

By: Representative Watson

To: Ways and Means

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 \$10,000,000.00 IN STATE GENERAL
11 OBLIGATION BONDS TO PROVIDE FUNDS FOR THE MISSISSIPPI EXISTING
12 INDUSTRY PRODUCTIVITY LOAN FUND; TO AUTHORIZE THE ISSUANCE OF
13 \$10,000,000.00 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 \$105,000,000.00 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 \$312,000,000.00 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 \$20,500,000.00 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; AND FOR RELATED
128 PURPOSES.

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

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

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

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

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

138 (ii) Meet criteria established by the Mississippi
139 Development Authority.

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

141 (2) (a) There is established the Mississippi Existing
142 Industry Productivity Loan Program to be administered by the MDA
143 for the purpose of providing loans to existing industries to
144 deploy long-term fixed assets that through new technology will
145 improve productivity and competitiveness. An existing industry
146 that accepts a loan under this program shall not reduce employment
147 by more than twenty percent (20%) through the use of the long-term
148 fixed assets for which the loan is granted.

149 (b) An enterprise desiring a loan under this section
150 must submit an application to the MDA. The application shall
151 include:

152 (i) A description of the purpose for which the
153 loan is requested;

154 (ii) The amount of the loan requested;

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

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

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

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

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

162 (c) The MDA shall require that binding commitments be
163 entered into requiring that:

164 (i) The minimum requirements of this section and
165 such other requirements as the MDA considers proper shall be met;
166 and

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

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

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

176 (f) The MDA shall have all powers necessary to
177 implement and administer the program established under this
178 section, and the MDA shall promulgate rules and regulations, in
179 accordance with the Mississippi Administrative Procedures Law,
180 necessary for the implementation of this section.

181 (2) (a) There is created in the State Treasury a special
182 fund to be designated as the "Mississippi Existing Industry
183 Productivity Loan Fund," which shall consist of funds appropriated
184 or otherwise made available by the Legislature in any manner and
185 funds from any other source designated for deposit into such fund.
186 Unexpended amounts remaining in the fund at the end of a fiscal
187 year shall not lapse into the State General Fund, and any
188 investment earnings or interest earned on amounts in the fund
189 shall be deposited to the credit of the fund. Monies in the fund

190 shall be used by the MDA for the purposes described in this
191 section.

192 (b) Monies in the fund which are derived from the
193 proceeds of general obligation bonds may be used to reimburse
194 reasonable actual and necessary costs incurred by the MDA in
195 providing loans under this section through the use of general
196 obligation bonds. An accounting of actual costs incurred for
197 which reimbursement is sought shall be maintained for each loan by
198 the MDA. Reimbursement of reasonable actual and necessary costs
199 shall not exceed three percent (3%) of the proceeds of bonds
200 issued under Sections 2 through 17 of this act. Monies authorized
201 for a particular loan may not be used to reimburse administrative
202 costs for unrelated loans. Reimbursements made under this
203 subsection shall satisfy any applicable federal tax law
204 requirements.

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

208 (a) "Accreted value" of any bonds means, as of any date
209 of computation, an amount equal to the sum of (i) the stated
210 initial value of such bond, plus (ii) the interest accrued thereon
211 from the issue date to the date of computation at the rate,
212 compounded semiannually, that is necessary to produce the
213 approximate yield to maturity shown for bonds of the same
214 maturity.

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

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

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

218 **SECTION 3.** (1) The Mississippi Development Authority, at
219 one time, or from time to time, may declare by resolution the
220 necessity for issuance of general obligation bonds of the State of
221 Mississippi to provide funds for the program authorized in Section
222 1 of House Bill No. 1682, 2005 Regular Session. Upon the adoption

223 of a resolution by the Mississippi Development Authority,
224 declaring the necessity for the issuance of any part or all of the
225 general obligation bonds authorized by this section, the
226 Mississippi Development Authority shall deliver a certified copy
227 of its resolution or resolutions to the commission. Upon receipt
228 of such resolution, the commission, in its discretion, may act as
229 the issuing agent, prescribe the form of the bonds, advertise for
230 and accept bids, issue and sell the bonds so authorized to be sold
231 and do any and all other things necessary and advisable in
232 connection with the issuance and sale of such bonds. The total
233 amount of bonds issued under this act shall not exceed Ten Million
234 Dollars (\$10,000,000.00). No bonds shall be issued under this act
235 after July 1, 2008.

