323 Mississippi is irrevocably pledged. If the funds appropriated by
324 the Legislature are insufficient to pay the principal of and the
325 interest on such bonds as they become due, then the deficiency
326 shall be paid by the State Treasurer from any funds in the State
327 Treasury not otherwise appropriated. All such bonds shall contain
328 recitals on their faces substantially covering the provisions of
329 this section.

330 **SECTION 9.** Upon the issuance and sale of bonds under the
331 provisions of this act, the commission shall transfer the proceeds
332 of any such sale or sales to the Mississippi Existing Industry
333 Productivity Loan Fund created in Section 1 of House Bill No.
334 1682, 2005 Regular Session. The proceeds of such bonds shall be
335 disbursed solely upon the order of the Mississippi Development
336 Authority under such restrictions, if any, as may be contained in
337 the resolution providing for the issuance of the bonds.

338 **SECTION 10.** The bonds authorized under this act may be
339 issued without any other proceedings or the happening of any other
340 conditions or things other than those proceedings, conditions and
341 things which are specified or required by this act. Any
342 resolution providing for the issuance of bonds under the
343 provisions of this act shall become effective immediately upon its
344 adoption by the commission, and any such resolution may be adopted
345 at any regular or special meeting of the commission by a majority
346 of its members.

347 **SECTION 11.** The bonds authorized under the authority of this
348 act may be validated in the Chancery Court of the First Judicial
349 District of Hinds County, Mississippi, in the manner and with the
350 force and effect provided by Chapter 13, Title 31, Mississippi
351 Code of 1972, for the validation of county, municipal, school
352 district and other bonds. The notice to taxpayers required by
353 such statutes shall be published in a newspaper published or
354 having a general circulation in the City of Jackson, Mississippi.

355 **SECTION 12.** Any holder of bonds issued under the provisions
356 of this act or of any of the interest coupons pertaining thereto
357 may, either at law or in equity, by suit, action, mandamus or
358 other proceeding, protect and enforce any and all rights granted
359 under this act, or under such resolution, and may enforce and
360 compel performance of all duties required by this act to be
361 performed, in order to provide for the payment of bonds and
362 interest thereon.

363 **SECTION 13.** All bonds issued under the provisions of this
364 act shall be legal investments for trustees and other fiduciaries,
365 and for savings banks, trust companies and insurance companies
366 organized under the laws of the State of Mississippi, and such
367 bonds shall be legal securities which may be deposited with and
368 shall be received by all public officers and bodies of this state
369 and all municipalities and political subdivisions for the purpose
370 of securing the deposit of public funds.

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

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

377 **SECTION 16.** The State Treasurer is authorized, without
378 further process of law, to certify to the Department of Finance
379 and Administration the necessity for warrants, and the Department
380 of Finance and Administration is authorized and directed to issue
381 such warrants, in such amounts as may be necessary to pay when due
382 the principal of, premium, if any, and interest on, or the
383 accreted value of, all bonds issued under this act; and the State
384 Treasurer shall forward the necessary amount to the designated
385 place or places of payment of such bonds in ample time to
386 discharge such bonds, or the interest thereon, on the due dates
387 thereof.

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

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

395 (a) "Accreted value" of any bonds means, as of any date
396 of computation, an amount equal to the sum of (i) the stated
397 initial value of such bond, plus (ii) the interest accrued thereon
398 from the issue date to the date of computation at the rate,
399 compounded semiannually, that is necessary to produce the
400 approximate yield to maturity shown for bonds of the same
401 maturity.

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

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

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

405 **SECTION 19.** (1) The Mississippi Development Authority, at
406 one time, or from time to time, may declare by resolution the
407 necessity for issuance of general obligation bonds of the State of
408 Mississippi to provide funds for the program authorized in Section
409 57-1-16. Upon the adoption of a resolution by the Mississippi
410 Development Authority, declaring the necessity for the issuance of
411 any part or all of the general obligation bonds authorized by this
412 section, the Mississippi Development Authority shall deliver a
413 certified copy of its resolution or resolutions to the commission.
414 Upon receipt of such resolution, the commission, in its
415 discretion, may act as the issuing agent, prescribe the form of
416 the bonds, advertise for and accept bids, issue and sell the bonds
417 so authorized to be sold and do any and all other things necessary
418 and advisable in connection with the issuance and sale of such
419 bonds. The total amount of bonds issued under this act shall not

420 exceed Eight Million Dollars (\$8,000,000.00). No bonds authorized
421 under this act shall be issued after July 1, 2009.

422 (2) The proceeds of bonds issued pursuant to this act shall
423 be deposited into the ACE Fund created pursuant to Section
424 57-1-16. Any investment earnings on bonds issued pursuant to this
425 act shall be used to pay debt service on bonds issued under this
426 act, in accordance with the proceedings authorizing issuance of
427 such bonds.

428 **SECTION 20.** The principal of and interest on the bonds
429 authorized under this act shall be payable in the manner provided
430 in this section. Such bonds shall bear such date or dates, be in
431 such denomination or denominations, bear interest at such rate or
432 rates (not to exceed the limits set forth in Section 75-17-101,
433 Mississippi Code of 1972), be payable at such place or places
434 within or without the State of Mississippi, shall mature
435 absolutely at such time or times not to exceed twenty-five (25)
436 years from date of issue, be redeemable before maturity at such
437 time or times and upon such terms, with or without premium, shall
438 bear such registration privileges, and shall be substantially in
439 such form, all as shall be determined by resolution of the
440 commission.

441 **SECTION 21.** The bonds authorized by this act shall be signed
442 by the chairman of the commission, or by his facsimile signature,
443 and the official seal of the commission shall be affixed thereto,
444 attested by the secretary of the commission. The interest
445 coupons, if any, to be attached to such bonds may be executed by
446 the facsimile signatures of such officers. Whenever any such
447 bonds shall have been signed by the officials designated to sign
448 the bonds who were in office at the time of such signing but who
449 may have ceased to be such officers before the sale and delivery
450 of such bonds, or who may not have been in office on the date such
451 bonds may bear, the signatures of such officers upon such bonds
452 and coupons shall nevertheless be valid and sufficient for all

453 purposes and have the same effect as if the person so officially
454 signing such bonds had remained in office until their delivery to
455 the purchaser, or had been in office on the date such bonds may
456 bear. However, notwithstanding anything herein to the contrary,
457 such bonds may be issued as provided in the Registered Bond Act of
458 the State of Mississippi.

459 **SECTION 22.** All bonds and interest coupons issued under the
460 provisions of this act have all the qualities and incidents of
461 negotiable instruments under the provisions of the Uniform
462 Commercial Code, and in exercising the powers granted by this act,
463 the commission shall not be required to and need not comply with
464 the provisions of the Uniform Commercial Code.

465 **SECTION 23.** The commission shall act as the issuing agent
466 for the bonds authorized under this act, prescribe the form of the
467 bonds, advertise for and accept bids, issue and sell the bonds so
468 authorized to be sold, pay all fees and costs incurred in such
469 issuance and sale, and do any and all other things necessary and
470 advisable in connection with the issuance and sale of such bonds.
471 The commission is authorized and empowered to pay the costs that
472 are incident to the sale, issuance and delivery of the bonds
473 authorized under this act from the proceeds derived from the sale
474 of such bonds. The commission shall sell such bonds on sealed
475 bids at public sale, and for such price as it may determine to be
476 for the best interest of the State of Mississippi, but no such
477 sale shall be made at a price less than par plus accrued interest
478 to the date of delivery of the bonds to the purchaser. All
479 interest accruing on such bonds so issued shall be payable
480 semiannually or annually; however, the first interest payment may
481 be for any period of not more than one (1) year.

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

486 Mississippi, and in one or more other newspapers or financial
487 journals with a national circulation, to be selected by the
488 commission.

489 The commission, when issuing any bonds under the authority of
490 this act, may provide that bonds, at the option of the State of
491 Mississippi, may be called in for payment and redemption at the
492 call price named therein and accrued interest on such date or
493 dates named therein.

494 **SECTION 24.** The bonds issued under the provisions of this
495 act are general obligations of the State of Mississippi, and for
496 the payment thereof the full faith and credit of the State of
497 Mississippi is irrevocably pledged. If the funds appropriated by
498 the Legislature are insufficient to pay the principal of and the
499 interest on such bonds as they become due, then the deficiency
500 shall be paid by the State Treasurer from any funds in the State
501 Treasury not otherwise appropriated. All such bonds shall contain
502 recitals on their faces substantially covering the provisions of
503 this section.

504 **SECTION 25.** Upon the issuance and sale of bonds under the
505 provisions of this act, the commission shall transfer the proceeds
506 of any such sale or sales to the ACE Fund created in Section
507 57-1-16. The proceeds of such bonds shall be disbursed solely
508 upon the order of the Mississippi Development Authority under such
509 restrictions, if any, as may be contained in the resolution
510 providing for the issuance of the bonds.

511 **SECTION 26.** The bonds authorized under this act may be
512 issued without any other proceedings or the happening of any other
513 conditions or things other than those proceedings, conditions and
514 things which are specified or required by this act. Any
515 resolution providing for the issuance of bonds under the
516 provisions of this act shall become effective immediately upon its
517 adoption by the commission, and any such resolution may be adopted

518 at any regular or special meeting of the commission by a majority
519 of its members.

520 **SECTION 27.** The bonds authorized under the authority of this
521 act may be validated in the Chancery Court of the First Judicial
522 District of Hinds County, Mississippi, in the manner and with the
523 force and effect provided by Chapter 13, Title 31, Mississippi
524 Code of 1972, for the validation of county, municipal, school
525 district and other bonds. The notice to taxpayers required by
526 such statutes shall be published in a newspaper published or
527 having a general circulation in the City of Jackson, Mississippi.

528 **SECTION 28.** Any holder of bonds issued under the provisions
529 of this act or of any of the interest coupons pertaining thereto
530 may, either at law or in equity, by suit, action, mandamus or
531 other proceeding, protect and enforce any and all rights granted
532 under this act, or under such resolution, and may enforce and
533 compel performance of all duties required by this act to be
534 performed, in order to provide for the payment of bonds and
535 interest thereon.

536 **SECTION 29.** All bonds issued under the provisions of this
537 act shall be legal investments for trustees and other fiduciaries,
538 and for savings banks, trust companies and insurance companies
539 organized under the laws of the State of Mississippi, and such
540 bonds shall be legal securities which may be deposited with and
541 shall be received by all public officers and bodies of this state
542 and all municipalities and political subdivisions for the purpose
543 of securing the deposit of public funds.

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

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

550 **SECTION 32.** The State Treasurer is authorized, without
551 further process of law, to certify to the Department of Finance
552 and Administration the necessity for warrants, and the Department
553 of Finance and Administration is authorized and directed to issue
554 such warrants, in such amounts as may be necessary to pay when due
555 the principal of, premium, if any, and interest on, or the
556 accreted value of, all bonds issued under this act; and the State
557 Treasurer shall forward the necessary amount to the designated
558 place or places of payment of such bonds in ample time to
559 discharge such bonds, or the interest thereon, on the due dates
560 thereof.

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

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

567 57-1-16. (1) As used in this section:

568 (a) "Extraordinary economic development opportunity"
569 means a new or expanded business or industry which maintains a
570 strong financial condition and minimal credit risk and creates
571 substantial employment, particularly in areas of high
572 unemployment.

573 (b) "Local economic development entities" means public
574 or private nonprofit local economic development entities,
575 including, but not limited to, chambers of commerce, local
576 authorities, commissions or other entities created by local and
577 private legislation or districts created pursuant to Section
578 19-5-99.

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

580 (2) (a) There is hereby created in the State Treasury a
581 special fund to be designated as the ACE Fund, which shall consist
582 of money from any public or private source designated for deposit

583 into such fund. Unexpended amounts remaining in the fund at the
584 end of a fiscal year shall not lapse into the State General Fund,
585 and any interest earned on amounts in the fund shall be deposited
586 to the credit of the fund. The purpose of the fund shall be to
587 assist in maximizing extraordinary economic development
588 opportunities related to any new or expanded business or industry.
589 Such funds may be used to make grants to local economic
590 development entities to assist any new or expanding business or
591 industry that meets the criteria provided in this section when
592 such assistance aids the consummation of a project within the
593 State of Mississippi.

594 (b) Monies in the fund which are derived from the
595 proceeds of general obligation bonds may be used to reimburse
596 reasonable actual and necessary costs incurred by the MDA in
597 providing assistance under this section through the use of general
598 obligation bonds. An accounting of actual costs incurred for
599 which reimbursement is sought shall be maintained for each grant
600 by the MDA. Reimbursement of reasonable actual and necessary
601 costs for a grant shall not exceed three percent (3%) of the
602 proceeds of bonds issued for such grant. Monies authorized for a
603 particular grant may not be used to reimburse administrative costs
604 for unrelated grants. Reimbursements made under this subsection
605 shall satisfy any applicable federal tax law requirements.

606 (3) The MDA shall establish a grant program to make grants
607 from the ACE Fund created under this section. Local economic
608 development entities may apply to the MDA for a grant under this
609 section in the manner provided for in subsection (4) of this
610 section.

611 (4) (a) Any business or industry desiring assistance from a
612 local economic development entity under this section shall submit
613 an application to the local economic development entity which
614 shall include, at a minimum:

615 (i) Evidence that the business or industry meets
616 the definition of an extraordinary economic development
617 opportunity;

618 (ii) A demonstration that the business or industry
619 is at an economic disadvantage by locating the new or expanded
620 project in the county; * * *

621 (iii) A description, including the cost, of the
622 requested assistance;

623 (iv) A description of the purpose for which the
624 assistance is requested;

625 (v) A two-year business plan;

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

628 (vi) Credit reports on all persons with a twenty
629 percent (20%) or greater interest in the business or industry; and

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

631 (b) The MDA shall require that binding commitments be
632 entered into requiring that:

633 (i) The minimum requirements of this section and
634 such other requirements as the MDA considers proper shall be met;
635 and

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

639 (c) Upon receipt of the application from a business or
640 industry, the local economic development entity may apply to the
641 MDA for assistance under this section. Such application must
642 contain evidence that the business or industry meets the
643 definition of an extraordinary economic development opportunity, a
644 demonstration that the business or industry is at an economic
645 disadvantage by locating the new or expanded project in the
646 county, a description, including the cost, of the requested
647 assistance, and a statement of what efforts have been made or are

648 being made by the business or industry for securing or qualifying
649 for other local, state, federal or private funds for the project.

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

654 (5) The MDA shall promulgate rules and regulations, in
655 accordance with the Mississippi Administrative Procedures Law, for
656 the implementation of this section. However, before the
657 implementation of any such rules and regulations, they shall be
658 submitted to a committee consisting of five (5) members of the
659 Senate Finance Committee and five (5) members of the House of
660 Representatives Ways and Means Committee, appointed by the
661 respective committee chairmen.

662 **SECTION 35.** Section 57-1-307, Mississippi Code of 1972, is
663 amended as follows:

664 57-1-307. (1) The State Bond Commission, at one time, or
665 from time to time, may declare by resolution the necessity for
666 issuance of general obligation bonds of the State of Mississippi
667 to provide funds for all costs incurred or to be incurred for the
668 purposes described in Section 57-1-303. Upon the adoption of a
669 resolution by the Mississippi Development Authority, declaring the
670 necessity for the issuance of any part or all of the general
671 obligation bonds authorized by this section, the Mississippi
672 Development Authority shall deliver a certified copy of its
673 resolution or resolutions to the State Bond Commission. Upon
674 receipt of such resolution, the State Bond Commission, in its
675 discretion, may act as the issuing agent, prescribe the form of
676 the bonds, advertise for and accept bids, issue and sell the bonds
677 so authorized to be sold and do any and all other things necessary
678 and advisable in connection with the issuance and sale of such
679 bonds. The total amount of bonds issued under Sections 57-1-307
680 through 57-1-335 shall not exceed Ninety-seven Million Dollars

681 (\$97,000,000.00); provided, however, that an additional amount of
682 bonds may be issued under Sections 57-1-307 and 57-1-335 in an
683 amount not to exceed Thirteen Million Dollars (\$13,000,000.00),
684 and the proceeds of any such additional amount of bonds so issued
685 shall be utilized solely to provide loans for capital improvements
686 that would qualify for the issuance of bonds whose interest is
687 exempt from income taxation under the provisions of the Internal
688 Revenue Code.

689 (2) Proceeds from the sale of bonds shall be deposited in
690 the special fund created in Section 57-1-303. Any investment
691 earnings on amounts deposited into the special fund created in
692 Section 57-1-303 shall be used to pay debt service on bonds issued
693 under Sections 57-1-307 through 57-1-335, in accordance with the
694 proceedings authorizing issuance of such bonds.

695 **SECTION 36.** Section 57-61-25, Mississippi Code of 1972, is
696 amended as follows:

697 57-61-25. (1) The seller is authorized to borrow, on the
698 credit of the state upon receipt of a resolution from the
699 Mississippi Development Authority requesting the same, money not
700 exceeding the aggregate sum of Three Hundred Eight Million Dollars
701 (\$308,000,000.00), not including money borrowed to refund
702 outstanding bonds, notes or replacement notes, as may be necessary
703 to carry out the purposes of this chapter. The rate of interest
704 on any such bonds or notes which are not subject to taxation shall
705 not exceed the rates set forth in Section 75-17-101, Mississippi
706 Code of 1972, for general obligation bonds.

707 (2) As evidence of indebtedness authorized in this chapter,
708 general or limited obligation bonds of the state shall be issued
709 from time to time, to provide monies necessary to carry out the
710 purposes of this chapter for such total amounts, in such form, in
711 such denominations payable in such currencies (either domestic or
712 foreign or both) and subject to such terms and conditions of
713 issue, redemption and maturity, rate of interest and time of

714 payment of interest as the seller directs, except that such bonds
715 shall mature or otherwise be retired in annual installments
716 beginning not more than five (5) years from date thereof and
717 extending not more than thirty (30) years from date thereof.

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

722 (4) All bonds and notes issued under authority of this
723 chapter may be general or limited obligations of the state, and
724 the full faith and credit of the State of Mississippi as to
725 general obligation bonds, or the revenues derived from projects
726 assisted as to limited obligation bonds, are hereby pledged for
727 the payment of the principal of and interest on such bonds and
728 notes.

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

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

735 (7) The seller is authorized to provide, by resolution, for
736 the issuance of refunding bonds for the purpose of refunding any
737 debt issued under the provision of this chapter and then
738 outstanding, either by voluntary exchange with the holders of the
739 outstanding debt or to provide funds to redeem and the costs of
740 issuance and retirement of the debt, at maturity or at any call
741 date. The issuance of the refunding bonds, the maturities and
742 other details thereof, the rights of the holders thereof and the
743 duties of the issuing officials in respect to the same shall be
744 governed by the provisions of this section, insofar as they may be
745 applicable.

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

750 (9) The proceeds of bonds issued under this chapter after
751 April 9, 2002, may be used to reimburse reasonable actual and
752 necessary costs incurred by the Mississippi Development Authority
753 in administering a program or providing assistance related to a
754 project, or both, for which funding is provided from the use of
755 proceeds of such bonds. An accounting of actual costs incurred
756 for which reimbursement is sought shall be maintained for each
757 project by the Mississippi Development Authority. Reimbursement
758 of reasonable actual and necessary costs for a program or project
759 shall not exceed three percent (3%) of the proceeds of bonds
760 issued for such program or project. Monies authorized for a
761 particular program or project may not be used to reimburse
762 administrative costs for unrelated programs or projects.
763 Reimbursements under this subsection shall satisfy any applicable
764 federal tax law requirements.

765 **SECTION 37.** Section 57-61-34, Mississippi Code of 1972, is
766 amended as follows:

767 57-61-34. Notwithstanding any provision of this chapter to
768 the contrary, the Mississippi Development Authority shall utilize
769 not more than Nineteen Million Dollars (\$19,000,000.00) out of the
770 proceeds of bonds authorized to be issued in this chapter to be
771 made available as interest-bearing loans to municipalities or
772 private companies to aid in the establishment of business
773 incubation centers and the creation of new and expanding research
774 and development and technology-based business and industry.

775 In exercising the power given it under this section, the
776 Mississippi Development Authority shall work in conjunction with
777 the University Research Center and may contract with the center to

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

780 The requirements of Section 57-61-9 shall not apply to any
781 loan made under this section. The Mississippi Development
782 Authority shall establish criteria and guidelines to govern loans
783 made pursuant to this section.

784 **SECTION 38.** Section 57-61-36, Mississippi Code of 1972, is
785 amended as follows:

786 57-61-36. (1) Notwithstanding any provision of this chapter
787 to the contrary, the Mississippi Development Authority shall
788 utilize not more than Twelve Million Five Hundred Thousand Dollars
789 (\$12,500,000.00) out of the proceeds of bonds authorized to be
790 issued in this chapter for the purpose of making grants to
791 municipalities through a development infrastructure grant fund to
792 complete infrastructure related to new or expanded industry.