236 (2) The proceeds of bonds issued pursuant to this act shall
237 be deposited into the Mississippi Existing Industry Productivity
238 Loan Fund created pursuant to Section 1 of House Bill No. 1682,
239 2005 Regular Session. Any investment earnings on bonds issued
240 pursuant to this act shall be used to pay debt service on bonds
241 issued under this act, in accordance with the proceedings
242 authorizing issuance of such bonds.

243 **SECTION 4.** The principal of and interest on the bonds
244 authorized under this act shall be payable in the manner provided
245 in this section. Such bonds shall bear such date or dates, be in
246 such denomination or denominations, bear interest at such rate or
247 rates (not to exceed the limits set forth in Section 75-17-101,
248 Mississippi Code of 1972), be payable at such place or places
249 within or without the State of Mississippi, shall mature
250 absolutely at such time or times not to exceed twenty-five (25)
251 years from date of issue, be redeemable before maturity at such
252 time or times and upon such terms, with or without premium, shall
253 bear such registration privileges, and shall be substantially in
254 such form, all as shall be determined by resolution of the
255 commission.

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

274 **SECTION 6.** All bonds and interest coupons issued under the
275 provisions of this act have all the qualities and incidents of
276 negotiable instruments under the provisions of the Uniform
277 Commercial Code, and in exercising the powers granted by this act,
278 the commission shall not be required to and need not comply with
279 the provisions of the Uniform Commercial Code.

280 **SECTION 7.** The commission shall act as the issuing agent for
281 the bonds authorized under this act, prescribe the form of the
282 bonds, advertise for and accept bids, issue and sell the bonds so
283 authorized to be sold, pay all fees and costs incurred in such
284 issuance and sale, and do any and all other things necessary and
285 advisable in connection with the issuance and sale of such bonds.
286 The commission is authorized and empowered to pay the costs that
287 are incident to the sale, issuance and delivery of the bonds
288 authorized under this act from the proceeds derived from the sale

289 of such bonds. The commission shall sell such bonds on sealed
290 bids at public sale, and for such price as it may determine to be
291 for the best interest of the State of Mississippi, but no such
292 sale shall be made at a price less than par plus accrued interest
293 to the date of delivery of the bonds to the purchaser. All
294 interest accruing on such bonds so issued shall be payable
295 semiannually or annually; however, the first interest payment may
296 be for any period of not more than one (1) year.

297 Notice of the sale of any such bonds shall be published at
298 least one time, not less than ten (10) days before the date of
299 sale, and shall be so published in one or more newspapers
300 published or having a general circulation in the City of Jackson,
301 Mississippi, and in one or more other newspapers or financial
302 journals with a national circulation, to be selected by the
303 commission.

304 The commission, when issuing any bonds under the authority of
305 this act, may provide that bonds, at the option of the State of
306 Mississippi, may be called in for payment and redemption at the
307 call price named therein and accrued interest on such date or
308 dates named therein.

309 **SECTION 8.** The bonds issued under the provisions of this act
310 are general obligations of the State of Mississippi, and for the
311 payment thereof the full faith and credit of the State of
312 Mississippi is irrevocably pledged. If the funds appropriated by
313 the Legislature are insufficient to pay the principal of and the
314 interest on such bonds as they become due, then the deficiency
315 shall be paid by the State Treasurer from any funds in the State
316 Treasury not otherwise appropriated. All such bonds shall contain
317 recitals on their faces substantially covering the provisions of
318 this section.

319 **SECTION 9.** Upon the issuance and sale of bonds under the
320 provisions of this act, the commission shall transfer the proceeds
321 of any such sale or sales to the Mississippi Existing Industry

322 Productivity Loan Fund created in Section 1 of House Bill No.
323 1682, 2005 Regular Session. The proceeds of such bonds shall be
324 disbursed solely upon the order of the Mississippi Development
325 Authority under such restrictions, if any, as may be contained in
326 the resolution providing for the issuance of the bonds.

327 **SECTION 10.** The bonds authorized under this act may be
328 issued without any other proceedings or the happening of any other
329 conditions or things other than those proceedings, conditions and
330 things which are specified or required by this act. Any
331 resolution providing for the issuance of bonds under the
332 provisions of this act shall become effective immediately upon its
333 adoption by the commission, and any such resolution may be adopted
334 at any regular or special meeting of the commission by a majority
335 of its members.

336 **SECTION 11.** The bonds authorized under the authority of this
337 act may be validated in the Chancery Court of the First Judicial
338 District of Hinds County, Mississippi, in the manner and with the
339 force and effect provided by Chapter 13, Title 31, Mississippi
340 Code of 1972, for the validation of county, municipal, school
341 district and other bonds. The notice to taxpayers required by
342 such statutes shall be published in a newspaper published or
343 having a general circulation in the City of Jackson, Mississippi.

344 **SECTION 12.** Any holder of bonds issued under the provisions
345 of this act or of any of the interest coupons pertaining thereto
346 may, either at law or in equity, by suit, action, mandamus or
347 other proceeding, protect and enforce any and all rights granted
348 under this act, or under such resolution, and may enforce and
349 compel performance of all duties required by this act to be
350 performed, in order to provide for the payment of bonds and
351 interest thereon.

352 **SECTION 13.** All bonds issued under the provisions of this
353 act shall be legal investments for trustees and other fiduciaries,
354 and for savings banks, trust companies and insurance companies

355 organized under the laws of the State of Mississippi, and such
356 bonds shall be legal securities which may be deposited with and
357 shall be received by all public officers and bodies of this state
358 and all municipalities and political subdivisions for the purpose
359 of securing the deposit of public funds.

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

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

366 **SECTION 16.** The State Treasurer is authorized, without
367 further process of law, to certify to the Department of Finance
368 and Administration the necessity for warrants, and the Department
369 of Finance and Administration is authorized and directed to issue
370 such warrants, in such amounts as may be necessary to pay when due
371 the principal of, premium, if any, and interest on, or the
372 accreted value of, all bonds issued under this act; and the State
373 Treasurer shall forward the necessary amount to the designated
374 place or places of payment of such bonds in ample time to
375 discharge such bonds, or the interest thereon, on the due dates
376 thereof.

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

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

384 (a) "Accreted value" of any bonds means, as of any date
385 of computation, an amount equal to the sum of (i) the stated
386 initial value of such bond, plus (ii) the interest accrued thereon
387 from the issue date to the date of computation at the rate,

388 compounded semiannually, that is necessary to produce the
389 approximate yield to maturity shown for bonds of the same
390 maturity.

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

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

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

394 **SECTION 19.** (1) The Mississippi Development Authority, at
395 one time, or from time to time, may declare by resolution the
396 necessity for issuance of general obligation bonds of the State of
397 Mississippi to provide funds for the program authorized in Section
398 57-1-16. Upon the adoption of a resolution by the Mississippi
399 Development Authority, declaring the necessity for the issuance of
400 any part or all of the general obligation bonds authorized by this
401 section, the Mississippi Development Authority shall deliver a
402 certified copy of its resolution or resolutions to the commission.
403 Upon receipt of such resolution, the commission, in its
404 discretion, may act as the issuing agent, prescribe the form of
405 the bonds, advertise for and accept bids, issue and sell the bonds
406 so authorized to be sold and do any and all other things necessary
407 and advisable in connection with the issuance and sale of such
408 bonds. The total amount of bonds issued under this act shall not
409 exceed Ten Million Dollars (\$10,000,000.00). No bonds authorized
410 under this act shall be issued after July 1, 2009.

411 (2) The proceeds of bonds issued pursuant to this act shall
412 be deposited into the ACE Fund created pursuant to Section
413 57-1-16. Any investment earnings on bonds issued pursuant to this
414 act shall be used to pay debt service on bonds issued under this
415 act, in accordance with the proceedings authorizing issuance of
416 such bonds.