793 (2) Notwithstanding any provision of this chapter to the
794 contrary, the Mississippi Development Authority may utilize not
795 more than Seven Million Dollars (\$7,000,000.00) out of the
796 proceeds of bonds authorized to be issued in this chapter for the
797 purpose of making interest-bearing loans to any agency,
798 department, institution, instrumentality or political subdivision
799 of the state; or any agency, department, institution or
800 instrumentality of any political subdivision of the state; or any
801 business, organization, corporation, association or other legal
802 entity meeting criteria established by the department, through a
803 housing development revolving loan fund, to construct or repair
804 housing for low or moderate income earners; provided, however,
805 that the department may not utilize any bond proceeds authorized
806 under this chapter for the purpose of making any loans to the
807 Mississippi Home Corporation for any purpose whatsoever. No more
808 than forty percent (40%) of the additional bonds authorized by
809 Chapter 559, Laws of 1998, may be used for multiple family housing
810 activities. Funds authorized under this subsection may be

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

815 (3) Notwithstanding any provision of this chapter to the
816 contrary, the Mississippi Development Authority shall utilize not
817 more than Sixteen Million Five Hundred Thousand Dollars
818 (\$16,500,000.00) out of the proceeds of bonds authorized to be
819 issued in this chapter for the purpose of making grants or loans
820 to municipalities through an equipment and public facilities grant
821 and loan fund to aid in infrastructure-related improvements as
822 determined by the Mississippi Development Authority, the purchase
823 of equipment and in the purchase, construction or repair and
824 renovation of public facilities. Any bonds previously issued for
825 the Development Infrastructure Revolving Loan Program which have
826 not been loaned or applied for are eligible to be administered as
827 grants or loans.

828 The requirements of Section 57-61-9 shall not apply to any
829 grant made under this subsection. The Mississippi Development
830 Authority may establish criteria and guidelines to govern grants
831 made pursuant to this subsection.

832 (4) Notwithstanding any provision of this chapter to the
833 contrary, the Mississippi Development Authority may utilize not
834 more than Seven Hundred Fifty Thousand Dollars (\$750,000.00) out
835 of the proceeds of bonds authorized to be issued in this chapter
836 in order to match federal funds available from the United States
837 Department of Agriculture for the purpose of establishing an
838 intermediary relending program to be administered by the
839 Mississippi Development Authority. The Mississippi Development
840 Authority may establish criteria and guidelines to govern loans
841 made under such program. This subsection (4) shall be repealed
842 from and after April 9, 2002.

843 (5) The Mississippi Development Authority may establish a
844 capital access program and may contract with any financial
845 institution to participate in the program upon such terms and
846 conditions as the authority shall consider necessary and proper.
847 The Mississippi Development Authority may establish loss reserve
848 accounts at financial institutions that participate in the program
849 and require payments by the financial institution and the borrower
850 to such loss reserve accounts. All money in such loss reserve
851 accounts is the property of the Mississippi Development Authority.

852 Under the capital access program a participating financial
853 institution may make a loan to any borrower the Mississippi
854 Development Authority determines to be qualified under rules and
855 regulations adopted by the authority and be protected against
856 losses from such loans as provided in the program. Under such
857 rules and regulations as may be adopted by the Mississippi
858 Development Authority, a participating financial institution may
859 submit claims for the reimbursement for losses incurred as a
860 result of default on loans by qualified borrowers.

861 Notwithstanding any provision of this chapter to the
862 contrary, the Mississippi Development Authority may utilize not
863 more than Seven Hundred Fifty Thousand Dollars (\$750,000.00) out
864 of the proceeds of bonds authorized to be issued in this chapter
865 for the purpose of making payments to loan loss reserve accounts
866 established at financial institutions that participate in the
867 capital access program established by the Mississippi Development
868 Authority.

869 (6) Notwithstanding any provision of this chapter to the
870 contrary, the Mississippi Development Authority shall utilize not
871 more than Two Hundred Thousand Dollars (\$200,000.00) out of the
872 proceeds of bonds authorized to be issued in this chapter for the
873 purpose of assisting Warren County, Mississippi, in the
874 continuation and completion of the study for the proposed Kings
875 Point levee.

876 (7) Notwithstanding any provision of this chapter to the
877 contrary, the Mississippi Development Authority shall utilize not
878 more than One Hundred Thousand Dollars (\$100,000.00) out of the
879 proceeds of bonds authorized to be issued in this chapter for the
880 purpose of developing a long-range plan for coordinating the
881 resources of the state institutions of higher learning, the
882 community and junior colleges, the Mississippi Development
883 Authority and other state agencies in order to promote economic
884 development in the state.

885 (8) Notwithstanding any other provision of this chapter to
886 the contrary, the Mississippi Development Authority shall use not
887 more than One Hundred Fifty Thousand Dollars (\$150,000.00) out of
888 the proceeds of bonds authorized to be issued in this chapter for
889 the purpose of providing assistance to municipalities that have
890 received community development block grant funds for repair,
891 renovation and other improvements to buildings for use as
892 community centers. Assistance provided to a municipality under
893 this subsection shall be used by the municipality to match such
894 community development block grant funds. The maximum amount of
895 assistance that may be provided to a municipality under this
896 subsection shall not exceed Seventy-five Thousand Dollars
897 (\$75,000.00) in the aggregate.

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

899 (a) "Manufacturing enterprise" means an enterprise
900 that:

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

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

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

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

913 (3) Any tax credit claimed under this section but not used
914 in any taxable year may be carried forward for five (5) years from
915 the close of the tax year in which the eligible investment was
916 made, but the credit established by this section taken in any one
917 tax year shall not exceed fifty percent (50%) of the taxpayer's
918 state income tax liability which is attributable to income derived
919 from operations in the state for that year reduced by the sum of
920 all other income tax credits allowable to the taxpayer, except
921 credit for tax payments made by or on behalf of the taxpayer.

922 (4) The maximum credit that may be claimed by a taxpayer on
923 any project shall be limited to One Million Dollars
924 (\$1,000,000.00).

925 (5) The credit received under this section is subject to
926 recapture if the property for which the tax credit was received is
927 disposed of, or converted to, other than business use. The amount
928 of the credit subject to recapture is one hundred percent (100%)
929 of the credit in the first year and fifty percent (50%) of the
930 credit in the second year. This subsection shall not apply in
931 cases in which an entire facility is sold.

932 (6) The sale, merger, acquisition, reorganization,
933 bankruptcy or relocation from one county to another county within
934 the state of any manufacturing enterprise may not create new
935 eligibility in any succeeding business entity, but any unused
936 manufacturing investment tax credit may be transferred and
937 continued by any transferee of the enterprise. The State Tax
938 Commission shall determine whether or not qualifying net increases
939 or decreases have occurred or proper transfers of credit have been
940 made and may require reports, promulgate regulations, and hold
941 hearings as needed for substantiation and qualification.

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

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

948 **SECTION 40.** Section 27-31-101, Mississippi Code of 1972, is
949 amended as follows:

950 27-31-101. (1) County boards of supervisors and municipal
951 authorities are hereby authorized and empowered, in their
952 discretion, to grant exemptions from ad valorem taxation, except
953 state ad valorem taxation. * * * However, the governing
954 authorities shall not exempt ad valorem taxes for school district
955 purposes on tangible property used in, or necessary to, the
956 operation of the manufacturers and other new enterprises * * *
957 enumerated by classes in this section, except to the extent
958 authorized in Sections 27-31-104 and 27-31-105(2), nor shall they
959 exempt from ad valorem taxes the products of the manufacturers or
960 other new enterprises or automobiles and trucks belonging to
961 the * * * manufacturers or other new enterprises operating on and
962 over the highways of the State of Mississippi. The time of such
963 exemption shall be for a period not to exceed a total of ten (10)
964 years which shall begin on the date of completion of the new
965 enterprise for which the exemption is granted; however, boards of
966 supervisors and municipal authorities, in lieu of granting the
967 exemption for one (1) period of ten (10) years, may grant the
968 exemption in a period of less than ten (10) years. When the
969 initial exemption period granted is less than ten (10) years, the
970 boards of supervisors and municipal authorities may grant a
971 subsequent consecutive period or periods to follow the initial
972 period of exemption, provided that the total of all periods of
973 exemption shall not exceed ten (10) years. The date of completion
974 of the new enterprise, from which the initial period of exemption

975 shall begin, shall be the date on which operations of the new
976 enterprise begin. Any request for an exemption must be made in
977 writing by June 1 of the year immediately following the year in
978 which the date of completion of a new enterprise occurs.

979 * * *

980 (2) Any board of supervisors or municipal authority which
981 has granted an exemption for a period of less than ten (10) years
982 may grant subsequent periods of exemption to run consecutively
983 with the initial exemption period, or a subsequently granted
984 exemption period, but in no case shall the total of the exemption
985 periods granted for a new enterprise exceed ten (10) years. Any
986 consecutive period of exemption shall be granted by entry of an
987 order by the board or the authority granting the consecutive
988 exemption on its minutes, reflecting the granting of the
989 consecutive exemption period and the dates upon which such
990 consecutive exemption period begins and expires. The entry of
991 this order granting the consecutive period of exemption shall be
992 made before the expiration of the exemption period immediately
993 preceding the consecutive exemption period being granted.

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

997 (a) Warehouse and/or distribution centers;

998 (b) Manufacturing, processors and refineries;

999 (c) Research facilities;

1000 (d) Corporate regional and national headquarters
1001 meeting minimum criteria established by the Mississippi
1002 Development Authority;

1003 (e) Movie industry studios meeting minimum criteria
1004 established by the Mississippi Development Authority;

1005 (f) Air transportation and maintenance facilities
1006 meeting minimum criteria established by the Mississippi
1007 Development Authority;

1008 (g) Recreational facilities that impact tourism meeting
1009 minimum criteria established by the Mississippi Development
1010 Authority; * * *

1011 (h) Data/information processing enterprises or
1012 facilities meeting minimum criteria established by the Mississippi
1013 Development Authority;

1014 (i) Technology intensive enterprises or facilities
1015 meeting criteria established by the Mississippi Development
1016 Authority; and

1017 (j) Telecommunications enterprises meeting minimum
1018 criteria established by the Mississippi Development Authority.

1019 The term "telecommunications enterprises" means entities engaged
1020 in the creation, display, management, storage, processing,
1021 transmission or distribution for compensation of images, text,
1022 voice, video or data by wire or by wireless means, or entities
1023 engaged in the construction, design, development, manufacture,
1024 maintenance or distribution for compensation of devices, products,
1025 software or structures used in the above activities. Companies
1026 organized to do business as commercial broadcast radio stations,
1027 television stations or news organizations primarily serving
1028 in-state markets shall not be included within the definition of
1029 the term "telecommunications enterprises."

1030 **SECTION 41.** Section 27-65-17, Mississippi Code of 1972, is
1031 amended as follows:

1032 27-65-17. (1) (a) Except as otherwise provided in this
1033 section, upon every person engaging or continuing within this
1034 state in the business of selling any tangible personal property
1035 whatsoever there is hereby levied, assessed and shall be collected
1036 a tax equal to seven percent (7%) of the gross proceeds of the
1037 retail sales of the business * * *.

1038 (b) Retail sales of farm tractors shall be taxed at the
1039 rate of one percent (1%) when made to farmers for agricultural
1040 purposes.

1041 (c) Retail sales of farm implements sold to farmers and
1042 used directly in the production of poultry, ratite, domesticated
1043 fish as defined in Section 69-7-501, livestock, livestock
1044 products, agricultural crops or ornamental plant crops or used for
1045 other agricultural purposes shall be taxed at the rate of three
1046 percent (3%) when used on the farm. The three percent (3%) rate
1047 shall also apply to all equipment used in logging, pulpwood
1048 operations or tree farming which is either:

1049 (i) Self-propelled, or * * *

1050 (ii) Mounted so that it is * * * permanently
1051 attached to other equipment which is self-propelled or * * *
1052 permanently attached to other equipment drawn by a vehicle which
1053 is self-propelled.

1054 (d) Except as otherwise provided in subsection (3) of
1055 this section, retail sales of aircraft, automobiles, trucks,
1056 truck-tractors, semitrailers and mobile homes shall be taxed at
1057 the rate of three percent (3%).

1058 (e) Sales of manufacturing machinery or manufacturing
1059 machine parts when made to a manufacturer or custom processor for
1060 plant use only when the machinery and machine parts will be used
1061 exclusively and directly within this state in manufacturing a
1062 commodity for sale, rental or in processing for a fee shall be
1063 taxed at the rate of one and one-half percent (1-1/2%).

1064 (f) Sales of machinery and machine parts when made to a
1065 technology intensive enterprise for plant use only when the
1066 machinery and machine parts will be used exclusively and directly
1067 within this state for industrial purposes, including, but not
1068 limited to, manufacturing or research and development activities,
1069 shall be taxed at the rate of one and one-half percent (1-1/2%).
1070 In order to be considered a technology intensive enterprise for
1071 purposes of this paragraph:

1072 (i) The enterprise shall meet minimum criteria
1073 established by the Mississippi Development Authority;

1074 (ii) The enterprise shall employ at least ten (10)
1075 persons in full-time jobs;

1076 (iii) At least ten percent (10%) of the workforce
1077 in the facility operated by the enterprise shall be scientists,
1078 engineers or computer specialists;

1079 (iv) The enterprise shall manufacture plastics,
1080 chemicals, automobiles, aircraft, computers or electronics; or
1081 shall be a research and development facility, a computer design or
1082 related facility, or a software publishing facility or other
1083 technology intensive facility or enterprise as determined by the
1084 Mississippi Development Authority;

1085 (v) The average wage of all workers employed by
1086 the enterprise at the facility shall be at least one hundred fifty
1087 percent (150%) of the state average annual wage; and

1088 (vi) The enterprise must provide a basic health
1089 care plan to all employees at the facility.

1090 (g) Sales of materials for use in track and track
1091 structures to a railroad whose rates are fixed by the Interstate
1092 Commerce Commission or the Mississippi Public Service Commission
1093 shall be taxed at the rate of three percent (3%).

1094 (h) Sales of tangible personal property to electric
1095 power associations for use in the ordinary and necessary operation
1096 of their generating or distribution systems shall be taxed at the
1097 rate of one percent (1%).

1098 (i) Wholesale sales of beer shall be taxed at the rate
1099 of seven percent (7%), and the retailer shall file a return and
1100 compute the retail tax on retail sales but may take credit for the
1101 amount of the tax paid to the wholesaler on the return covering
1102 the subsequent sales of same property, provided adequate invoices
1103 and records are maintained to substantiate the credit.

1104 (j) Wholesale sales of food and drink for human
1105 consumption to full service vending machine operators to be sold
1106 through vending machines located apart from and not connected with

1107 other taxable businesses shall be taxed at the rate of eight
1108 percent (8%).

1109 * * *

1110 (2) From and after January 1, 1995, retail sales of private
1111 carriers of passengers and light carriers of property, as defined
1112 in Section 27-51-101, shall be taxed an additional two percent
1113 (2%).

1114 (3) In lieu of the tax levied in subsection (1) of this
1115 section, there is levied on retail sales of truck-tractors and
1116 semitrailers used in interstate commerce and registered under the
1117 International Registration Plan (IRP) or any similar reciprocity
1118 agreement or compact relating to the proportional registration of
1119 commercial vehicles entered into as provided for in Section
1120 27-19-143, a tax at the rate of three percent (3%) of the portion
1121 of the sale that is attributable to the usage of such
1122 truck-tractor or semitrailer in Mississippi. The portion of the
1123 retail sale that is attributable to the usage of such
1124 truck-tractor or semitrailer in Mississippi is the retail sales
1125 price of the truck-tractor or semitrailer multiplied by the
1126 percentage of the total miles traveled by the vehicle that are
1127 traveled in Mississippi. The tax levied pursuant to this
1128 subsection (3) shall be collected by the State Tax Commission from
1129 the purchaser of such truck-tractor or semitrailer at the time of
1130 registration of such truck-tractor or semitrailer.

1131 (4) A manufacturer selling at retail in this state shall be
1132 required to make returns of the gross proceeds of such sales and
1133 pay the tax imposed in this section.

1134 (5) Any person exercising any privilege taxable under
1135 Section 27-65-15 and selling his natural resource products at
1136 wholesale or to exempt persons shall pay the tax levied by such
1137 section in lieu of the tax levied by this section.

1138 **SECTION 42.** Section 27-65-19, Mississippi Code of 1972, is
1139 amended as follows:

1140 27-65-19. (1) (a) Except as otherwise provided in this
1141 subsection, upon every person selling to consumers, electricity,
1142 current, power, potable water, steam, coal, natural gas, liquefied
1143 petroleum gas or other fuel, there is hereby levied, assessed and
1144 shall be collected a tax equal to seven percent (7%) of the gross
1145 income of the business. Provided, gross income from sales to
1146 consumers of electricity, current, power, natural gas, liquefied
1147 petroleum gas or other fuel for residential heating, lighting or
1148 other residential noncommercial or nonagricultural use, and sales
1149 of potable water for residential, noncommercial or nonagricultural
1150 use shall be excluded from taxable gross income of the business.
1151 Provided further, upon every such seller using electricity,
1152 current, power, potable water, steam, coal, natural gas, liquefied
1153 petroleum gas or other fuel for nonindustrial purposes, there is
1154 hereby levied, assessed and shall be collected a tax equal to
1155 seven percent (7%) of the cost or value of the product or service
1156 used.

1157 (b) There is hereby levied, assessed and shall be
1158 collected a tax equal to one and one-half percent (1-1/2%) of the
1159 gross income of the business when the electricity, current, power,
1160 steam, coal, natural gas, liquefied petroleum gas or other fuel is
1161 sold to or used by a manufacturer, custom processor, technology
1162 intensive enterprise meeting the criteria provided for in Section
1163 27-65-17(1)(f), or public service company for industrial purposes,
1164 which shall include that used to generate electricity, to operate
1165 an electrical distribution or transmission system, to operate
1166 pipeline compressor or pumping stations or to operate railroad
1167 locomotives; however, sales of fuel used to produce electric power
1168 by a company primarily engaged in the business of producing,
1169 generating or distributing electric power for sale shall be exempt
1170 from sales tax as provided in Section 27-65-107.

1171 (c) The one and one-half percent (1-1/2%) industrial
1172 rate provided for in this subsection shall also apply when the

1173 electricity, current, power, steam, coal, natural gas, liquefied
1174 petroleum gas or other fuel is sold to a producer or processor for
1175 use directly in the production of poultry or poultry products, the
1176 production of livestock and livestock products, the production of
1177 domesticated fish and domesticated fish products, the production
1178 of marine aquaculture products, the production of plants or food
1179 by commercial horticulturists, the processing of milk and milk
1180 products, the processing of poultry and livestock feed, and the
1181 irrigation of farm crops.

1182 (d) The one and one-half percent (1-1/2%) rate provided
1183 for in this subsection shall not apply to sales of fuel for
1184 automobiles, trucks, truck-tractors, buses, farm tractors or
1185 airplanes.

1186 (e) Upon every person operating a telegraph or
1187 telephone business for the transmission of messages or
1188 conversations between points within this state, there is hereby
1189 levied, assessed and shall be collected a tax equal to seven
1190 percent (7%) of the gross income of such business, with no
1191 deduction or allowance for any part of an intrastate rate charge
1192 because of routing across a state line. Charges by one
1193 telecommunications provider to another telecommunications provider
1194 holding a permit issued under Section 27-65-27 for services that
1195 are resold by such other telecommunications provider, including,
1196 but not limited to, access charges, shall not be subject to the
1197 tax levied pursuant to this paragraph (e). However, any sale of a
1198 prepaid telephone calling card or prepaid authorization number, or
1199 both, shall be deemed to be the sale of tangible personal property
1200 subject only to such taxes imposed by law on the sale of tangible
1201 personal property. If the sale of a prepaid telephone calling
1202 card or prepaid authorization number does not take place at the
1203 vendor's place of business, it shall be conclusively determined to
1204 take place at the customer's shipping address. The
1205 reauthorization of a prepaid telephone calling card or a prepaid

1206 authorization number shall be conclusively determined to take
1207 place at the customer's billing address. Except for the
1208 provisions governing the sale of a prepaid telephone calling card
1209 or prepaid authorization number, this paragraph (e) shall not
1210 apply to persons providing mobile telecommunications services that
1211 are taxed pursuant to paragraph (g) of this section.

1212 (f) Upon every person operating a telegraph or
1213 telecommunications business for the transmission of messages or
1214 conversations originating in this state or terminating in this
1215 state via interstate telecommunications, which are charged to the
1216 customer's service address in this state, regardless of where such
1217 amount is billed or paid, there is hereby levied, assessed and
1218 shall be collected a tax equal to seven percent (7%) of the gross
1219 income received by such business from such interstate
1220 telecommunications. However, a person, upon proof that he has
1221 paid a tax in another state on such event, shall be allowed a
1222 credit against the tax imposed in this paragraph (f) on interstate
1223 telecommunications charges to the extent that the amount of such
1224 tax is properly due and actually paid in such other state and to
1225 the extent that the rate of sales tax imposed by and paid to such
1226 other state does not exceed the rate of sales tax imposed by this
1227 paragraph (f). Charges by one telecommunications provider to
1228 another telecommunications provider holding a permit issued under
1229 Section 27-65-27 for services that are resold by such other
1230 telecommunications provider, including, but not limited to, access
1231 charges, shall not be subject to the tax levied pursuant to this
1232 paragraph (f). This paragraph (f) shall not apply to persons
1233 providing mobile telecommunications services that are taxed
1234 pursuant to paragraph (g) of this subsection.

1235 (g) (i) Upon every person providing mobile
1236 telecommunications services in this state there is hereby levied,
1237 assessed and shall be collected:

1238 1. A tax equal to seven percent (7%) of the
1239 gross income received on such services from all charges for
1240 transmission of messages or conversations between points within
1241 any single state as they shall be construed to be within this
1242 state; and

1243 2. A tax equal to seven percent (7%) on the
1244 gross income received from all charges for services that originate
1245 in one state and terminate in any other state.

1246 Charges by one telecommunications provider to another
1247 telecommunications provider holding a permit issued under Section
1248 27-65-27 for services that are resold by such other
1249 telecommunications provider, including, but not limited to, access
1250 charges, shall not be subject to the tax levied pursuant to this
1251 paragraph (g).

1252 (ii) Subject to the provisions of 4 USCS 116(c),
1253 the tax levied by this paragraph (g) shall apply only to those
1254 charges for mobile telecommunications services subject to tax
1255 which are deemed to be provided to a customer by a home service
1256 provider pursuant to 4 USCS 117(a), if the customer's place of
1257 primary use is located within this state.

1258 (iii) A home service provider shall be responsible
1259 for obtaining and maintaining the customer's place of primary use.
1260 The home service provider shall be entitled to rely on the
1261 applicable residential or business street address supplied by such
1262 customer, if the home service provider's reliance is in good
1263 faith; and the home service provider shall be held harmless from
1264 liability for any additional taxes based on a different
1265 determination of the place of primary use for taxes that are
1266 customarily passed on to the customer as a separate itemized
1267 charge. A home service provider shall be allowed to treat the
1268 address used for purposes of the tax levied by this chapter for
1269 any customer under a service contract in effect on August 1, 2002,
1270 as that customer's place of primary use for the remaining term of

1271 such service contract or agreement, excluding any extension or
1272 renewal of such service contract or agreement. Month-to-month
1273 services provided after the expiration of a contract shall be
1274 treated as an extension or renewal of such contract or agreement.

1275 If the commissioner determines that the address used by a
1276 home service provider as a customer's place of primary use does
1277 not meet the definition of the term "place of primary use" as
1278 defined in this paragraph, the commissioner shall give binding
1279 notice to the home service provider to change the place of primary
1280 use on a prospective basis from the date of notice of
1281 determination; however, the customer shall have the opportunity,
1282 prior to such notice of determination, to demonstrate that such
1283 address satisfies such definition.

1284 The commission has the right to collect any taxes due
1285 directly from the home service provider's customer that has failed
1286 to provide an address that meets the definition of the term "place
1287 of primary use" which resulted in a failure of tax otherwise due
1288 being remitted.

1289 (iv) For purposes of this paragraph (g):

1290 1. "Place of primary use" means the street
1291 address representative of where the customer's use of mobile
1292 telecommunications services primarily occurs, which shall be
1293 either the residential street address of the customer or the
1294 primary business street address of the customer.

1295 2. "Customer" means the person or entity that
1296 contracts with the home service provider for mobile
1297 telecommunications services. For determining the place of primary
1298 use, in those instances in which the end user of mobile
1299 telecommunications services is not the contracting party, the end
1300 user of the mobile telecommunications services shall be deemed the
1301 customer. The term "customer" shall not include a reseller of
1302 mobile telecommunications service, or a serving carrier under an

1303 arrangement to serve the customer outside the home service
1304 provider's licensed service area.

1305 3. "Home service provider" means the
1306 facilities-based carrier or reseller with which the customer
1307 contracts for the provision of mobile telecommunications services.

1308 (h) (i) For purposes of this paragraph (h), "bundled
1309 transaction" means a transaction that consists of distinct and
1310 identifiable properties or services which are sold for a single
1311 nonitemized price but which are treated differently for tax
1312 purposes.

1313 (ii) In the case of a bundled transaction that
1314 includes telecommunications services taxed under this section in
1315 which the price of the bundled transaction is attributable to
1316 properties or services that are taxable and nontaxable, the
1317 portion of the price that is attributable to any nontaxable
1318 property or service shall be subject to the tax unless the
1319 provider can reasonably identify that portion from its books and
1320 records kept in the regular course of business.

1321 (iii) In the case of a bundled transaction that
1322 includes telecommunications services subject to tax under this
1323 section in which the price is attributable to properties or
1324 services that are subject to the tax but the tax revenue from the
1325 different properties or services are dedicated to different funds
1326 or purposes, the provider shall allocate the price among the
1327 properties or services:

1328 1. By reasonably identifying the portion of
1329 the price attributable to each of the properties and services from
1330 its books and records kept in the regular course of business; or

1331 2. Based on a reasonable allocation
1332 methodology approved by the commission.

1333 (iv) This paragraph (h) shall not create a right
1334 of action for a customer to require that the provider or the
1335 commission, for purposes of determining the amount of tax

1336 applicable to a bundled transaction, allocate the price to the
1337 different portions of the transaction in order to minimize the
1338 amount of tax charged to the customer. A customer shall not be
1339 entitled to rely on the fact that a portion of the price is
1340 attributable to properties or services not subject to tax unless
1341 the provider elects, after receiving a written request from the
1342 customer in the form required by the provider, to provide
1343 verifiable data based upon the provider's books and records that
1344 are kept in the regular course of business that reasonably
1345 identifies the portion of the price attributable to the properties
1346 or services not subject to the tax.

1347 (2) Persons making sales to consumers of electricity,
1348 current, power, natural gas, liquefied petroleum gas or other fuel
1349 for residential heating, lighting or other residential
1350 noncommercial or nonagricultural use or sales of potable water for
1351 residential, noncommercial or nonagricultural use shall indicate
1352 on each statement rendered to customers that such charges are
1353 exempt from sales taxes.

1354 (3) There is hereby levied, assessed and shall be paid on
1355 transportation charges on shipments moving between points within
1356 this state when paid directly by the consumer, a tax equal to the
1357 rate applicable to the sale of the property being transported.
1358 Such tax shall be reported and paid directly to the State Tax
1359 Commission by the consumer.

1360 **SECTION 43.** Section 27-65-101, Mississippi Code of 1972, is
1361 amended as follows:

1362 27-65-101. (1) The exemptions from the provisions of this
1363 chapter which are of an industrial nature or which are more
1364 properly classified as industrial exemptions than any other
1365 exemption classification of this chapter shall be confined to
1366 those persons or property exempted by this section or by the
1367 provisions of the Constitution of the United States or the State
1368 of Mississippi. No industrial exemption as now provided by any

1369 other section except Section 57-3-33 shall be valid as against the
1370 tax herein levied. Any subsequent industrial exemption from the
1371 tax levied hereunder shall be provided by amendment to this
1372 section. No exemption provided in this section shall apply to
1373 taxes levied by Section 27-65-15 or 27-65-21.

1374 The tax levied by this chapter shall not apply to the
1375 following:

1376 (a) Sales of boxes, crates, cartons, cans, bottles and
1377 other packaging materials to manufacturers and wholesalers for use
1378 as containers or shipping materials to accompany goods sold by
1379 said manufacturers or wholesalers where possession thereof will
1380 pass to the customer at the time of sale of the goods contained
1381 therein and sales to anyone of containers or shipping materials
1382 for use in ships engaged in international commerce.

1383 (b) Sales of raw materials, catalysts, processing
1384 chemicals, welding gases or other industrial processing gases
1385 (except natural gas) to a manufacturer for use directly in
1386 manufacturing or processing a product for sale or rental or
1387 repairing or reconditioning vessels or barges of fifty (50) tons
1388 load displacement and over. For the purposes of this exemption,
1389 electricity used directly in the electrolysis process in the
1390 production of sodium chlorate shall be considered a raw material.
1391 This exemption shall not apply to any property used as fuel except
1392 to the extent that such fuel comprises by-products which have no
1393 market value.

1394 (c) The gross proceeds of sales of dry docks, offshore
1395 drilling equipment for use in oil exploitation or production,
1396 vessels or barges of fifty (50) tons load displacement and over,
1397 when sold by the manufacturer or builder thereof.

1398 (d) Sales to commercial fishermen of commercial fishing
1399 boats of over five (5) tons load displacement and not more than
1400 fifty (50) tons load displacement as registered with the United

1401 States Coast Guard and licensed by the Mississippi Commission on
1402 Marine Resources.

1403 (e) The gross income from repairs to vessels and barges
1404 engaged in foreign trade or interstate transportation.

1405 (f) Sales of petroleum products to vessels or barges
1406 for consumption in marine international commerce or interstate
1407 transportation businesses.

1408 (g) Sales and rentals of rail rolling stock (and
1409 component parts thereof) for ultimate use in interstate commerce
1410 and gross income from services with respect to manufacturing,
1411 repairing, cleaning, altering, reconditioning or improving such
1412 rail rolling stock (and component parts thereof).

1413 (h) Sales of raw materials, catalysts, processing
1414 chemicals, welding gases or other industrial processing gases
1415 (except natural gas) used or consumed directly in manufacturing,
1416 repairing, cleaning, altering, reconditioning or improving such
1417 rail rolling stock (and component parts thereof). This exemption
1418 shall not apply to any property used as fuel.

1419 (i) Sales of machinery or tools or repair parts
1420 therefor or replacements thereof, fuel or supplies used directly
1421 in manufacturing, converting or repairing ships of three thousand
1422 (3,000) tons load displacement and over, but not to include office
1423 and plant supplies or other equipment not directly used on the
1424 ship being built, converted or repaired.

1425 (j) Sales of tangible personal property to persons
1426 operating ships in international commerce for use or consumption
1427 on board such ships. This exemption shall be limited to cases in
1428 which procedures satisfactory to the commissioner, ensuring
1429 against use in this state other than on such ships, are
1430 established.

1431 (k) Sales of materials used in the construction of a
1432 building, or any addition or improvement thereon, and sales of any
1433 machinery and equipment not later than three (3) months after the

1434 completion of construction of the building, or any addition
1435 thereon, to be used therein, to qualified businesses, as defined
1436 in Section 57-51-5, which are located in a county or portion
1437 thereof designated as an enterprise zone pursuant to Sections
1438 57-51-1 through 57-51-15.

1439 (1) Sales of materials used in the construction of a
1440 building, or any addition or improvement thereon, and sales of any
1441 machinery and equipment not later than three (3) months after the
1442 completion of construction of the building, or any addition
1443 thereon, to be used therein, to qualified businesses, as defined
1444 in Section 57-54-5.

1445 (m) Income from storage and handling of perishable
1446 goods by a public storage warehouse.

1447 (n) The value of natural gas lawfully injected into the
1448 earth for cycling, repressuring or lifting of oil, or lawfully
1449 vented or flared in connection with the production of oil;
1450 however, if any gas so injected into the earth is sold for such
1451 purposes, then the gas so sold shall not be exempt.

1452 (o) The gross collections from self-service commercial
1453 laundering, drying, cleaning and pressing equipment.

1454 (p) Sales of materials used in the construction of a
1455 building, or any addition or improvement thereon, and sales of any
1456 machinery and equipment not later than three (3) months after the
1457 completion of construction of the building, or any addition
1458 thereon, to be used therein, to qualified companies, certified as
1459 such by the Mississippi Development Authority under Section
1460 57-53-1.

1461 (q) Sales of component materials used in the
1462 construction of a building, or any addition or improvement
1463 thereon, sales of machinery and equipment to be used therein, and
1464 sales of manufacturing or processing machinery and equipment which
1465 is permanently attached to the ground or to a permanent foundation
1466 and which is not by its nature intended to be housed within a

1467 building structure, not later than three (3) months after the
1468 initial start-up date, to permanent business enterprises engaging
1469 in manufacturing or processing in Tier Three areas (as such term
1470 is defined in Section 57-73-21), which businesses are certified by
1471 the State Tax Commission as being eligible for the exemption
1472 granted in this paragraph (q).

1473 (r) Sales of component materials used in the
1474 construction of a building, or any addition or improvement
1475 thereon, and sales of any machinery and equipment not later than
1476 three (3) months after the completion of the building, addition or
1477 improvement thereon, to be used therein, for any company
1478 establishing or transferring its national or regional headquarters
1479 from within or outside the State of Mississippi and creating a
1480 minimum of thirty-five (35) jobs at the new headquarters in this
1481 state. The Tax Commission shall establish criteria and prescribe
1482 procedures to determine if a company qualifies as a national or
1483 regional headquarters for the purpose of receiving the exemption
1484 provided in this paragraph.

1485 (s) The gross proceeds from the sale of semitrailers,
1486 trailers, boats, travel trailers, motorcycles and all-terrain
1487 cycles if exported from this state within forty-eight (48) hours
1488 and registered and first used in another state.

1489 (t) Gross income from the storage and handling of
1490 natural gas in underground salt domes and in other underground
1491 reservoirs, caverns, structures and formations suitable for such
1492 storage.

1493 (u) Sales of machinery and equipment to nonprofit
1494 organizations if the organization: (i) is tax-exempt pursuant to
1495 Section 501(c)(4) of the Internal Revenue Code of 1986, as
1496 amended; (ii) assists in the implementation of the national
1497 contingency plan or area contingency plan, and which is created in
1498 response to the requirements of Title IV, Subtitle B of the Oil
1499 Pollution Act of 1990, Public Law 101-380; and (iii) engages

1500 primarily in programs to contain, clean up and otherwise mitigate
1501 spills of oil or other substances occurring in the United States
1502 coastal and tidal waters. For purposes of this exemption,
1503 "machinery and equipment" means any ocean-going vessels, barges,
1504 booms, skimmers and other capital equipment used primarily in the
1505 operations of nonprofit organizations referred to herein.

1506 (v) Sales or leases of materials and equipment to
1507 approved business enterprises as provided under the Growth and
1508 Prosperity Act.

1509 (w) From and after July 1, 2001, sales of pollution
1510 control equipment to manufacturers or custom processors for
1511 industrial use. For the purposes of this exemption, "pollution
1512 control equipment" means equipment, devices, machinery or systems
1513 used or acquired to prevent, control, monitor or reduce air, water
1514 or groundwater pollution, or solid or hazardous waste as required
1515 by federal or state law or regulation.

1516 (x) Sales or leases to a manufacturer of motor vehicles
1517 operating a project that has been certified by the Mississippi
1518 Major Economic Impact Authority as a project as defined in Section
1519 57-75-5(f)(iv)1 of machinery and equipment; special tooling such
1520 as dies, molds, jigs and similar items treated as special tooling
1521 for federal income tax purposes; or repair parts therefor or
1522 replacements thereof; repair services thereon; fuel, supplies,
1523 electricity, coal and natural gas used directly in the manufacture
1524 of motor vehicles or motor vehicle parts or used to provide
1525 climate control for manufacturing areas.

1526 (y) Sales or leases of component materials, machinery
1527 and equipment used in the construction of a building, or any
1528 addition or improvement thereon to an enterprise operating a
1529 project that has been certified by the Mississippi Major Economic
1530 Impact Authority as a project as defined in Section
1531 57-75-5(f)(iv)1 and any other sales or leases required to
1532 establish or operate such project.

1533 (z) Sales of component materials and equipment to a
1534 business enterprise as provided under Section 57-64-33.

1535 (aa) The gross income from the stripping and painting
1536 of commercial aircraft engaged in foreign or interstate
1537 transportation business.

1538 (bb) Sales of production items used in the production
1539 of motion pictures such as film; videotape; component building
1540 materials used in the construction of a set; makeup; fabric used
1541 as or in the making of costumes; clothing, including, shoes,
1542 accessories and jewelry used as wardrobes; materials used as set
1543 dressing; materials used as props on a set or by an actor;
1544 materials used in the creation of special effects; and expendable
1545 items purchased for limited use by grip, electric and camera
1546 departments such as tape, fasteners and compressed air. For the
1547 purposes of this paragraph * * * the term "motion picture" means a
1548 nationally distributed feature-length film, video, television
1549 series or commercial made in Mississippi, in whole or in part, for
1550 theatrical or television viewing or as a television pilot. The
1551 term "motion picture" shall not include the production of
1552 television coverage of news and athletic events, or a film, video,
1553 television series or commercial that contains any material or
1554 performance defined in Section 97-29-103.

1555 (cc) Sales of component materials used in the
1556 construction of a facility, or any addition or improvement
1557 thereon, and sales or leases of machinery and equipment not later
1558 than three (3) months after the completion of construction of the
1559 facility, or any addition or improvement thereto, to be used in
1560 the building or any addition or improvement thereto, to a
1561 permanent business enterprise operating a data/information
1562 enterprise in Tier Three areas (as such areas are designated in
1563 accordance with Section 57-73-21), meeting minimum criteria
1564 established by the Mississippi Development Authority.

1565 (dd) Sales of component materials used in the
1566 construction of a facility, or any addition or improvement
1567 thereto, and sales of machinery and equipment not later than three
1568 (3) months after the completion of construction of the facility,
1569 or any addition or improvement thereto, to be used in the facility
1570 or any addition or improvement thereto, to technology intensive
1571 enterprises for industrial purposes in Tier Three areas (as such
1572 areas are designated in accordance with Section 57-73-21), as
1573 certified by the State Tax Commission. For purposes of this
1574 paragraph, an enterprise must meet the criteria provided for in
1575 Section 27-65-17(1)(f) in order to be considered a technology
1576 intensive enterprise.

1577 (2) Sales of component materials used in the construction of
1578 a building, or any addition or improvement thereon, sales of
1579 machinery and equipment to be used therein, and sales of
1580 manufacturing or processing machinery and equipment which is
1581 permanently attached to the ground or to a permanent foundation
1582 and which is not by its nature intended to be housed within a
1583 building structure, not later than three (3) months after the
1584 initial start-up date, to permanent business enterprises engaging
1585 in manufacturing or processing in Tier Two areas and Tier One
1586 areas (as such areas are designated in accordance with Section
1587 57-73-21), which businesses are certified by the State Tax
1588 Commission as being eligible for the exemption granted in this
1589 paragraph, shall be exempt from one-half (1/2) of the taxes
1590 imposed on such transactions under this chapter.

1591 (3) Sales of component materials used in the construction of
1592 a facility, or any addition or improvement thereon, and sales or
1593 leases of machinery and equipment not later than three (3) months
1594 after the completion of construction of the facility, or any
1595 addition or improvement thereto, to be used in the building or any
1596 addition or improvement thereto, to a permanent business
1597 enterprise operating a data/information enterprise in Tier Two

1598 areas and Tier One areas (as such areas are designated in
1599 accordance with Section 57-73-21), which businesses meet minimum
1600 criteria established by the Mississippi Development Authority,
1601 shall be exempt from one-half (1/2) of the taxes imposed on such
1602 transaction under this chapter.

1603 (4) Sales of component materials used in the construction of
1604 a facility, or any addition or improvement thereto, and sales of
1605 machinery and equipment not later than three (3) months after the
1606 completion of construction of the facility, or any addition or
1607 improvement thereto, to be used in the building or any addition or
1608 improvement thereto, to technology intensive enterprises for
1609 industrial purposes in Tier Two areas and Tier One areas (as such
1610 areas are designated in accordance with Section 57-73-21), which
1611 businesses are certified by the State Tax Commission as being
1612 eligible for the exemption granted in this paragraph, shall be
1613 exempt from one-half (1/2) of the taxes imposed on such
1614 transactions under this chapter. For purposes of this subsection,
1615 an enterprise must meet the criteria provided for in Section
1616 27-65-17(1)(f) in order to be considered a technology intensive
1617 enterprise.

1618 (5) (a) For purposes of this subsection:

1619 (i) "Telecommunications enterprises" shall have
1620 the meaning ascribed to such term in Section 57-73-21(13);

1621 (ii) "Tier One areas" mean counties designated as
1622 Tier One areas pursuant to Section 57-73-21(1);

1623 (iii) "Tier Two areas" mean counties designated as
1624 Tier Two areas pursuant to Section 57-73-21(1);

1625 (iv) "Tier Three areas" mean counties designated
1626 as Tier Three areas pursuant to Section 57-73-21(1); and

1627 (v) "Equipment used in the deployment of broadband
1628 technologies" means any equipment capable of being used for or in
1629 connection with the transmission of information at a rate, prior
1630 to taking into account the effects of any signal degradation, that

1631 is not less than three hundred eighty-four (384) kilobits per
1632 second in at least one direction, including, but not limited to,
1633 asynchronous transfer mode switches, digital subscriber line
1634 access multiplexers, routers, servers, multiplexers, fiber optics
1635 and related equipment.

1636 (b) Sales of equipment to telecommunications
1637 enterprises after June 30, 2003, and before July 1, 2013, that is
1638 installed in Tier One areas and used in the deployment of
1639 broadband technologies shall be exempt from one-half (1/2) of the
1640 taxes imposed on such transactions under this chapter.

1641 (c) Sales of equipment to telecommunications
1642 enterprises after June 30, 2003, and before July 1, 2013, that is
1643 installed in Tier Two and Tier Three areas and used in the
1644 deployment of broadband technologies shall be exempt from the
1645 taxes imposed on such transactions under this chapter.

1646 **SECTION 44.** Section 57-73-21, Mississippi Code of 1972, is
1647 amended as follows:

1648 **[In cases involving business enterprises that received or**
1649 **applied for the job tax credit authorized by this section prior to**
1650 **January 1, 2005, this section shall read as follows:]**

1651 57-73-21. (1) Annually by December 31, using the most
1652 current data available from the University Research Center,
1653 Mississippi Department of Employment Security * * * and the United
1654 States Department of Commerce, the State Tax Commission shall rank
1655 and designate the state's counties as provided in this section.
1656 The twenty-eight (28) counties in this state having a combination
1657 of the highest unemployment rate and lowest per capita income for
1658 the most recent thirty-six-month period, with equal weight being
1659 given to each category, are designated Tier Three areas. The
1660 twenty-seven (27) counties in the state with a combination of the
1661 next highest unemployment rate and next lowest per capita income
1662 for the most recent thirty-six-month period, with equal weight
1663 being given to each category, are designated Tier Two areas. The

1664 twenty-seven (27) counties in the state with a combination of the
1665 lowest unemployment rate and the highest per capita income for the
1666 most recent thirty-six-month period, with equal weight being given
1667 to each category, are designated Tier One areas. Counties
1668 designated by the Tax Commission qualify for the appropriate tax
1669 credit for jobs as provided in subsections (2), (3) and (4) of
1670 this section. The designation by the Tax Commission is effective
1671 for the tax years of permanent business enterprises which begin
1672 after the date of designation. For companies which plan an
1673 expansion in their labor forces, the Tax Commission shall
1674 prescribe certification procedures to ensure that the companies
1675 can claim credits in future years without regard to whether or not
1676 a particular county is removed from the list of Tier Three or Tier
1677 Two areas.

1678 (2) Permanent business enterprises primarily engaged in
1679 manufacturing, processing, warehousing, distribution, wholesaling
1680 and research and development, or permanent business enterprises
1681 designated by rule and regulation of the Mississippi Development
1682 Authority as air transportation and maintenance facilities, final
1683 destination or resort hotels having a minimum of one hundred fifty
1684 (150) guest rooms, recreational facilities that impact tourism,
1685 movie industry studios, telecommunications enterprises, data or
1686 information processing enterprises or computer software
1687 development enterprises or any technology intensive facility or
1688 enterprise, in counties designated by the Tax Commission as Tier
1689 Three areas are allowed a job tax credit for taxes imposed by
1690 Section 27-7-5 equal to Two Thousand Dollars (\$2,000.00) annually
1691 for each net new full-time employee job for five (5) years
1692 beginning with years two (2) through six (6) after the creation of
1693 the job. The number of new full-time jobs must be determined by
1694 comparing the monthly average number of full-time employees
1695 subject to the Mississippi income tax withholding for the taxable
1696 year with the corresponding period of the prior taxable year.

1697 Only those permanent businesses that increase employment by ten
1698 (10) or more in a Tier Three area are eligible for the credit.
1699 Credit is not allowed during any of the five (5) years if the net
1700 employment increase falls below ten (10). The Tax Commission
1701 shall adjust the credit allowed each year for the net new
1702 employment fluctuations above the minimum level of ten (10).

1703 (3) Permanent business enterprises primarily engaged in
1704 manufacturing, processing, warehousing, distribution, wholesaling
1705 and research and development, or permanent business enterprises
1706 designated by rule and regulation of the Mississippi Development
1707 Authority as air transportation and maintenance facilities, final
1708 destination or resort hotels having a minimum of one hundred fifty
1709 (150) guest rooms, recreational facilities that impact tourism,
1710 movie industry studios, telecommunications enterprises, data or
1711 information processing enterprises or computer software
1712 development enterprises or any technology intensive facility or
1713 enterprise, in counties that have been designated by the Tax
1714 Commission as Tier Two areas are allowed a job tax credit for
1715 taxes imposed by Section 27-7-5 equal to One Thousand Dollars
1716 (\$1,000.00) annually for each net new full-time employee job for
1717 five (5) years beginning with years two (2) through six (6) after
1718 the creation of the job. The number of new full-time jobs must be
1719 determined by comparing the monthly average number of full-time
1720 employees subject to Mississippi income tax withholding for the
1721 taxable year with the corresponding period of the prior taxable
1722 year. Only those permanent businesses that increase employment by
1723 fifteen (15) or more in Tier Two areas are eligible for the
1724 credit. The credit is not allowed during any of the five (5)
1725 years if the net employment increase falls below fifteen (15).
1726 The Tax Commission shall adjust the credit allowed each year for
1727 the net new employment fluctuations above the minimum level of
1728 fifteen (15).

1729 (4) Permanent business enterprises primarily engaged in
1730 manufacturing, processing, warehousing, distribution, wholesaling
1731 and research and development, or permanent business enterprises
1732 designated by rule and regulation of the Mississippi Development
1733 Authority as air transportation and maintenance facilities, final
1734 destination or resort hotels having a minimum of one hundred fifty
1735 (150) guest rooms, recreational facilities that impact tourism,
1736 movie industry studios, telecommunications enterprises, data or
1737 information processing enterprises or computer software
1738 development enterprises or any technology intensive facility or
1739 enterprise, in counties designated by the Tax Commission as Tier
1740 One areas are allowed a job tax credit for taxes imposed by
1741 Section 27-7-5 equal to Five Hundred Dollars (\$500.00) annually
1742 for each net new full-time employee job for five (5) years
1743 beginning with years two (2) through six (6) after the creation of
1744 the job. The number of new full-time jobs must be determined by
1745 comparing the monthly average number of full-time employees
1746 subject to Mississippi income tax withholding for the taxable year
1747 with the corresponding period of the prior taxable year. Only
1748 those permanent businesses that increase employment by twenty (20)
1749 or more in Tier One areas are eligible for the credit. The credit
1750 is not allowed during any of the five (5) years if the net
1751 employment increase falls below twenty (20). The Tax Commission
1752 shall adjust the credit allowed each year for the net new
1753 employment fluctuations above the minimum level of twenty (20).

1754 (5) In addition to the credits authorized in subsections
1755 (2), (3) and (4), an additional Five Hundred Dollars (\$500.00)
1756 credit for each net new full-time employee or an additional One
1757 Thousand Dollars (\$1,000.00) credit for each net new full-time
1758 employee who is paid a salary, excluding benefits which are not
1759 subject to Mississippi income taxation, of at least one hundred
1760 twenty-five percent (125%) of the average annual wage of the state
1761 or an additional Two Thousand Dollars (\$2,000.00) credit for each

1762 net new full-time employee who is paid a salary, excluding
1763 benefits which are not subject to Mississippi income taxation, of
1764 at least two hundred percent (200%) of the average annual wage of
1765 the state, shall be allowed for any company establishing or
1766 transferring its national or regional headquarters from within or
1767 outside the State of Mississippi. A minimum of thirty-five (35)
1768 jobs must be created to qualify for the additional credit. The
1769 State Tax Commission shall establish criteria and prescribe
1770 procedures to determine if a company qualifies as a national or
1771 regional headquarters for purposes of receiving the credit awarded
1772 in this subsection. As used in this subsection, the average
1773 annual wage of the state is the most recently published average
1774 annual wage as determined by the Mississippi Department of
1775 Employment Security * * *.

1776 (6) In addition to the credits authorized in subsections
1777 (2), (3), (4) and (5), any job requiring research and development
1778 skills (chemist, engineer, etc.) shall qualify for an additional
1779 One Thousand Dollars (\$1,000.00) credit for each net new full-time
1780 employee.

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

1787 (8) The sale, merger, acquisition, reorganization,
1788 bankruptcy or relocation from one county to another county within
1789 the state of any business enterprise may not create new
1790 eligibility in any succeeding business entity, but any unused job
1791 tax credit may be transferred and continued by any transferee of
1792 the business enterprise. The Tax Commission shall determine
1793 whether or not qualifying net increases or decreases have occurred
1794 or proper transfers of credit have been made and may require

1795 reports, promulgate regulations, and hold hearings as needed for
1796 substantiation and qualification.

1797 (9) Any tax credit claimed under this section but not used
1798 in any taxable year may be carried forward for five (5) years from
1799 the close of the tax year in which the qualified jobs were
1800 established but the credit established by this section taken in
1801 any one tax year must be limited to an amount not greater than
1802 fifty percent (50%) of the taxpayer's state income tax liability
1803 which is attributable to income derived from operations in the
1804 state for that year.

1805 (10) No business enterprise for the transportation,
1806 handling, storage, processing or disposal of hazardous waste is
1807 eligible to receive the tax credits provided in this section.

1808 (11) The credits allowed under this section shall not be
1809 used by any business enterprise or corporation other than the
1810 business enterprise actually qualifying for the credits.

1811 (12) The tax credits provided for in this section shall be
1812 in addition to any tax credits described in Sections 57-51-13(b),
1813 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official
1814 action by the Department of Economic Development prior to July 1,
1815 1989, to any business enterprise determined prior to July 1, 1989,
1816 by the Department of Economic Development to be a qualified
1817 business as defined in Section 57-51-5(f) or Section 57-54-5(d) or
1818 a qualified company as described in Section 57-53-1, as the case
1819 may be; however, from and after July 1, 1989, tax credits shall be
1820 allowed only under either this section or Sections 57-51-13(b),
1821 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time
1822 employee.

1823 (13) As used in this section, the term "telecommunications
1824 enterprises" means entities engaged in the creation, display,
1825 management, storage, processing, transmission or distribution for
1826 compensation of images, text, voice, video or data by wire or by
1827 wireless means, or entities engaged in the construction, design,

1828 development, manufacture, maintenance or distribution for
1829 compensation of devices, products, software or structures used in
1830 the above activities. Companies organized to do business as
1831 commercial broadcast radio stations, television stations or news
1832 organizations primarily serving in-state markets shall not be
1833 included within the definition of the term "telecommunications
1834 enterprises."

1835 **[In cases involving business enterprises that apply for the**
1836 **job tax credit authorized by this section from and after January**
1837 **1, 2005, this section shall read as follows:]**

1838 57-73-21. (1) Annually by December 31, using the most
1839 current data available from the University Research Center,
1840 Mississippi Department of Employment Security * * * and the United
1841 States Department of Commerce, the State Tax Commission shall rank
1842 and designate the state's counties as provided in this section.
1843 The twenty-eight (28) counties in this state having a combination
1844 of the highest unemployment rate and lowest per capita income for
1845 the most recent thirty-six-month period, with equal weight being
1846 given to each category, are designated Tier Three areas. The
1847 twenty-seven (27) counties in the state with a combination of the
1848 next highest unemployment rate and next lowest per capita income
1849 for the most recent thirty-six-month period, with equal weight
1850 being given to each category, are designated Tier Two areas. The
1851 twenty-seven (27) counties in the state with a combination of the
1852 lowest unemployment rate and the highest per capita income for the
1853 most recent thirty-six-month period, with equal weight being given
1854 to each category, are designated Tier One areas. Counties
1855 designated by the Tax Commission qualify for the appropriate tax
1856 credit for jobs as provided in * * * this section. The
1857 designation by the Tax Commission is effective for the tax years
1858 of permanent business enterprises which begin after the date of
1859 designation. For companies which plan an expansion in their labor
1860 forces, the Tax Commission shall prescribe certification

1861 procedures to ensure that the companies can claim credits in
1862 future years without regard to whether or not a particular county
1863 is removed from the list of Tier Three or Tier Two areas.

1864 (2) As used in this section:

1865 (a) "Business enterprises" means entities primarily
1866 engaged in:

1867 (i) Manufacturing, processing, warehousing,
1868 distribution, wholesaling and research and development, or

1869 (ii) Permanent business enterprises designated by
1870 rule and regulation of the Mississippi Development Authority as
1871 air transportation and maintenance facilities, final destination
1872 or resort hotels having a minimum of one hundred fifty (150) guest
1873 rooms, recreational facilities that impact tourism, movie industry
1874 studios, telecommunications enterprises, data or information
1875 processing enterprises or computer software development
1876 enterprises or any technology intensive facility or enterprise.

1877 (b) "Telecommunications enterprises" means entities
1878 engaged in the creation, display, management, storage, processing,
1879 transmission or distribution for compensation of images, text,
1880 voice, video or data by wire or by wireless means, or entities
1881 engaged in the construction, design, development, manufacture,
1882 maintenance or distribution for compensation of devices, products,
1883 software or structures used in the above activities. Companies
1884 organized to do business as commercial broadcast radio stations,
1885 television stations or news organizations primarily serving
1886 in-state markets shall not be included within the definition of
1887 the term "telecommunications enterprises."

1888 (3) Permanent business enterprises * * * in counties
1889 designated by the Tax Commission as Tier Three areas are allowed a
1890 job tax credit for taxes imposed by Section 27-7-5 equal to ten
1891 percent (10%) of the payroll of the enterprise for net new
1892 full-time employee jobs for five (5) years beginning with years
1893 two (2) through six (6) after the creation of the minimum number

1894 of jobs required by this subsection. The number of new full-time
1895 jobs must be determined by comparing the monthly average number of
1896 full-time employees subject to the Mississippi income tax
1897 withholding for the taxable year with the corresponding period of
1898 the prior taxable year. Only those permanent business enterprises
1899 that increase employment by ten (10) or more in a Tier Three area
1900 are eligible for the credit. Credit is not allowed during any of
1901 the five (5) years if the net employment increase falls below ten
1902 (10). The Tax Commission shall adjust the credit allowed each
1903 year for the net new employment fluctuations above the minimum
1904 level of ten (10).

1905 (4) Permanent business enterprises * * * in counties that
1906 have been designated by the Tax Commission as Tier Two areas are
1907 allowed a job tax credit for taxes imposed by Section 27-7-5 equal
1908 to five percent (5%) of the payroll of the enterprise for net new
1909 full-time employee jobs for five (5) years beginning with years
1910 two (2) through six (6) after the creation of the minimum number
1911 of jobs required by this subsection. The number of new full-time
1912 jobs must be determined by comparing the monthly average number of
1913 full-time employees subject to Mississippi income tax withholding
1914 for the taxable year with the corresponding period of the prior
1915 taxable year. Only those permanent business enterprises that
1916 increase employment by fifteen (15) or more in Tier Two areas are
1917 eligible for the credit. The credit is not allowed during any of
1918 the five (5) years if the net employment increase falls below
1919 fifteen (15). The Tax Commission shall adjust the credit allowed
1920 each year for the net new employment fluctuations above the
1921 minimum level of fifteen (15).

1922 (5) Permanent business enterprises * * * in counties
1923 designated by the Tax Commission as Tier One areas are allowed a
1924 job tax credit for taxes imposed by Section 27-7-5 equal to two
1925 and one-half percent (2.5%) of the payroll of the enterprise for
1926 net new full-time employee jobs for five (5) years beginning with

1927 years two (2) through six (6) after the creation of the minimum
1928 number of jobs required by this subsection. The number of new
1929 full-time jobs must be determined by comparing the monthly average
1930 number of full-time employees subject to Mississippi income tax
1931 withholding for the taxable year with the corresponding period of
1932 the prior taxable year. Only those permanent business enterprises
1933 that increase employment by twenty (20) or more in Tier One areas
1934 are eligible for the credit. The credit is not allowed during any
1935 of the five (5) years if the net employment increase falls below
1936 twenty (20). The Tax Commission shall adjust the credit allowed
1937 each year for the net new employment fluctuations above the
1938 minimum level of twenty (20).

1939 (6) In addition to the other credits authorized in this
1940 section, an additional Five Hundred Dollars (\$500.00) credit for
1941 each net new full-time employee or an additional One Thousand
1942 Dollars (\$1,000.00) credit for each net new full-time employee who
1943 is paid a salary, excluding benefits which are not subject to
1944 Mississippi income taxation, of at least one hundred twenty-five
1945 percent (125%) of the average annual wage of the state or an
1946 additional Two Thousand Dollars (\$2,000.00) credit for each net
1947 new full-time employee who is paid a salary, excluding benefits
1948 which are not subject to Mississippi income taxation, of at least
1949 two hundred percent (200%) of the average annual wage of the
1950 state, shall be allowed for any company establishing or
1951 transferring its national or regional headquarters from within or
1952 outside the State of Mississippi. A minimum of thirty-five (35)
1953 jobs must be created to qualify for the additional credit. The
1954 State Tax Commission shall establish criteria and prescribe
1955 procedures to determine if a company qualifies as a national or
1956 regional headquarters for purposes of receiving the credit awarded
1957 in this subsection. As used in this subsection, the average
1958 annual wage of the state is the most recently published average

1959 annual wage as determined by the Mississippi Department of
1960 Employment Security * * *.

1961 (7) In addition to the other credits authorized in this
1962 section, any job requiring research and development skills
1963 (chemist, engineer, etc.) shall qualify for an additional One
1964 Thousand Dollars (\$1,000.00) credit for each net new full-time
1965 employee.

1966 (8) (a) Tax credits for five (5) years for the taxes
1967 imposed by Section 27-7-5 shall be awarded for increases in the
1968 annual payroll for net new full-time jobs created by business
1969 enterprises qualified under this section. The Tax Commission
1970 shall adjust the credit allowed in the event of payroll
1971 fluctuations during the additional five (5) years of credit.

1972 (b) Tax credits for five (5) years for the taxes
1973 imposed by Section 27-7-5 shall be awarded for additional net new
1974 full-time jobs created by business enterprises qualified under
1975 subsections * * * (6) and (7) of this section. The Tax Commission
1976 shall adjust the credit allowed in the event of employment
1977 fluctuations during the additional five (5) years of credit.

1978 (9) The sale, merger, acquisition, reorganization,
1979 bankruptcy or relocation from one county to another county within
1980 the state of any business enterprise may not create new
1981 eligibility in any succeeding business entity, but any unused job
1982 tax credit may be transferred and continued by any transferee of
1983 the business enterprise. The Tax Commission shall determine
1984 whether or not qualifying net increases or decreases have occurred
1985 or proper transfers of credit have been made and may require
1986 reports, promulgate regulations, and hold hearings as needed for
1987 substantiation and qualification.

1988 (10) Any tax credit claimed under this section but not used
1989 in any taxable year may be carried forward for five (5) years from
1990 the close of the tax year in which the qualified jobs were
1991 established but the credit established by this section taken in

1992 any one tax year must be limited to an amount not greater than
1993 fifty percent (50%) of the taxpayer's state income tax liability
1994 which is attributable to income derived from operations in the
1995 state for that year.

1996 (11) No business enterprise for the transportation,
1997 handling, storage, processing or disposal of hazardous waste is
1998 eligible to receive the tax credits provided in this section.

1999 (12) The credits allowed under this section shall not be
2000 used by any business enterprise or corporation other than the
2001 business enterprise actually qualifying for the credits.

2002 (13) The tax credits provided for in this section shall be
2003 in addition to any tax credits described in Sections 57-51-13(b),
2004 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official
2005 action by the Department of Economic Development prior to July 1,
2006 1989, to any business enterprise determined prior to July 1, 1989,
2007 by the Department of Economic Development to be a qualified
2008 business as defined in Section 57-51-5(f) or Section 57-54-5(d) or
2009 a qualified company as described in Section 57-53-1, as the case
2010 may be; however, from and after July 1, 1989, tax credits shall be
2011 allowed only under either this section or Sections 57-51-13(b),
2012 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time
2013 employee.

2014 * * *

2015 **SECTION 45.** Section 57-10-401, Mississippi Code of 1972, is
2016 reenacted and amended as follows:

2017 **[In cases involving an economic development project for which**
2018 **the Mississippi Business Finance Corporation has issued bonds for**
2019 **the purpose of financing the approved costs of such project prior**
2020 **to July 1, 1994, this section shall read as follows:]**

2021 57-10-401. As used in Sections 57-10-401 through 57-10-445
2022 the following terms shall have the meanings ascribed to them
2023 herein unless the context clearly indicates otherwise:

2024 (a) "Approved company" means any eligible company
2025 seeking to locate an economic development project in a county,
2026 which eligible company is approved by the corporation.

2027 (b) "Approved costs" means:

2028 (i) Obligations incurred for equipment and labor
2029 and to contractors, subcontractors, builders and materialmen in
2030 connection with the acquisition, construction and installation of
2031 an economic development project;

2032 (ii) The cost of acquiring land or rights in land
2033 and any cost incidental thereto, including recording fees;

2034 (iii) The cost of contract bonds and of insurance
2035 of all kinds that may be required or necessary during the course
2036 of acquisition, construction and installation of an economic
2037 development project which is not paid by the contractor or
2038 contractors or otherwise provided for;

2039 (iv) All costs of architectural and engineering
2040 services, including test borings, surveys, estimates, plans and
2041 specifications, preliminary investigations, and supervision of
2042 construction, as well as for the performance of all the duties
2043 required by or consequent upon the acquisition, construction and
2044 installation of an economic development project;

2045 (v) All costs which shall be required to be paid
2046 under the terms of any contract or contracts for the acquisition,
2047 construction and installation of an economic development project;

2048 (vi) All costs, expenses and fees incurred in
2049 connection with the issuance of bonds pursuant to Sections
2050 57-10-401 through 57-10-445;

2051 (vii) All costs funded by a loan made under the
2052 Mississippi Small Enterprise Development Finance Act; and

2053 (viii) All costs of professionals permitted to be
2054 engaged under the Mississippi Small Enterprise Development Finance
2055 Act for a loan made under such act.

2056 (c) "Assessment" means the job development assessment
2057 fee authorized in Section 57-10-413.

2058 (d) "Bonds" means the revenue bonds, notes or other
2059 debt obligations of the corporation authorized to be issued by the
2060 corporation on behalf of an eligible company or other state
2061 agency.

2062 (e) "Corporation" means the Mississippi Business
2063 Finance Corporation created under Section 57-10-167, Mississippi
2064 Code of 1972.

2065 (f) "Economic development project" means and includes
2066 the acquisition of any equipment or real estate in a county and
2067 the construction and installation thereon, and with respect
2068 thereto, of improvements and facilities necessary or desirable for
2069 improvement of the real estate, including surveys, site tests and
2070 inspections, subsurface site work, excavation, removal of
2071 structures, roadways, cemeteries and other surface obstructions,
2072 filling, grading and provision of drainage, storm water detention,
2073 installation of utilities such as water, sewer, sewage treatment,
2074 gas, electricity, communications and similar facilities, off-site
2075 construction of utility extensions to the boundaries of the real
2076 estate, and the acquisition, construction and installation of
2077 manufacturing, telecommunications, data processing, distribution
2078 or warehouse facilities on the real estate, for lease or financial
2079 arrangement by the corporation to an approved company for use and
2080 occupancy by the approved company or its affiliates for
2081 manufacturing, telecommunications, data processing, distribution
2082 or warehouse purposes. Such term also includes, without
2083 limitation, any project the financing of which has been approved
2084 under the Mississippi Small Enterprise Development Finance Act.

2085 (g) "Eligible company" means any corporation,
2086 partnership, sole proprietorship, business trust, or other entity
2087 which is:

2088 (i) Engaged in manufacturing which meets the
2089 standards promulgated by the corporation under Sections 57-10-401
2090 through 57-10-445;

2091 (ii) A private company approved by the corporation
2092 for a loan under the Mississippi Small Enterprise Development
2093 Finance Act;

2094 (iii) A distribution or warehouse facility
2095 employing a minimum of fifty (50) people or employing a minimum of
2096 twenty (20) people and having a capital investment in such
2097 facility of at least Five Million Dollars (\$5,000,000.00); or

2098 (iv) A telecommunications or data processing
2099 business.

2100 (h) "Executive director" means the Executive Director
2101 of the Mississippi Business Finance Corporation.

2102 (i) "Financing agreement" means any financing documents
2103 and agreements, indentures, loan agreements, lease agreements,
2104 security agreements and the like, entered into by and among the
2105 corporation, private lenders and an approved company with respect
2106 to an economic development project.

2107 (j) "Manufacturing" means any activity involving the
2108 manufacturing, processing, assembling or production of any
2109 property, including the processing resulting in a change in the
2110 conditions of the property and any activity functionally related
2111 thereto, together with the storage, warehousing, distribution and
2112 related office facilities in respect thereof as determined by the
2113 Mississippi Business Finance Corporation; however, in no event
2114 shall "manufacturing" include mining, coal or mineral processing,
2115 or extraction of Mississippi minerals.

2116 (k) "State agency" means any state board, commission,
2117 committee, council, university, department or unit thereof created
2118 by the Constitution or laws of this state.

2119 (l) "Revenues" shall not be considered state funds.

2120 (m) "State" means the State of Mississippi.

2121 (n) "Mississippi Small Enterprise Development Finance
2122 Act" means the provisions of law contained in Section 57-71-1 et
2123 seq.

2124 **[In cases involving an economic development project for which**
2125 **the Mississippi Business Finance Corporation has not issued bonds**
2126 **for the purpose of financing the approved costs of such project**
2127 **prior to July 1, 1994, this section shall read as follows:]**

2128 57-10-401. As used in Sections 57-10-401 through 57-10-445
2129 the following terms shall have the meanings ascribed to them
2130 herein unless the context clearly indicates otherwise:

2131 (a) "Approved company" means any eligible company
2132 seeking to locate an economic development project in a county,
2133 which eligible company is approved by the corporation.

2134 (b) "Approved costs" means:

2135 (i) Obligations incurred for equipment and labor
2136 and to contractors, subcontractors, builders and materialmen in
2137 connection with the acquisition, construction and installation of
2138 an economic development project;

2139 (ii) The cost of acquiring land or rights in land
2140 and any cost incidental thereto, including recording fees;

2141 (iii) The cost of contract bonds and of insurance
2142 of all kinds that may be required or necessary during the course
2143 of acquisition, construction and installation of an economic
2144 development project which is not paid by the contractor or
2145 contractors or otherwise provided for;

2146 (iv) All costs of architectural and engineering
2147 services, including test borings, surveys, estimates, plans and
2148 specifications, preliminary investigations, and supervision of
2149 construction, as well as for the performance of all the duties
2150 required by or consequent upon the acquisition, construction and
2151 installation of an economic development project;

2152 (v) All costs which shall be required to be paid
2153 under the terms of any contract or contracts for the acquisition,
2154 construction and installation of an economic development project;

2155 (vi) All costs, expenses and fees incurred in
2156 connection with the issuance of bonds pursuant to Sections
2157 57-10-401 through 57-10-445;

2158 (vii) All costs funded by a loan made under the
2159 Mississippi Small Enterprise Development Finance Act; and

2160 (viii) All costs of professionals permitted to be
2161 engaged under the Mississippi Small Enterprise Development Finance
2162 Act for a loan made under such act.

2163 (c) "Assessment" means the job development assessment
2164 fee authorized in Section 57-10-413.

2165 (d) "Bonds" means the revenue bonds, notes or other
2166 debt obligations of the corporation authorized to be issued by the
2167 corporation on behalf of an eligible company or other state
2168 agency.

2169 (e) "Corporation" means the Mississippi Business
2170 Finance Corporation created under Section 57-10-167, Mississippi
2171 Code of 1972.

2172 (f) "Economic development project" means and includes
2173 the acquisition of any equipment or real estate in a county and
2174 the construction and installation thereon, and with respect
2175 thereto, of improvements and facilities necessary or desirable for
2176 improvement of the real estate, including surveys, site tests and
2177 inspections, subsurface site work, excavation, removal of
2178 structures, roadways, cemeteries and other surface obstructions,
2179 filling, grading and provision of drainage, storm water detention,
2180 installation of utilities such as water, sewer, sewage treatment,
2181 gas, electricity, communications and similar facilities, off-site
2182 construction of utility extensions to the boundaries of the real
2183 estate, and the acquisition, construction and installation of
2184 manufacturing, telecommunications, data processing, distribution

2185 or warehouse facilities on the real estate, for lease or financial
2186 arrangement by the corporation to an approved company for use and
2187 occupancy by the approved company or its affiliates for
2188 manufacturing, telecommunications, data processing, distribution
2189 or warehouse purposes. Such term also includes, without
2190 limitation, any project the financing of which has been approved
2191 under the Mississippi Small Enterprise Development Finance Act.

2192 If an eligible company closes a facility in this state and
2193 becomes an approved company under the provisions of Sections
2194 57-10-401 through 57-10-449, only that portion of the project for
2195 which such company is attempting to obtain financing that is in
2196 excess of the value of the closed facility shall be included
2197 within the definition of the term "economic development project."
2198 The Mississippi Business Finance Corporation shall promulgate
2199 rules and regulations to govern the determination of the
2200 difference between the value of the closed facility and the new
2201 facility.

2202 (g) "Eligible company" means any corporation,
2203 partnership, sole proprietorship, business trust, or other entity
2204 which:

2205 (i) Engaged in manufacturing which meets the
2206 standards promulgated by the corporation under Sections 57-10-401
2207 through 57-10-445;

2208 (ii) A private company approved by the corporation
2209 for a loan under the Mississippi Small Enterprise Development
2210 Finance Act;

2211 (iii) A distribution or warehouse facility
2212 employing a minimum of fifty (50) people or employing a minimum of
2213 twenty (20) people and having a capital investment in such
2214 facility of at least Five Million Dollars (\$5,000,000.00); * * *

2215 (iv) A telecommunications or data/information
2216 processing business meeting criteria established by the
2217 Mississippi Business Finance Corporation;

2218 (v) National or regional headquarters meeting
2219 criteria established by the Mississippi Business Finance
2220 Corporation;

2221 (vi) Research and development facilities meeting
2222 criteria established by the Mississippi Business Finance
2223 Corporation; or

2224 (vii) Technology intensive enterprises or
2225 facilities meeting criteria established by the Mississippi
2226 Business Finance Corporation.

2227 (h) "Executive director" means the Executive Director
2228 of the Mississippi Business Finance Corporation.

2229 (i) "Financing agreement" means any financing documents
2230 and agreements, indentures, loan agreements, lease agreements,
2231 security agreements and the like, entered into by and among the
2232 corporation, private lenders and an approved company with respect
2233 to an economic development project.

2234 (j) "Manufacturing" means any activity involving the
2235 manufacturing, processing, assembling or production of any
2236 property, including the processing resulting in a change in the
2237 conditions of the property and any activity functionally related
2238 thereto, together with the storage, warehousing, distribution and
2239 related office facilities in respect thereof as determined by the
2240 Mississippi Business Finance Corporation; however, in no event
2241 shall "manufacturing" include mining, coal or mineral processing,
2242 or extraction of Mississippi minerals.

2243 (k) "State agency" means any state board, commission,
2244 committee, council, university, department or unit thereof created
2245 by the Constitution or laws of this state.

2246 (l) "Revenues" shall not be considered state funds.

2247 (m) "State" means the State of Mississippi.

2248 (n) "Mississippi Small Enterprise Development Finance
2249 Act" means the provisions of law contained in Section 57-71-1 et
2250 seq.

2251 **SECTION 46.** Section 57-10-403, Mississippi Code of 1972, is
2252 reenacted as follows:

2253 57-10-403. (1) The Legislature finds and declares that the
2254 general welfare and material well-being of citizens of the state
2255 depend in large measure upon the development and growth of
2256 industry in the state.

2257 (2) The Legislature finds and declares further that it is in
2258 the best interest of the state to induce the location or expansion
2259 of manufacturing facilities within this state in order to advance
2260 the public purposes of relieving unemployment by creating new jobs
2261 within this state that, but for the inducements to be offered by
2262 the corporation to approved companies as herein provided, would
2263 not exist, and of creating new sources of tax revenues for the
2264 support of the public services provided by this state and country.

2265 (3) The Legislature finds and declares further that the
2266 authority granted by this article and the purposes to be
2267 accomplished hereby are proper governmental and public purposes
2268 for which public monies may be expended, and that the inducement
2269 of the location or expansion of manufacturing facilities within
2270 the state is of paramount importance, mandating that the
2271 provisions of this article be liberally construed and applied in
2272 order to advance the public purposes.

2273 **SECTION 47.** Section 57-10-405, Mississippi Code of 1972, is
2274 reenacted as follows:

2275 57-10-405. In addition to its other powers and duties, the
2276 corporation shall have all the powers necessary or convenient to
2277 carry out and effectuate the purposes and provisions of Sections
2278 57-10-401 through 57-10-445, including, but without limiting the
2279 generality of the foregoing, the power:

2280 (a) To provide and finance economic development
2281 projects under the provisions of Sections 57-10-401 through
2282 57-10-445, and cooperate with counties, municipalities and

2283 eligible companies in order to promote, foster and support
2284 economic development within the counties and municipalities;

2285 (b) To conduct hearings and inquiries, in the manner
2286 and by the methods as it deems desirable, including, without
2287 limitation, appointment of special committees, for the purpose of
2288 gathering information with respect to counties, municipalities,
2289 eligible companies and economic development projects, for the
2290 purpose of making any determinations necessary or desirable in the
2291 furtherance of Sections 57-10-401 through 57-10-445;

2292 (c) To negotiate the terms of, and enter into financing
2293 agreements with, approved companies, and in connection therewith
2294 to acquire, convey, sell, own, lease, mortgage, finance, foreclose
2295 or otherwise dispose of any property, real or personal, in
2296 connection with an economic development project, and to pay, or
2297 cause to be paid, in accordance with the provisions of a financing
2298 agreement, the approved costs of an economic development project
2299 from any funds available therefor, including, without limitation,
2300 funds available as the result of the issuance of bonds under the
2301 Mississippi Small Enterprise Development Finance Act;

2302 (d) To delegate to the executive director the rights
2303 and powers of the corporation required for the proper and
2304 desirable execution of the purposes of this article;

2305 (e) To consent, if it deems it necessary or desirable
2306 in the fulfillment of its purposes, to the modification of the
2307 terms of any financing agreements of any kind to which the
2308 corporation is a party;

2309 (f) To include in any borrowing the amounts deemed
2310 necessary by the corporation to pay financing charges, consultant,
2311 advisory and legal fees, fees for bond insurance, letters of
2312 credit or other forms of credit enhancement, investment advisory
2313 fees, trustees' fees and other expenses necessary or incident to
2314 the borrowing;

2315 (g) To make and publish administrative regulations
2316 respecting its programs and other administrative regulations
2317 necessary or appropriate to effectuate the purposes of Sections
2318 57-10-401 through 57-10-445, and necessary to administer the
2319 procedures and program as provided for in Sections 57-10-401
2320 through 57-10-445;

2321 (h) To make, execute and effectuate any and all
2322 agreements or other documents with any governmental agency or any
2323 person, corporation, association, partnership, or other
2324 organization or entity, necessary or appropriate to accomplish the
2325 purposes of Sections 57-10-401 through 57-10-445, including any
2326 financing agreements with state agencies or any political
2327 subdivisions of the state under which funds may be pledged by or
2328 to the corporation for the payment of its bonds;

2329 (i) To accept gifts, devises, bequests, grants, loans,
2330 appropriations, revenue sharing, other financing and assistance
2331 and any other aid from any source and to agree to, and to comply
2332 with, conditions attached thereto;

2333 (j) To sue and be sued in its own name, plead and be
2334 impleaded; and

2335 (k) To invest any funds held by the corporation or its
2336 agents or trustees, under Sections 57-10-401 through 57-10-445,
2337 including, but not limited to, the proceeds of bonds issued under
2338 Sections 57-10-401 through 57-10-445, reserve or other funds, or
2339 any monies not required for immediate disbursement, and the
2340 investment income on any of the foregoing, in obligations
2341 authorized by Sections 57-10-401 through 57-10-445.

2342 **SECTION 48.** Section 57-10-407, Mississippi Code of 1972, is
2343 reenacted as follows:

2344 57-10-407. The corporation may accept and expend: (a)
2345 monies which may be appropriated from time to time by the
2346 Legislature; (b) monies which may be available under the
2347 Mississippi Small Enterprise Development Finance Act; or (c)

2348 monies which may be received from any source, including income
2349 from the corporation's operations, under Sections 57-10-401
2350 through 57-10-445, for effectuating the purposes of Sections
2351 57-10-401 through 57-10-445, including, without limitation, the
2352 payment of the expenses of administration and operation incurred
2353 pursuant to Sections 57-10-401 through 57-10-445 and the
2354 establishment and, if deemed desirable, maintenance of a reserve
2355 or contingency fund for the administration of Sections 57-10-401
2356 through 57-10-445.

2357 **SECTION 49.** Section 57-10-409, Mississippi Code of 1972, is
2358 reenacted as follows:

2359 **[In cases involving an economic development project for which**
2360 **the Mississippi Business Finance Corporation has issued bonds for**
2361 **the purpose of financing the approved costs of such project prior**
2362 **to July 1, 1994, this section shall read as follows:]**

2363 57-10-409. The corporation may enter into, with any approved
2364 company, a financing agreement with respect to its economic
2365 development project. The terms and provisions of each financing
2366 agreement shall be determined by negotiations between the
2367 corporation and the approved company, except that each financing
2368 agreement shall include the following provisions:

2369 (a) If the corporation issues any bonds in connection
2370 with an economic development project, the term of the financing
2371 agreement shall not be less than the last maturity of the bonds
2372 issued with respect to the economic development project, except
2373 that the financing agreement may terminate upon the earlier
2374 redemption of all of the bonds issued with respect to the economic
2375 development project and may grant to the approved company an
2376 option to purchase the economic development project from the
2377 corporation upon the termination of the financing agreement for
2378 such consideration and under such terms and conditions the
2379 corporation may approve. Nothing in this paragraph shall limit

2380 the extension of the term of a financing agreement if there is a
2381 refunding of the correlative bonds or otherwise.

2382 (b) If the corporation issues any bonds in connection
2383 with an economic development project, the financing agreement
2384 shall specify that the annual obligations of the approved company
2385 under Sections 57-10-401 through 57-10-445 shall equal in each
2386 year at least the annual debt service for that year on the bonds
2387 issued with respect to the economic development project; and the
2388 approved company shall pay such obligation of the financing
2389 agreement to the trustee for bonds issued for the benefit of the
2390 approved company, at such time and in such amounts sufficient to
2391 amortize such bonds.

2392 (c) If the corporation loans funds to an approved
2393 company that is a private company under the Mississippi Small
2394 Enterprise Development Finance Act, the financing agreement shall
2395 include the terms and conditions of the loan required by Section
2396 57-71-1 et seq.

2397 (d) (i) In consideration for financing agreement
2398 payment, the approved company may be permitted the following
2399 during the period of time in which the financing agreement is in
2400 effect, not to exceed twenty-five (25) years:

2401 1. A tax credit on the amount provided for in
2402 Section 27-7-22.3(2), Mississippi Code of 1972; plus

2403 2. The aggregate assessment withheld by the
2404 approved company in each year.

2405 (ii) The income tax credited to the approved
2406 company referred to herein shall be credited in the fiscal year of
2407 the financing agreement in which the tax return of the approved
2408 company is filed. The approved company shall not be required to
2409 pay estimated tax payments under Section 27-7-319, Mississippi
2410 Code of 1972.

2411 (e) (i) The financing agreement shall provide that the
2412 assessments, when added to the credit for the state corporate

2413 income tax herein granted, shall not exceed the total financing
2414 agreement annual payment by the approved company in any year;
2415 however, to the extent that financing agreement annual payments
2416 exceed credits received and assessments collected in any year, the
2417 excess payment may be recouped from excess credits or assessment
2418 collections in succeeding years.

2419 (ii) If during any fiscal year of the financing
2420 agreement the total of the income tax credit granted to the
2421 approved company plus the assessment collected from the wages of
2422 the employees equals the annual payment pursuant to the financing
2423 agreement, and if all excess payments pursuant to the financing
2424 agreement accumulated in prior years have been recouped, the
2425 assessment collected from the wages of the employees shall cease
2426 for the remainder of the fiscal year of the financing agreement.

2427 (f) The financing agreement shall provide that:

2428 (i) It may be assigned by the approved company
2429 only upon the prior written consent of the corporation following
2430 the adoption of a resolution by the corporation to such effect;
2431 and

2432 (ii) Upon the default by the approved company in
2433 the obligation to render its annual payment, the corporation shall
2434 have the right, at its option, to declare the financing agreement
2435 in default and to accelerate the total of all annual payments that
2436 are to be made or to terminate the financing agreement and cause
2437 to be sold the economic development project at public or private
2438 sale, or to pursue any other remedies available under the Uniform
2439 Commercial Code, as from time to time amended, or otherwise
2440 available in law or equity.

2441 **[In cases involving an economic development project for which**
2442 **the Mississippi Business Finance Corporation has not issued bonds**
2443 **for the purpose of financing the approved costs of such project**
2444 **prior to July 1, 1994, but has issued bonds for such project prior**
2445 **to July 1, 1997, or in cases involving an economic development**

2446 **project which has been induced by a resolution of the Board of**
2447 **Directors of the Mississippi Business Finance Corporation that has**
2448 **been filed with the State Tax Commission prior to July 1, 1997,**
2449 **this section shall read as follows:]**

2450 57-10-409. The corporation may enter into, with any approved
2451 company, a financing agreement with respect to its economic
2452 development project. The terms and provisions of each financing
2453 agreement shall be determined by negotiations between the
2454 corporation and the approved company, except that each financing
2455 agreement shall include the following provisions:

2456 (a) If the corporation issues any bonds in connection
2457 with an economic development project, the term of the financing
2458 agreement shall not be less than the last maturity of the bonds
2459 issued with respect to the economic development project, except
2460 that the financing agreement may terminate upon the earlier
2461 redemption of all of the bonds issued with respect to the economic
2462 development project and may grant to the approved company an
2463 option to purchase the economic development project from the
2464 corporation upon the termination of the financing agreement for
2465 such consideration and under such terms and conditions the
2466 corporation may approve. Nothing in this paragraph shall limit
2467 the extension of the term of a financing agreement if there is a
2468 refunding of the correlative bonds or otherwise.

2469 (b) If the corporation issues any bonds in connection
2470 with an economic development project, the financing agreement
2471 shall specify that the annual obligations of the approved company
2472 under Sections 57-10-401 through 57-10-445 shall equal in each
2473 year at least the annual debt service for that year on the bonds
2474 issued with respect to the economic development project; and the
2475 approved company shall pay such obligation of the financing
2476 agreement to the trustee for bonds issued for the benefit of the
2477 approved company, at such time and in such amounts sufficient to
2478 amortize such bonds.

2479 (c) If the corporation loans funds to an approved
2480 company that is a private company under the Mississippi Small
2481 Enterprise Development Finance Act, the financing agreement shall
2482 include the terms and conditions of the loan required by Section
2483 57-71-1 et seq.

2484 (d) (i) In consideration for financing agreement
2485 payment, the approved company may be permitted the following
2486 during the period of time in which the financing agreement is in
2487 effect, not to exceed twenty-five (25) years:

2488 1. A tax credit on the amount provided for in
2489 Section 27-7-22.3(2), Mississippi Code of 1972; plus

2490 2. The aggregate assessment withheld by the
2491 approved company in each year.

2492 (ii) The income tax credited to the approved
2493 company referred to herein shall be credited in the fiscal year of
2494 the financing agreement in which the tax return of the approved
2495 company is filed. The approved company shall not be required to
2496 pay estimated tax payments under Section 27-7-319, Mississippi
2497 Code of 1972.

2498 (e) (i) The financing agreement shall provide that the
2499 assessments, when added to the credit for the state corporate
2500 income tax herein granted, shall not exceed the total financing
2501 agreement annual payment by the approved company in any year;
2502 however, to the extent that financing agreement annual payments
2503 exceed credits received and assessments collected in any year, the
2504 excess payment may be recouped from excess credits or assessment
2505 collections in succeeding years not to exceed three (3) years
2506 following the termination of the period of time during which the
2507 financing agreement is in effect.

2508 (ii) If during any fiscal year of the financing
2509 agreement the total of the income tax credit granted to the
2510 approved company plus the assessment collected from the wages of
2511 the employees equals the annual payment pursuant to the financing

2512 agreement, and if all excess payments pursuant to the financing
2513 agreement accumulated in prior years have been recouped, the
2514 assessment collected from the wages of the employees shall cease
2515 for the remainder of the fiscal year of the financing agreement.

2516 (f) The financing agreement shall provide that:

2517 (i) It may be assigned by the approved company
2518 only upon the prior written consent of the corporation following
2519 the adoption of a resolution by the corporation to such effect;
2520 and

2521 (ii) Upon the default by the approved company in
2522 the obligation to render its annual payment, the corporation shall
2523 have the right, at its option, to declare the financing agreement
2524 in default and to accelerate the total of all annual payments that
2525 are to be made or to terminate the financing agreement and cause
2526 to be sold the economic development project at public or private
2527 sale, or to pursue any other remedies available under the Uniform
2528 Commercial Code, as from time to time amended, or otherwise
2529 available in law or equity.

2530 **[In cases involving an economic development project for which**
2531 **the Mississippi Business Finance Corporation has not issued bonds**
2532 **for the purpose of financing the approved costs of such project**
2533 **prior to July 1, 1997, or in cases involving an economic**
2534 **development project which has not been induced by a resolution of**
2535 **the Board of Directors of the Mississippi Business Finance**
2536 **Corporation that has been filed with the State Tax Commission**
2537 **prior to July 1, 1997, this section shall read as follows:]**

2538 57-10-409. The corporation may enter into, with any approved
2539 company, a financing agreement with respect to its economic
2540 development project. The terms and provisions of each financing
2541 agreement shall be determined by negotiations between the
2542 corporation and the approved company, except that each financing
2543 agreement shall include the following provisions:

2544 (a) If the corporation issues any bonds in connection
2545 with an economic development project, the term of the financing
2546 agreement shall not be less than the last maturity of the bonds
2547 issued with respect to the economic development project, except
2548 that the financing agreement may terminate upon the earlier
2549 redemption of all of the bonds issued with respect to the economic
2550 development project and may grant to the approved company an
2551 option to purchase the economic development project from the
2552 corporation upon the termination of the financing agreement for
2553 such consideration and under such terms and conditions the
2554 corporation may approve. Nothing in this paragraph shall limit
2555 the extension of the term of a financing agreement if there is a
2556 refunding of the correlative bonds or otherwise.

2557 (b) If the corporation issues any bonds in connection
2558 with an economic development project, the financing agreement
2559 shall specify that the annual obligations of the approved company
2560 under Sections 57-10-401 through 57-10-445 shall equal in each
2561 year at least the annual debt service for that year on the bonds
2562 issued with respect to the economic development project; and the
2563 approved company shall pay such obligation of the financing
2564 agreement to the trustee for bonds issued for the benefit of the
2565 approved company, at such time and in such amounts sufficient to
2566 amortize such bonds.

2567 (c) If the corporation loans funds to an approved
2568 company that is a private company under the Mississippi Small
2569 Enterprise Development Finance Act, the financing agreement shall
2570 include the terms and conditions of the loan required by Section
2571 57-71-1 et seq.

2572 (d) (i) In consideration for financing agreement
2573 payment, the approved company may be permitted a tax credit on the
2574 amount provided for in Section 27-7-22.3(2), Mississippi Code of
2575 1972, during the period of time in which the financing agreement
2576 is in effect, not to exceed twenty-five (25) years.

2577 (ii) The income tax credited to the approved
2578 company referred to herein shall be credited in the fiscal year of
2579 the financing agreement in which the tax return of the approved
2580 company is filed. The approved company shall not be required to
2581 pay estimated tax payments under Section 27-7-319, Mississippi
2582 Code of 1972.

2583 (e) The financing agreement shall provide that:

2584 (i) It may be assigned by the approved company
2585 only upon the prior written consent of the corporation following
2586 the adoption of a resolution by the corporation to such effect;
2587 and

2588 (ii) Upon the default by the approved company in
2589 the obligation to render its annual payment, the corporation shall
2590 have the right, at its option, to declare the financing agreement
2591 in default and to accelerate the total of all annual payments that
2592 are to be made or to terminate the financing agreement and cause
2593 to be sold the economic development project at public or private
2594 sale, or to pursue any other remedies available under the Uniform
2595 Commercial Code, as from time to time amended, or otherwise
2596 available in law or equity.

2597 **SECTION 50.** Section 57-10-411, Mississippi Code of 1972, is
2598 reenacted as follows:

2599 57-10-411. Ninety (90) days after the filing of the tax
2600 return of the approved company, the State Tax Commission shall
2601 certify to the corporation the state income tax liability for the
2602 preceding year of each approved company with respect to an
2603 economic development project financed under Sections 57-10-401
2604 through 57-10-445, and the amounts of any tax credits taken under
2605 Sections 57-10-401 through 57-10-445.

2606 **SECTION 51.** Section 57-10-413, Mississippi Code of 1972, is
2607 reenacted as follows:

2608 **[In cases involving an economic development project for which**
2609 **the Mississippi Business Finance Corporation has issued bonds for**

2610 **the purpose of financing the approved costs of such project prior**
2611 **to July 1, 1994, this section shall read as follows:]**

2612 57-10-413. (1) The approved company may require that each
2613 employee whose gross wages are equivalent to Five Dollars (\$5.00)
2614 or more per hour, as a condition of employment, agrees to pay a
2615 job development assessment fee not to exceed a certain percentage
2616 of the gross wages of each such employee whose job was created as
2617 a result of the economic development project, for the purpose of
2618 retiring the bonds which fund the economic development project or
2619 other indebtedness. The job development assessment fee shall not
2620 exceed the following percentages of the gross wages of the
2621 employee:

2622 (a) Two percent (2%), if the gross wages of the
2623 employee are equivalent to Five Dollars (\$5.00) or more per hour
2624 but less than Seven Dollars (\$7.00) per hour;

2625 (b) Four percent (4%), if the gross wages of the
2626 employee are equivalent to Seven Dollars (\$7.00) or more per hour
2627 but less than Nine Dollars (\$9.00) per hour; and

2628 (c) Six percent (6%), if the gross wages of the
2629 employee are equivalent to Nine Dollars (\$9.00) or more per hour.

2630 (2) Each employee so assessed shall be entitled to credits
2631 against Mississippi income taxes as provided in Section 27-7-22.3.

2632 (3) If an approved company shall elect to impose the
2633 assessment as a condition of employment, it shall deduct the
2634 assessment from each paycheck of each employee.

2635 (4) Any approved company collecting an assessment as
2636 provided in subsection (1) of this section shall make its payroll
2637 books and records available to the corporation at such reasonable
2638 times as the corporation shall request and shall file with the
2639 corporation documentation respecting the assessment as the
2640 corporation may require.

2641 (5) Any assessment of the wages of employees of an approved
2642 company in connection with their employment at an economic

2643 development project under subsection (1) of this section shall
2644 lapse on the date the bonds are retired.

2645 **[In cases involving an economic development project for which**
2646 **the Mississippi Business Finance Corporation has not issued bonds**
2647 **for the purpose of financing the approved costs of such project**
2648 **prior to July 1, 1994, but has issued bonds for such project prior**
2649 **to July 1, 1997, or in cases involving an economic development**
2650 **project which has been induced by a resolution of the Board of**
2651 **Directors of the Mississippi Business Finance Corporation that has**
2652 **been filed with the State Tax Commission prior to July 1, 1997,**
2653 **this section shall read as follows:]**

2654 57-10-413. (1) Except as otherwise provided for in
2655 subsection (6) of this section, the approved company may require
2656 that each employee whose gross wages are equivalent to Five
2657 Dollars (\$5.00) or more per hour, as a condition of employment,
2658 agrees to pay a job development assessment fee not to exceed a
2659 certain percentage of the gross wages of each such employee whose
2660 job was created as a result of the economic development project,
2661 for the purpose of retiring the bonds which fund the economic
2662 development project or other indebtedness. The job development
2663 assessment fee shall not exceed the following percentages of the
2664 gross wages of the employee:

2665 (a) Two percent (2%), if the gross wages of the
2666 employee are equivalent to Five Dollars (\$5.00) or more per hour
2667 but less than Seven Dollars (\$7.00) per hour;

2668 (b) Four percent (4%), if the gross wages of the
2669 employee are equivalent to Seven Dollars (\$7.00) or more per hour
2670 but less than Nine Dollars (\$9.00) per hour; and

2671 (c) Six percent (6%), if the gross wages of the
2672 employee are equivalent to Nine Dollars (\$9.00) or more per hour.

2673 (2) Each employee so assessed shall be entitled to credits
2674 against Mississippi income taxes as provided in Section 27-7-22.3.

2675 (3) If an approved company shall elect to impose the
2676 assessment as a condition of employment, it shall deduct the
2677 assessment from each paycheck of each employee.

2678 (4) Any approved company collecting an assessment as
2679 provided in subsection (1) of this section shall make its payroll
2680 books and records available to the corporation at such reasonable
2681 times as the corporation shall request and shall file with the
2682 corporation documentation respecting the assessment as the
2683 corporation may require.

2684 (5) Any assessment of the wages of employees of an approved
2685 company in connection with their employment at an economic
2686 development project under subsection (1) of this section shall
2687 lapse on the date the bonds are retired.

2688 (6) If an eligible company closes a facility in this state
2689 and becomes an approved company under the provisions of Sections
2690 57-10-401 through 57-10-449, only those jobs created in excess of
2691 those that existed at the closed facility at the time of the
2692 closure shall be eligible for the imposition of the job
2693 development assessment fee. The Mississippi Business Finance
2694 Corporation shall promulgate rules and regulations to govern the
2695 determination of the number of jobs upon which the job development
2696 assessment fee may be imposed.

2697 **SECTION 52.** Section 57-10-415, Mississippi Code of 1972, is
2698 reenacted as follows:

2699 57-10-415. Every issue of bonds under Sections 57-10-401
2700 through 57-10-445 shall be payable solely out of any revenues of
2701 the corporation as provided in Sections 57-10-401 through
2702 57-10-445. The bonds additionally may be secured by a pledge of
2703 any grant, contribution or guarantee from the federal government
2704 or any person or a pledge by the corporation of any revenues from
2705 any source.

2706 **SECTION 53.** Section 57-10-417, Mississippi Code of 1972, is
2707 reenacted as follows:

2708 57-10-417. The bonds issued by the corporation under
2709 Sections 57-10-401 through 57-10-445 shall be limited obligations
2710 of the corporation and shall not constitute a debt, liability or
2711 general obligation of the state or any political subdivision
2712 thereof (other than the corporation), or a pledge of the faith and
2713 credit of the state or any political subdivision thereof (other
2714 than the corporation), but shall be payable solely as provided by
2715 the corporation under Sections 57-10-401 through 57-10-445. No
2716 member or officer of the board of directors of the corporation nor
2717 any person executing the bonds shall be liable personally on the
2718 bonds by reason of the issuance thereof. Each bond issued under
2719 Sections 57-10-401 through 57-10-445 shall contain on the face
2720 thereof a statement that neither the state, nor any other
2721 political subdivision thereof, shall be obligated to pay the same
2722 or the interest thereon or other costs incident thereto except
2723 from the revenue or money pledged by the corporation and that
2724 neither the faith and credit nor the taxing power of the state or
2725 any political subdivision thereof is pledged to the payment of the
2726 principal of, or the interest on, such bond.

2727 **SECTION 54.** Section 57-10-419, Mississippi Code of 1972, is
2728 reenacted as follows:

2729 57-10-419. (1) The corporation may issue in its own name,
2730 from time to time, for the purpose of financing the approved costs
2731 of an economic development project, its bonds and may pledge for
2732 the payment thereof funds derived in respect of any financing
2733 agreement or other arrangement entered into by the corporation and
2734 an approved company under Sections 57-10-401 through 57-10-445.

2735 (2) In anticipation of the issuance of bonds, the
2736 corporation may provide for the issuance, at one time or from time
2737 to time, of bond anticipation notes. The principal of and the
2738 interest on the notes shall be payable solely from the funds
2739 herein provided for the payment. Any notes may be made payable
2740 from the proceeds of bonds or renewal notes; or, if bond or

2741 renewal note proceeds are not available, the notes may be paid
2742 from any available revenues or assets of the corporation.

2743 (3) The bonds issued under Sections 57-10-401 through
2744 57-10-445 shall be authorized by a resolution of the corporation,
2745 shall bear such date or dates, and shall mature at such time or
2746 times as such resolution may provide, except that no bond shall
2747 mature more than twenty-five (25) years from the date of issue.
2748 Bonds which are not subject to taxation shall bear interest at
2749 such rate or rates, be in such denominations, be in such form,
2750 carry such registration privileges, be executed in such manner, be
2751 payable in such medium of payment, at such place or places, and be
2752 subject to such terms of redemption, including redemption before
2753 maturity, as such resolution may provide. Except as expressly
2754 provided otherwise in Sections 57-10-401 through 57-10-445, the
2755 provisions of other laws of the state relating to the issuance of
2756 revenue bonds shall not apply to bonds issued by the corporation.
2757 As to bonds issued hereunder and designated as taxable bonds by
2758 the corporation, any immunity to taxation by the United States
2759 government of interest on such bonds or notes is hereby waived.
2760 Bonds of the corporation may be sold by the corporation at public
2761 or private sale, from time to time, and at such price or prices as
2762 the corporation shall determine.

2763 (4) The proceeds of any bonds shall be used solely for the
2764 purposes for which issued and shall be disbursed in the manner and
2765 under the restrictions, if any, that the corporation may provide
2766 in the resolution authorizing the issuance of the bonds or in a
2767 trust indenture securing the same.

2768 (5) The principal and interest on the bonds issued by the
2769 corporation shall be payable solely and only from proceeds derived
2770 under a financing agreement and shall be secured solely by the
2771 economic development project, the proceeds of the financing
2772 agreement, and such other assets as may be available, but not
2773 including revenues of the state.

2774 (6) Before the preparation of definitive certificates
2775 evidencing the bonds, the corporation may issue, under like
2776 restrictions, interim receipts or temporary certificates, with or
2777 without coupons, exchangeable for definitive certificates when the
2778 certificates have been executed and are available for delivery.
2779 The corporation may also provide for the replacement of any
2780 certificates which become mutilated or are destroyed or lost.

2781 **SECTION 55.** Section 57-10-421, Mississippi Code of 1972, is
2782 reenacted as follows:

2783 57-10-421. In addition to the requirements provided for in
2784 Section 57-10-419, any resolution authorizing the issuance of
2785 bonds under Sections 57-10-401 through 57-10-445 may contain
2786 provisions as to:

2787 (a) The setting aside of reserves or sinking funds and
2788 the regulations and disposition thereof;

2789 (b) Limitations on the issuance of additional bonds,
2790 the terms upon which additional bonds may be issued and secured,
2791 and the refunding of outstanding or other bonds;

2792 (c) The procedure, if any, by which the terms of any of
2793 the proceedings under which the bonds are being issued may be
2794 amended or abrogated, the number or percentage of bondholders who
2795 or which must consent thereto, and the manner in which the consent
2796 may be given;

2797 (d) The vesting in a trustee or trustees of such
2798 property, rights, powers and duties in trust as the company may
2799 determine, and limiting or abrogating the right of bondholders to
2800 appoint a trustee or limiting the rights, powers and duties of the
2801 trustee;

2802 (e) Defining the act or omissions to act which shall
2803 constitute a default and the obligations or duties of the
2804 corporation to the holders of the bonds, and providing for the
2805 rights and remedies of the holders of the bonds in the event of
2806 default, which rights and remedies may include the general laws of

2807 the state and other provisions of Sections 57-10-401 through
2808 57-10-445; or

2809 (f) Any other matter, of like or different character,
2810 which in any way affects the security or protection of the holders
2811 of the bonds.

2812 **SECTION 56.** Section 57-10-423, Mississippi Code of 1972, is
2813 reenacted as follows:

2814 57-10-423. Any pledge made by the corporation shall be valid
2815 and binding from the time when the pledge was made. The revenues
2816 or properties so pledged and thereafter received by the
2817 corporation shall immediately be subject to the lien of such
2818 pledge without any physical delivery thereof or further act, and
2819 the lien of any such pledge shall be valid and binding as against
2820 all parties having claims of any kind in tort, contract or
2821 otherwise against the corporation, irrespective of whether the
2822 parties have notice thereof. Neither the resolution nor any other
2823 instrument by which a pledge is created need be recorded.

2824 **SECTION 57.** Section 57-10-425, Mississippi Code of 1972, is
2825 reenacted as follows:

2826 57-10-425. The corporation, subject to the provisions in
2827 proceedings relating to outstanding bonds as may then exist, may
2828 purchase bonds out of any funds available therefor, which shall
2829 thereupon be canceled, at any reasonable price which, if the bonds
2830 are then redeemable, shall not exceed the redemption price (and
2831 premium, if any) then applicable plus accrued interest to the
2832 redemption date thereof.

2833 **SECTION 58.** Section 57-10-427, Mississippi Code of 1972, is
2834 reenacted as follows:

2835 57-10-427. The bonds may be secured by an indenture by and
2836 between the corporation and a corporate trustee which may be any
2837 bank or other corporation having the power of a trust company or
2838 any trust company within or without this state. Such indenture
2839 may contain such provisions for protecting and enforcing the

2840 rights and remedies of the bondholders as may be reasonable and
2841 proper and not in violation of law, including covenants setting
2842 forth the duties of the corporation in relation to the exercise of
2843 its powers and the custody, safekeeping and application of all
2844 money. The corporation may provide by the indenture for the
2845 payment of the proceeds of the bonds and revenues to the trustee
2846 under the indenture or other depository, and for the method of
2847 disbursement thereof, with such safeguards and restrictions as the
2848 corporation may determine. If the bonds shall be secured by an
2849 indenture, the bondholders shall have no authority to appoint a
2850 separate trustee to represent them.

2851 **SECTION 59.** Section 57-10-429, Mississippi Code of 1972, is
2852 reenacted as follows:

2853 57-10-429. In the event that any of the members or officers
2854 of the board of directors of the corporation shall cease to be
2855 members or officers of the board prior to the delivery of any
2856 bonds signed by them, their signatures or facsimiles thereof shall
2857 nevertheless be valid and sufficient for all purposes, the same as
2858 if such members or officers had remained in office until such
2859 delivery.

2860 **SECTION 60.** Section 57-10-431, Mississippi Code of 1972, is
2861 reenacted as follows:

2862 57-10-431. The corporation may create and establish such
2863 funds and accounts as may be necessary or desirable for its
2864 purposes under Sections 57-10-401 through 57-10-445.

2865 **SECTION 61.** Section 57-10-433, Mississippi Code of 1972, is
2866 reenacted as follows:

2867 57-10-433. The corporation shall have the power to contract
2868 with the holders of any of its bonds issued under Sections
2869 57-10-401 through 57-10-445 as to the custody, collection,
2870 securing, investment and payment of any money of the corporation,
2871 and of any money held in trust or otherwise for the payment of
2872 bonds, and to carry out such contract. Money held in trust or

2873 otherwise for the payment of bonds or in any way to secure bonds
2874 and deposits of money may be secured in the same manner as money
2875 of the corporation, and all banks and trust companies are
2876 authorized to give security for the deposits.

2877 **SECTION 62.** Section 57-10-435, Mississippi Code of 1972, is
2878 reenacted as follows:

2879 57-10-435. Amendments to Sections 57-10-401 through
2880 57-10-445, enacted after July 1, 1993, shall not limit the rights
2881 vested in the corporation with respect to any agreements made
2882 with, or remedies available to, the holders of bonds issued under
2883 this article or Section 27-7-22.3 prior to the enactment of the
2884 amendments until the bonds, together with all interest thereon,
2885 and all costs and expenses in connection with any proceeding by or
2886 on behalf of the holders, are fully met and discharged.

2887 **SECTION 63.** Section 57-10-437, Mississippi Code of 1972, is
2888 reenacted as follows:

2889 57-10-437. All expenses incurred by the corporation in
2890 carrying out the provisions of Sections 57-10-401 through
2891 57-10-445 shall be payable solely from funds provided under
2892 Sections 57-10-401 through 57-10-445, or other funds of the
2893 corporation. Nothing in Sections 57-10-401 through 57-10-445
2894 shall be construed to authorize the corporation to incur
2895 indebtedness or liability on behalf of or payable by the state or
2896 any other political subdivision thereof.

2897 **SECTION 64.** Section 57-10-439, Mississippi Code of 1972, is
2898 reenacted as follows:

2899 57-10-439. (1) The corporation is hereby declared to be
2900 performing a public function and to be a public body corporate and
2901 a political subdivision of the state. Accordingly, the income,
2902 including any profit made on the sale thereof from all bonds
2903 issued by the corporation, shall at all times be exempt from all
2904 taxation by the state or any political subdivision thereof. If,
2905 after all indebtedness and other obligations of the corporation

2906 are discharged, the corporation is dissolved, its remaining assets
2907 shall inure to the benefit of the state.

2908 (2) With the approval of the appropriate local taxing
2909 authority, all mortgages or deeds of trust executed as security
2910 therefor, all lease or purchase agreements made pursuant to the
2911 provisions hereof, and all purchases required to establish the
2912 industrial enterprise and financed by proceeds from bonds issued
2913 under Sections 57-10-401 through 57-10-445, shall likewise be
2914 exempt from all taxation in the State of Mississippi except the
2915 contractors' tax imposed by Section 27-65-21, and except ad
2916 valorem taxes levied for school district purposes. All projects
2917 and the revenue derived therefrom from any lease thereof shall be
2918 exempt from all taxation in the State of Mississippi, except the
2919 tax levied by Section 27-65-21, except the tax levied under
2920 Chapter 7, Title 27, Mississippi Code of 1972, and except ad
2921 valorem taxes levied for school district purposes.

2922 **SECTION 65.** Section 57-10-441, Mississippi Code of 1972, is
2923 reenacted as follows:

2924 57-10-441. The bonds issued by and under the authority of
2925 Sections 57-10-401 through 57-10-445 by the corporation are
2926 declared to be legal investments in which all public officers or
2927 public bodies of the state, its political subdivisions, all
2928 municipalities and municipal subdivisions, all insurance companies
2929 and associations, and other persons carrying on insurance
2930 business, all banks, bankers, banking associations, trust
2931 companies, savings associations, including savings and loan
2932 associations, building and loan associations, investment
2933 companies, and other persons carrying on a banking business, all
2934 administrators, guardians, executors, trustees and other
2935 fiduciaries, and all other persons who are now or may later be
2936 authorized to invest in bonds or in other obligations of the
2937 state, may invest funds, including capital, in their control or
2938 belonging to them. Such bonds are also hereby made securities

2939 which may be deposited with and received by all public officers
2940 and bodies of the state or any agency or political subdivision of
2941 the state and all municipalities and public corporations for any
2942 purpose for which the deposit of bonds or other obligations of the
2943 state is now or may be later authorized by law.

2944 **SECTION 66.** Section 57-10-443, Mississippi Code of 1972, is
2945 reenacted as follows:

2946 57-10-443. The corporation, within one hundred twenty (120)
2947 days of the close of each fiscal year, shall submit an annual
2948 report of its activities in regard to Sections 57-10-401 through
2949 57-10-445 for the preceding year to the Governor. The Clerk of
2950 the House of Representatives and the Secretary of the Senate each
2951 shall receive a copy of the report by making a request for it to
2952 the corporation. Each report shall set forth a complete operating
2953 and financial statement in regard to Sections 57-10-401 through
2954 57-10-445 for the corporation during the fiscal year it covers.

2955 **SECTION 67.** Section 57-10-445, Mississippi Code of 1972, is
2956 reenacted as follows:

2957 57-10-445. Nothing contained in Sections 57-10-401 through
2958 57-10-445 is to be construed as a restriction or limitation upon
2959 any powers which the corporation might otherwise have under any
2960 other law of the state. Insofar as the provisions of Sections
2961 57-10-401 through 57-10-445 are inconsistent with the provisions
2962 of any other law, the provisions of Sections 57-10-401 through
2963 57-10-445 shall be controlling, and the powers conferred by
2964 Sections 57-10-401 through 57-10-445 shall be regarded as
2965 supplemental and additional to powers conferred by any other laws.
2966 No proceedings, notice or approval shall be required for the
2967 issuance of any bonds or any instrument or the security therefor,
2968 except as provided in Sections 57-10-401 through 57-10-445.

2969 The provisions of Sections 57-10-401 through 57-10-445 shall
2970 be liberally construed to accomplish the purposes of Sections
2971 57-10-401 through 57-10-445.

2972 The powers granted and the duties imposed in Sections
2973 57-10-401 through 57-10-445 shall be construed to be independent
2974 and severable. If any one or more sections, subsections,
2975 sentences or parts of any of Sections 57-10-401 through 57-10-445
2976 shall be adjudged unconstitutional or invalid, such adjudication
2977 shall not affect, impair or invalidate the remaining provisions
2978 thereof, but shall be confined in its operation to the specific
2979 provisions so held unconstitutional or invalid.

2980 **SECTION 68.** Section 27-7-22.3, Mississippi Code of 1972, is
2981 reenacted as follows:

2982 **[In cases involving an economic development project for which**
2983 **the Mississippi Business Finance Corporation has issued bonds for**
2984 **the purpose of financing the approved costs of such project prior**
2985 **to July 1, 1994, this section shall read as follows:]**

2986 27-7-22.3. (1) For taxpayers who are required to pay a job
2987 assessment fee as provided in Section 57-10-413, there shall be
2988 allowed as a credit against the taxes imposed by this chapter, an
2989 amount equal to the amount of the job assessment fee imposed upon
2990 such taxpayer pursuant to Section 57-10-413. If the amount
2991 allowable as a credit exceeds the tax imposed by this article and
2992 Section 27-7-22.3, the amount of such excess shall not be
2993 refundable or carried forward to any other taxable year.

2994 (2) For any approved company as defined in Section
2995 57-10-401, there shall be allowed against the taxes imposed by
2996 this chapter on the income of the approved company generated by or
2997 arising out of the economic development project (as defined in
2998 Section 57-10-401), a credit in an amount not to exceed the total
2999 debt service paid under a financing agreement entered into under
3000 Section 57-10-409. The tax credit allowed in this subsection
3001 shall not exceed the amount of taxes due the State of Mississippi.

3002 **[In cases involving an economic development project for which**
3003 **the Mississippi Business Finance Corporation has not issued bonds**
3004 **for the purpose of financing the approved costs of such project**

3005 prior to July 1, 1994, but has issued bonds for such project prior
3006 to July 1, 1997, or in cases involving an economic development
3007 project which has been induced by a resolution of the Board of
3008 Directors of the Mississippi Business Finance Corporation that has
3009 been filed with the State Tax Commission prior to July 1, 1997,
3010 this section shall read as follows:]

3011 27-7-22.3. (1) For taxpayers who are required to pay a job
3012 assessment fee as provided in Section 57-10-413, there shall be
3013 allowed as a credit against the taxes imposed by this chapter, an
3014 amount equal to the amount of the job assessment fee imposed upon
3015 such taxpayer pursuant to Section 57-10-413. If the amount
3016 allowable as a credit exceeds the tax imposed by this article and
3017 Section 27-7-22.3, the amount of such excess shall not be
3018 refundable or carried forward to any other taxable year.

3019 (2) For any approved company as defined in Section
3020 57-10-401, there shall be allowed against the taxes imposed by
3021 this chapter on the income of the approved company generated by or
3022 arising out of the economic development project (as defined in
3023 Section 57-10-401), a credit in an amount not to exceed the total
3024 debt service paid under a financing agreement entered into under
3025 Section 57-10-409. The tax credit allowed in this subsection
3026 shall not exceed the amount of taxes due the State of Mississippi.
3027 The amount of income of the approved company generated by or
3028 arising out of the economic development project shall be
3029 determined by a formula adopted by the Mississippi Business
3030 Finance Corporation.

3031 [In cases involving an economic development project for which
3032 the Mississippi Business Finance Corporation has not issued bonds
3033 for the purpose of financing the approved costs of such project
3034 prior to July 1, 1997, or in cases involving an economic
3035 development project which has not been induced by a resolution of
3036 the Board of Directors of the Mississippi Business Finance

3037 **Corporation that has been filed with the State Tax Commission**
3038 **prior to July 1, 1997, this section shall read as follows:]**

3039 27-7-22.3. For any approved company as defined in Section
3040 57-10-401, there shall be allowed against the taxes imposed by
3041 this chapter on the income of the approved company generated by or
3042 arising out of the economic development project (as defined in
3043 Section 57-10-401), a credit in an amount not to exceed the total
3044 debt service paid under a financing agreement entered into under
3045 Section 57-10-409; provided, however, that the tax credit allowed
3046 in this subsection shall not exceed eighty percent (80%) of the
3047 amount of taxes due the State of Mississippi prior to the
3048 application of the credit. To the extent that financing agreement
3049 annual payments exceed the amount of the credit authorized
3050 pursuant to this section in any taxable year, such excess payment
3051 may be recouped from excess credits in succeeding years not to
3052 exceed three (3) years following the date upon which the credit
3053 was earned. The amount of income of the approved company
3054 generated by or arising out of the economic development project
3055 shall be determined by a formula adopted by the Mississippi
3056 Business Finance Corporation.

3057 **SECTION 69.** Section 57-10-449, Mississippi Code of 1972, is
3058 amended as follows:

3059 57-10-449. Sections 57-10-401 through 57-10-445 and
3060 27-7-22.3 shall be repealed from and after October 1, 2006.

3061 **SECTION 70.** Section 57-62-5, Mississippi Code of 1972, is
3062 amended as follows:

3063 **[For businesses or industries that received or applied for**
3064 **incentive payments prior to July 1, 2005, this section shall read**
3065 **as follows:]**

3066 57-62-5. As used in this chapter, the following words and
3067 phrases shall have the meanings ascribed in this section unless
3068 the context clearly indicates otherwise:

3069 (a) "Qualified business or industry" means any
3070 corporation, limited liability company, partnership, sole
3071 proprietorship, business trust or other legal entity and subunits
3072 or affiliates thereof, pursuant to rules and regulations of the
3073 MDA, which provides an average annual salary, excluding benefits
3074 which are not subject to Mississippi income taxes, of at least one
3075 hundred twenty-five percent (125%) of the most recently published
3076 state average annual wage or the most recently published average
3077 annual wage of the county in which the qualified business or
3078 industry is located as determined by the Mississippi Department of
3079 Employment Security, whichever is the lesser. An establishment
3080 shall not be considered to be a qualified business or industry
3081 unless it offers, or will offer within one hundred eighty (180)
3082 days of the date it receives the first incentive payment pursuant
3083 to the provisions of this chapter, a basic health benefits plan to
3084 the individuals it employs in new direct jobs in this state which
3085 is approved by the MDA. Qualified business or industry does not
3086 include retail business or gaming business;

3087 (b) "New direct job" means full-time employment in this
3088 state in a qualified business or industry that has qualified to
3089 receive an incentive payment pursuant to this chapter, which
3090 employment did not exist in this state before the date of approval
3091 by the MDA of the application of the qualified business or
3092 industry pursuant to the provisions of this chapter. "New direct
3093 job" shall include full-time employment in this state of employees
3094 who are employed by an entity other than the establishment that
3095 has qualified to receive an incentive payment and who are leased
3096 to the qualified business or industry, if such employment did not
3097 exist in this state before the date of approval by the MDA of the
3098 application of the establishment;

3099 (c) "Full-time job" means a job of at least thirty-five
3100 (35) hours per week;

3101 (d) "Estimated direct state benefits" means the tax
3102 revenues projected by the MDA to accrue to the state as a result
3103 of the qualified business or industry;

3104 (e) "Estimated direct state costs" means the costs
3105 projected by the MDA to accrue to the state as a result of the
3106 qualified business or industry;

3107 (f) "Estimated net direct state benefits" means the
3108 estimated direct state benefits less the estimated direct state
3109 costs;

3110 (g) "Net benefit rate" means the estimated net direct
3111 state benefits computed as a percentage of gross payroll, provided
3112 that:

3113 (i) Except as otherwise provided in this paragraph
3114 (g), the net benefit rate may be variable and shall not exceed
3115 four percent (4%) of the gross payroll; and shall be set in the
3116 sole discretion of the MDA;

3117 (ii) In no event shall incentive payments,
3118 cumulatively, exceed the estimated net direct state benefits;

3119 (h) "Gross payroll" means wages for new direct jobs of
3120 the qualified business or industry; and

3121 (i) "MDA" means the Mississippi Development Authority.

3122 **[For businesses or industries that apply for incentive**
3123 **payments from and after July 1, 2005, this section shall read as**
3124 **follows:]**

3125 57-62-5. As used in this chapter, the following words and
3126 phrases shall have the meanings ascribed in this section unless
3127 the context clearly indicates otherwise:

3128 (a) "Qualified business or industry" means any
3129 corporation, limited liability company, partnership, sole
3130 proprietorship, business trust or other legal entity and subunits
3131 or affiliates thereof, pursuant to rules and regulations of the
3132 MDA, which:

3133 (i) Is a data/information processing enterprise
3134 meeting minimum criteria established by the MDA that provides an
3135 average annual salary, excluding benefits which are not subject to
3136 Mississippi income taxes, of at least one hundred percent (100%)
3137 of the most recently published state average annual wage or the
3138 most recently published average annual wage of the county in which
3139 the qualified business or industry is located as determined by the
3140 Mississippi Department of Employment Security, whichever is the
3141 lesser, and creates not less than two hundred (200) new direct
3142 jobs if the enterprise is located in a Tier One or Tier Two area
3143 (as such areas are designated in accordance with Section
3144 57-73-21), or which creates not less than one hundred (100) new
3145 jobs if the enterprise is located in a Tier Three area (as such
3146 areas are designated in accordance with Section 57-73-21);

3147 (ii)_ Is a manufacturing or distribution enterprise
3148 meeting minimum criteria established by the MDA that provides an
3149 average annual salary, excluding benefits which are not subject to
3150 Mississippi income taxes, of at least one hundred ten percent
3151 (110%) of the most recently published state average annual wage or
3152 the most recently published average annual wage of the county in
3153 which the qualified business or industry is located as determined
3154 by the Mississippi Department of Employment Security, whichever is
3155 the lesser, invests not less than Twenty Million Dollars
3156 (\$20,000,000.00) in land, buildings and equipment, and creates not
3157 less than fifty (50) new direct jobs if the enterprise is located
3158 in a Tier One or Tier Two area (as such areas are designated in
3159 accordance with Section 57-73-21), or which creates not less than
3160 twenty (20) new jobs if the enterprise is located in a Tier Three
3161 area (as such areas are designated in accordance with Section
3162 57-73-21);

3163 (iii)_ Is a corporation, limited liability company,
3164 partnership, sole proprietorship, business trust or other legal
3165 entity and subunits or affiliates thereof, pursuant to rules and

3166 regulations of the MDA, which provides an average annual salary,
3167 excluding benefits which are not subject to Mississippi income
3168 taxes, of at least one hundred twenty-five percent (125%) of the
3169 most recently published state average annual wage or the most
3170 recently published average annual wage of the county in which the
3171 qualified business or industry is located as determined by the
3172 Mississippi Department of Employment Security, whichever is the
3173 lesser. An establishment shall not be considered to be a
3174 qualified business or industry unless it offers, or will offer
3175 within one hundred eighty (180) days of the date it receives the
3176 first incentive payment pursuant to the provisions of this
3177 chapter, a basic health benefits plan to the individuals it
3178 employs in new direct jobs in this state which is approved by the
3179 MDA. Qualified business or industry does not include retail
3180 business or gaming business; or

3181 (iv) Is a research and development or a technology
3182 intensive enterprise meeting minimum criteria established by the
3183 MDA that provides an average annual salary, excluding benefits
3184 which are not subject to Mississippi income taxes, of at least one
3185 hundred fifty percent (150%) of the most recently published state
3186 average annual wage or the most recently published average annual
3187 wage of the county in which the qualified business or industry is
3188 located as determined by the Mississippi Department of Employment
3189 Security, whichever is the lesser, and creates not less than ten
3190 (10) new direct jobs.

3191 An establishment shall not be considered to be a qualified
3192 business or industry unless it offers, or will offer within one
3193 hundred eighty (180) days of the date it receives the first
3194 incentive payment pursuant to the provisions of this chapter, a
3195 basic health benefits plan to the individuals it employs in new
3196 direct jobs in this state which is approved by the MDA. Qualified
3197 business or industry does not include retail business or gaming
3198 business.

3199 (b) "New direct job" means full-time employment in this
3200 state in a qualified business or industry that has qualified to
3201 receive an incentive payment pursuant to this chapter, which
3202 employment did not exist in this state before the date of approval
3203 by the MDA of the application of the qualified business or
3204 industry pursuant to the provisions of this chapter. "New direct
3205 job" shall include full-time employment in this state of employees
3206 who are employed by an entity other than the establishment that
3207 has qualified to receive an incentive payment and who are leased
3208 to the qualified business or industry, if such employment did not
3209 exist in this state before the date of approval by the MDA of the
3210 application of the establishment.

3211 (c) "Full-time job" or "full-time employment" means a
3212 job of at least thirty-five (35) hours per week.

3213 (d) "Estimated direct state benefits" means the tax
3214 revenues projected by the MDA to accrue to the state as a result
3215 of the qualified business or industry.

3216 (e) "Estimated direct state costs" means the costs
3217 projected by the MDA to accrue to the state as a result of the
3218 qualified business or industry.

3219 (f) "Estimated net direct state benefits" means the
3220 estimated direct state benefits less the estimated direct state
3221 costs.

3222 (g) "Net benefit rate" means the estimated net direct
3223 state benefits computed as a percentage of gross payroll, provided
3224 that:

3225 (i) Except as otherwise provided in this paragraph
3226 (g), the net benefit rate may be variable and shall not exceed
3227 four percent (4%) of the gross payroll; and shall be set in the
3228 sole discretion of the MDA;

3229 (ii) In no event shall incentive payments,
3230 cumulatively, exceed the estimated net direct state benefits.

3231 (h) "Gross payroll" means wages for new direct jobs of
3232 the qualified business or industry. * * *

3233 (i) "MDA" means the Mississippi Development Authority.

3234 **SECTION 71.** Section 57-62-9, Mississippi Code of 1972, is
3235 amended as follows:

3236 **[For businesses or industries that received or applied for**
3237 **incentive payments prior to July 1, 2005, this section shall read**
3238 **as follows:]**

3239 57-62-9. (1) Except as otherwise provided in this section,
3240 a qualified business or industry that meets the qualifications
3241 specified in the Mississippi Advantage Jobs Act may receive
3242 quarterly incentive payments for a period not to exceed ten (10)
3243 years from the State Tax Commission pursuant to the provisions of
3244 the Mississippi Advantage Jobs Act in an amount which shall be
3245 equal to the net benefit rate multiplied by the actual gross
3246 payroll of new direct jobs for a calendar quarter as verified by
3247 the Mississippi Department of Employment Security, but not to
3248 exceed the amount of money previously paid into the fund by the
3249 employer. A qualified business or industry that is a project as
3250 defined in Section 57-75-5(f)(iv)1 may elect the date upon which
3251 the ten-year period will begin. Such date may not be later than
3252 sixty (60) months after the date the business or industry applied
3253 for incentive payments.

3254 (2) (a) A qualified business or industry that is a project
3255 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to
3256 receive incentive payments for an additional period not to exceed
3257 five (5) years beyond the expiration date of the initial ten-year
3258 period if:

3259 (i) The qualified business or industry creates at
3260 least three thousand (3,000) new direct jobs within five (5) years
3261 after the date the business or industry commences commercial
3262 production;

3263 (ii) Within five (5) years after the date the
3264 business or industry commences commercial production, the average
3265 annual wage of the jobs is at least one hundred fifty percent
3266 (150%) of the most recently published state average annual wage or
3267 the most recently published average annual wage of the county in
3268 which the qualified business or industry is located as determined
3269 by the Mississippi Department of Employment Security, whichever is
3270 the lesser. The criteria for the average annual wage requirement
3271 shall be based upon the state average annual wage or the average
3272 annual wage of the county whichever is appropriate, at the time of
3273 creation of the minimum number of jobs, and the threshold
3274 established at that time will remain constant for the duration of
3275 the additional period; and

3276 (iii) The qualified business or industry meets and
3277 maintains the job and wage requirements of subparagraphs (i) and
3278 (ii) of this paragraph (a) for four (4) consecutive calendar
3279 quarters.

3280 (b) A qualified business or industry that is a project
3281 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
3282 incentive payments for the additional period provided in paragraph
3283 (a) of this subsection (2) may apply to the MDA to receive
3284 incentive payments for an additional period not to exceed ten (10)
3285 years beyond the expiration date of the additional period provided
3286 in paragraph (a) of this subsection (2) if:

3287 (i) The qualified business or industry creates at
3288 least four thousand (4,000) new direct jobs after qualifying for
3289 the additional incentive period provided in paragraph (a) of this
3290 subsection (2) but before the expiration of the additional period.
3291 For purposes of determining whether the business or industry meets
3292 the minimum jobs requirement of this subparagraph (i), the number
3293 of jobs the business or industry created in order to meet the
3294 minimum jobs requirement of paragraph (a) of this subsection (2)

3295 shall be subtracted from the minimum jobs requirement of this
3296 subparagraph (i);

3297 (ii) The average annual wage of the jobs is at
3298 least one hundred fifty percent (150%) of the most recently
3299 published state average annual wage or the most recently published
3300 average annual wage of the county in which the qualified business
3301 or industry is located as determined by the Mississippi Department
3302 of Employment Security, whichever is the lesser. The criteria for
3303 the average annual wage requirement shall be based upon the state
3304 average annual wage or the average annual wage of the county
3305 whichever is appropriate, at the time of creation of the minimum
3306 number of jobs, and the threshold established at that time will
3307 remain constant for the duration of the additional period; and

3308 (iii) The qualified business or industry meets and
3309 maintains the job and wage requirements of subparagraphs (i) and
3310 (ii) of this paragraph (b) for four (4) consecutive calendar
3311 quarters.

3312 (3) In order to receive incentive payments, an establishment
3313 shall apply to the MDA. The application shall be on a form
3314 prescribed by the MDA and shall contain such information as may be
3315 required by the MDA to determine if the applicant is qualified.

3316 (4) In order to qualify to receive such payments, the
3317 establishment applying shall be required to:

3318 (a) Be engaged in a qualified business or industry;

3319 (b) Provide an average salary, excluding benefits which
3320 are not subject to Mississippi income taxes, of at least one
3321 hundred twenty-five percent (125%) of the most recently published
3322 state average annual wage or the most recently published average
3323 annual wage of the county in which the qualified business or
3324 industry is located as determined by the Mississippi Department of
3325 Employment Security, whichever is the lesser. The criteria for
3326 this requirement shall be based upon the state average annual wage
3327 or the average annual wage of the county whichever is appropriate,

3328 at the time of application, and the threshold established upon
3329 application will remain constant for the duration of the project;

3330 (c) The business or industry must create and maintain a
3331 minimum of ten (10) full-time jobs in counties that have an
3332 average unemployment rate over the previous twelve-month period
3333 which is at least one hundred fifty percent (150%) of the most
3334 recently published state unemployment rate, as determined by the
3335 Mississippi Department of Employment Security or in Tier Three
3336 counties as determined under Section 57-73-21. In all other
3337 counties, the business or industry must create and maintain a
3338 minimum of twenty-five (25) full-time jobs. The criteria for this
3339 requirement shall be based on the designation of the county at the
3340 time of the application. The threshold established upon the
3341 application will remain constant for the duration of the project.
3342 The business or industry must meet its job creation commitment
3343 within twenty-four (24) months of the application approval.
3344 However, if the qualified business or industry is applying for
3345 incentive payments for an additional period under subsection (2)
3346 of this section, the business or industry must comply with the
3347 applicable job and wage requirements of subsection (2) of this
3348 section.

3349 (5) The MDA shall determine if the applicant is qualified to
3350 receive incentive payments. If the applicant is determined to be
3351 qualified by the MDA, the MDA shall conduct a cost/benefit
3352 analysis to determine the estimated net direct state benefits and
3353 the net benefit rate applicable for a period not to exceed ten
3354 (10) years and to estimate the amount of gross payroll for the
3355 period. If the applicant is determined to be qualified to receive
3356 incentive payments for an additional period under subsection (2)
3357 of this section, the MDA shall conduct a cost/benefit analysis to
3358 determine the estimated net direct state benefits and the net
3359 benefit rate applicable for the appropriate additional period and
3360 to estimate the amount of gross payroll for the additional period.

3361 In conducting such cost/benefit analysis, the MDA shall consider
3362 quantitative factors, such as the anticipated level of new tax
3363 revenues to the state along with the cost to the state of the
3364 qualified business or industry, and such other criteria as deemed
3365 appropriate by the MDA, including the adequacy of retirement
3366 benefits that the business or industry provides to individuals it
3367 employs in new direct jobs in this state. In no event shall
3368 incentive payments, cumulatively, exceed the estimated net direct
3369 state benefits. Once the qualified business or industry is
3370 approved by the MDA, an agreement shall be deemed to exist between
3371 the qualified business or industry and the State of Mississippi,
3372 requiring the continued incentive payment to be made as long as
3373 the qualified business or industry retains its eligibility.

3374 (6) Upon approval of such an application, the MDA shall
3375 notify the State Tax Commission and shall provide it with a copy
3376 of the approved application and the estimated net direct state
3377 benefits. The State Tax Commission may require the qualified
3378 business or industry to submit such additional information as may
3379 be necessary to administer the provisions of this chapter. The
3380 qualified business or industry shall report to the State Tax
3381 Commission periodically to show its continued eligibility for
3382 incentive payments. The qualified business or industry may be
3383 audited by the State Tax Commission to verify such eligibility.

3384 **[For businesses or industries that apply for incentive**
3385 **payments from and after July 1, 2005, this section shall read as**
3386 **follows:]**

3387 57-62-9. (1) (a) Except as otherwise provided in this
3388 section, a qualified business or industry that meets the
3389 qualifications specified in the Mississippi Advantage Jobs Act may
3390 receive quarterly incentive payments for a period not to exceed
3391 ten (10) years from the State Tax Commission pursuant to the
3392 provisions of the Mississippi Advantage Jobs Act in an amount
3393 which shall be equal to the net benefit rate multiplied by the

3394 actual gross payroll of new direct jobs for a calendar quarter as
3395 verified by the Mississippi Department of Employment Security, but
3396 not to exceed:

3397 (i) Ninety percent (90%) of the amount of money
3398 previously paid into the fund by the employer if the employer
3399 provides an average annual salary, excluding benefits which are
3400 not subject to Mississippi income taxes, of at least one hundred
3401 seventy-five percent (175%) of the most recently published state
3402 average annual wage or the most recently published average annual
3403 wage of the county in which the qualified business or industry is
3404 located as determined by the Mississippi Department of Employment
3405 Security, whichever is the lesser;

3406 (ii) Eighty percent (80%) of the amount of money
3407 previously paid into the fund by the employer if the employer
3408 provides an average annual salary, excluding benefits which are
3409 not subject to Mississippi income taxes, of at least one hundred
3410 twenty-five percent (125%) but less than one hundred seventy-five
3411 percent (175%) of the most recently published state average annual
3412 wage or the most recently published average annual wage of the
3413 county in which the qualified business or industry is located as
3414 determined by the Mississippi Department of Employment Security,
3415 whichever is the lesser; or

3416 (iii) Seventy percent (70%) of the amount of money
3417 previously paid into the fund by the employer if the employer
3418 provides an average annual salary, excluding benefits which are
3419 not subject to Mississippi income taxes, of less than one hundred
3420 twenty-five percent (125%) of the most recently published state
3421 average annual wage or the most recently published average annual
3422 wage of the county in which the qualified business or industry is
3423 located as determined by the Mississippi Department of Employment
3424 Security, whichever is the lesser.

3425 (b) A qualified business or industry that is a project
3426 as defined in Section 57-75-5(f)(iv)1 may elect the date upon

3427 which the ten-year period will begin. Such date may not be later
3428 than sixty (60) months after the date the business or industry
3429 applied for incentive payments.

3430 (2) (a) A qualified business or industry that is a project
3431 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to
3432 receive incentive payments for an additional period not to exceed
3433 five (5) years beyond the expiration date of the initial ten-year
3434 period if:

3435 (i) The qualified business or industry creates at
3436 least three thousand (3,000) new direct jobs within five (5) years
3437 after the date the business or industry commences commercial
3438 production;

3439 (ii) Within five (5) years after the date the
3440 business or industry commences commercial production, the average
3441 annual wage of the jobs is at least one hundred fifty percent
3442 (150%) of the most recently published state average annual wage or
3443 the most recently published average annual wage of the county in
3444 which the qualified business or industry is located as determined
3445 by the Mississippi Department of Employment Security, whichever is
3446 the lesser. The criteria for the average annual wage requirement
3447 shall be based upon the state average annual wage or the average
3448 annual wage of the county whichever is appropriate, at the time of
3449 creation of the minimum number of jobs, and the threshold
3450 established at that time will remain constant for the duration of
3451 the additional period; and

3452 (iii) The qualified business or industry meets and
3453 maintains the job and wage requirements of subparagraphs (i) and
3454 (ii) of this paragraph (a) for four (4) consecutive calendar
3455 quarters.

3456 (b) A qualified business or industry that is a project
3457 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
3458 incentive payments for the additional period provided in paragraph
3459 (a) of this subsection (2) may apply to the MDA to receive

3460 incentive payments for an additional period not to exceed ten (10)
3461 years beyond the expiration date of the additional period provided
3462 in paragraph (a) of this subsection (2) if:

3463 (i) The qualified business or industry creates at
3464 least four thousand (4,000) new direct jobs after qualifying for
3465 the additional incentive period provided in paragraph (a) of this
3466 subsection (2) but before the expiration of the additional period.
3467 For purposes of determining whether the business or industry meets
3468 the minimum jobs requirement of this subparagraph (i), the number
3469 of jobs the business or industry created in order to meet the
3470 minimum jobs requirement of paragraph (a) of this subsection (2)
3471 shall be subtracted from the minimum jobs requirement of this
3472 subparagraph (i);

3473 (ii) The average annual wage of the jobs is at
3474 least one hundred fifty percent (150%) of the most recently
3475 published state average annual wage or the most recently published
3476 average annual wage of the county in which the qualified business
3477 or industry is located as determined by the Mississippi Department
3478 of Employment Security, whichever is the lesser. The criteria for
3479 the average annual wage requirement shall be based upon the state
3480 average annual wage or the average annual wage of the county
3481 whichever is appropriate, at the time of creation of the minimum
3482 number of jobs, and the threshold established at that time will
3483 remain constant for the duration of the additional period; and

3484 (iii) The qualified business or industry meets and
3485 maintains the job and wage requirements of subparagraphs (i) and
3486 (ii) of this paragraph (b) for four (4) consecutive calendar
3487 quarters.

3488 (3) In order to receive incentive payments, an establishment
3489 shall apply to the MDA. The application shall be on a form
3490 prescribed by the MDA and shall contain such information as may be
3491 required by the MDA to determine if the applicant is qualified.

3492 (4) (a) In order to qualify to receive such payments, the
3493 establishment applying shall be required to meet the definition of
3494 the term "qualified business or industry";

3495 (b) * * * The criteria for the average annual salary
3496 requirement shall be based upon the state average annual wage or
3497 the average annual wage of the county whichever is appropriate, at
3498 the time of application, and the threshold established upon
3499 application will remain constant for the duration of the project;

3500 (c) * * * The business or industry must meet its job
3501 creation commitment within twenty-four (24) months of the
3502 application approval. However, if the qualified business or
3503 industry is applying for incentive payments for an additional
3504 period under subsection (2) of this section, the business or
3505 industry must comply with the applicable job and wage requirements
3506 of subsection (2) of this section.

3507 (5) (a) The MDA shall determine if the applicant is
3508 qualified to receive incentive payments. If the applicant is
3509 determined to be qualified by the MDA, the MDA shall:

3510 (i) Conduct a cost/benefit analysis to determine
3511 the estimated net direct state benefits and the net benefit rate
3512 applicable for a period not to exceed ten (10) years and to
3513 estimate the amount of gross payroll for the period; and

3514 (ii) Require the applicant to execute a
3515 performance agreement with the MDA that specifies the manner in
3516 which the applicant will utilize the incentive payments made to it
3517 under this chapter.

3518 (b) If the applicant is determined to be qualified to
3519 receive incentive payments for an additional period under
3520 subsection (2) of this section, the MDA shall conduct a
3521 cost/benefit analysis to determine the estimated net direct state
3522 benefits and the net benefit rate applicable for the appropriate
3523 additional period and to estimate the amount of gross payroll for
3524 the additional period. In conducting such cost/benefit analysis,

3525 the MDA shall consider quantitative factors, such as the
3526 anticipated level of new tax revenues to the state along with the
3527 cost to the state of the qualified business or industry, and such
3528 other criteria as deemed appropriate by the MDA, including the
3529 adequacy of retirement benefits that the business or industry
3530 provides to individuals it employs in new direct jobs in this
3531 state. In no event shall incentive payments, cumulatively, exceed
3532 the estimated net direct state benefits. Once the qualified
3533 business or industry is approved by the MDA, an agreement shall be
3534 deemed to exist between the qualified business or industry and the
3535 State of Mississippi, requiring the continued incentive payment to
3536 be made as long as the qualified business or industry retains its
3537 eligibility.

3538 (6) Upon approval of such an application, the MDA shall
3539 notify the State Tax Commission and shall provide it with a copy
3540 of the approved application and the estimated net direct state
3541 benefits. The State Tax Commission may require the qualified
3542 business or industry to submit such additional information as may
3543 be necessary to administer the provisions of this chapter. The
3544 qualified business or industry shall report to the State Tax
3545 Commission periodically to show its continued eligibility for
3546 incentive payments. The qualified business or industry may be
3547 audited by the State Tax Commission to verify such eligibility.

3548 **SECTION 72.** Section 57-62-13, Mississippi Code of 1972, is
3549 amended as follows:

3550 57-62-13. (1) As soon as practicable after the end of a
3551 calendar quarter for which a qualified business or industry has
3552 qualified to receive an incentive payment, the qualified business
3553 or industry shall file a claim for the payment with the State Tax
3554 Commission and shall specify the actual number of new direct jobs
3555 created and maintained by the business or industry for the
3556 calendar quarter and the gross payroll thereof. The State Tax
3557 Commission shall verify the actual number of new direct jobs

3558 created and maintained by the business or industry and compliance
3559 with the average annual wage requirements for such business or
3560 industry under this chapter. If the qualified business or
3561 industry files a claim for an incentive payment during an
3562 additional incentive period provided under Section 57-62-9(2), the
3563 State Tax Commission shall verify the actual number of new direct
3564 jobs created and maintained by the business or industry and
3565 compliance with the average annual wage requirements for such
3566 business or industry under this chapter. If the State Tax
3567 Commission is not able to provide such verification utilizing all
3568 available resources, the State Tax Commission may request such
3569 additional information from the business or industry as may be
3570 necessary.

3571 (2) (a) The business or industry must meet the salary and
3572 job requirements of this chapter for four (4) consecutive calendar
3573 quarters prior to payment of the first incentive payment. If the
3574 business or industry does not maintain the salary or job
3575 requirements of this chapter at any other time during the ten-year
3576 period after the date the first payment was made, the incentive
3577 payments shall not be made and shall not be resumed until such
3578 time as the actual verified number of new direct jobs created and
3579 maintained by the business or industry equals or exceeds the
3580 requirements of this chapter for one (1) calendar quarter.

3581 (b) If the business or industry is qualified to receive
3582 incentive payments for an additional period provided under Section
3583 57-62-9(2), the business or industry must meet the wage and job
3584 requirements of Section 57-62-9(2), for four (4) consecutive
3585 calendar quarters prior to payment of the first incentive payment.
3586 If the business or industry does not maintain the wage or job
3587 requirements of Section 57-62-9(2), at any other time during the
3588 appropriate additional period after the date the first payment was
3589 made, the incentive payments shall not be made and shall not be
3590 resumed until such time as the actual verified number of new

3591 direct jobs created and maintained by the business or industry
3592 equals or exceeds the amounts specified in Section 57-62-9(2), for
3593 one (1) calendar quarter.

3594 (3) An establishment that has qualified pursuant to this
3595 chapter may receive payments only in accordance with the provision
3596 under which it initially applied and was approved. If an
3597 establishment that is receiving incentive payments expands, it may
3598 apply for additional incentive payments based on the new gross
3599 payroll for new direct jobs anticipated from the expansion only,
3600 pursuant to this chapter.

3601 (4) As soon as practicable after verification of the
3602 qualified business or industry meeting the requirements of this
3603 chapter and all rules and regulations, the Department of Finance
3604 and Administration, upon requisition of the State Tax Commission,
3605 shall issue a warrant drawn on the Mississippi Advantage Jobs
3606 Incentive Payment Fund to the establishment in the amount of the
3607 net benefit rate multiplied by the actual gross payroll as
3608 determined pursuant to subsection (1) of this section for the
3609 calendar quarter.

3610 **SECTION 73.** There is created the Mississippi Development
3611 Authority Legislative Oversight Committee to serve in an advisory
3612 capacity to the Mississippi Development Authority ("MDA")
3613 regarding matters under the jurisdiction of the MDA. The
3614 oversight committee shall consist of the Speaker of the House of
3615 Representatives, or his designee, the Lieutenant Governor, or his
3616 designee, two (2) representatives appointed by the Speaker of the
3617 House of Representatives, and two (2) senators appointed by the
3618 Lieutenant Governor. The oversight committee shall have no
3619 jurisdiction or vote on any matter within the jurisdiction of the
3620 MDA. The members of the oversight committee shall receive per
3621 diem and expenses for the actual performance of their duties which
3622 shall be paid from the contingent expense funds of their
3623 respective houses in the same amounts as provided for committee

3624 meetings when the Legislature is not in session; however, no per
3625 diem and expenses will be paid to members of the oversight
3626 committee while the Legislature is in session. The terms of the
3627 members of the oversight committee shall expire at the end of
3628 their terms of office.

3629 **SECTION 74.** The Mississippi Development Authority shall
3630 require any entity using funds authorized and made available under
3631 House Bill No. 1682, 2005 Regular Session, to demonstrate a good
3632 faith effort to do business with Mississippi businesses which are
3633 small business concerns owned and controlled by socially and
3634 economically disadvantaged individuals and which are inclusive and
3635 reflective of the demographics of the state. The authority also
3636 shall require such an entity to submit a subcontracting plan when
3637 procuring goods and services including, but not limited to,
3638 professional services and engineering services. The term
3639 "socially and economically disadvantaged individuals" shall have
3640 the meaning ascribed to such term under Section 8(d) of the Small
3641 Business Act (15 USCS, Section 637(d)) and relevant subcontracting
3642 regulations promulgated pursuant thereto; except that women shall
3643 be presumed to be socially and economically disadvantaged
3644 individuals for the purposes of this section.

3645 **SECTION 75.** Section 39 of this act shall take effect and be
3646 in force from and after January 1, 2005, and the remainder of this
3647 act shall take effect and be in force from and after July 1, 2005.