417 **SECTION 20.** The principal of and interest on the bonds
418 authorized under this act shall be payable in the manner provided
419 in this section. Such bonds shall bear such date or dates, be in
420 such denomination or denominations, bear interest at such rate or

421 rates (not to exceed the limits set forth in Section 75-17-101,
422 Mississippi Code of 1972), be payable at such place or places
423 within or without the State of Mississippi, shall mature
424 absolutely at such time or times not to exceed twenty-five (25)
425 years from date of issue, be redeemable before maturity at such
426 time or times and upon such terms, with or without premium, shall
427 bear such registration privileges, and shall be substantially in
428 such form, all as shall be determined by resolution of the
429 commission.

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

448 **SECTION 22.** All bonds and interest coupons issued under the
449 provisions of this act have all the qualities and incidents of
450 negotiable instruments under the provisions of the Uniform
451 Commercial Code, and in exercising the powers granted by this act,
452 the commission shall not be required to and need not comply with
453 the provisions of the Uniform Commercial Code.

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

471 Notice of the sale of any such bonds shall be published at
472 least one time, not less than ten (10) days before the date of
473 sale, and shall be so published in one or more newspapers
474 published or having a general circulation in the City of Jackson,
475 Mississippi, and in one or more other newspapers or financial
476 journals with a national circulation, to be selected by the
477 commission.

478 The commission, when issuing any bonds under the authority of
479 this act, may provide that bonds, at the option of the State of
480 Mississippi, may be called in for payment and redemption at the
481 call price named therein and accrued interest on such date or
482 dates named therein.

483 **SECTION 24.** The bonds issued under the provisions of this
484 act are general obligations of the State of Mississippi, and for
485 the payment thereof the full faith and credit of the State of
486 Mississippi is irrevocably pledged. If the funds appropriated by

487 the Legislature are insufficient to pay the principal of and the
488 interest on such bonds as they become due, then the deficiency
489 shall be paid by the State Treasurer from any funds in the State
490 Treasury not otherwise appropriated. All such bonds shall contain
491 recitals on their faces substantially covering the provisions of
492 this section.

493 **SECTION 25.** Upon the issuance and sale of bonds under the
494 provisions of this act, the commission shall transfer the proceeds
495 of any such sale or sales to the ACE Fund created in Section
496 57-1-16. The proceeds of such bonds shall be disbursed solely
497 upon the order of the Mississippi Development Authority under such
498 restrictions, if any, as may be contained in the resolution
499 providing for the issuance of the bonds.

500 **SECTION 26.** The bonds authorized under this act may be
501 issued without any other proceedings or the happening of any other
502 conditions or things other than those proceedings, conditions and
503 things which are specified or required by this act. Any
504 resolution providing for the issuance of bonds under the
505 provisions of this act shall become effective immediately upon its
506 adoption by the commission, and any such resolution may be adopted
507 at any regular or special meeting of the commission by a majority
508 of its members.

509 **SECTION 27.** The bonds authorized under the authority of this
510 act may be validated in the Chancery Court of the First Judicial
511 District of Hinds County, Mississippi, in the manner and with the
512 force and effect provided by Chapter 13, Title 31, Mississippi
513 Code of 1972, for the validation of county, municipal, school
514 district and other bonds. The notice to taxpayers required by
515 such statutes shall be published in a newspaper published or
516 having a general circulation in the City of Jackson, Mississippi.

517 **SECTION 28.** Any holder of bonds issued under the provisions
518 of this act or of any of the interest coupons pertaining thereto
519 may, either at law or in equity, by suit, action, mandamus or

520 other proceeding, protect and enforce any and all rights granted
521 under this act, or under such resolution, and may enforce and
522 compel performance of all duties required by this act to be
523 performed, in order to provide for the payment of bonds and
524 interest thereon.

525 **SECTION 29.** All bonds issued under the provisions of this
526 act shall be legal investments for trustees and other fiduciaries,
527 and for savings banks, trust companies and insurance companies
528 organized under the laws of the State of Mississippi, and such
529 bonds shall be legal securities which may be deposited with and
530 shall be received by all public officers and bodies of this state
531 and all municipalities and political subdivisions for the purpose
532 of securing the deposit of public funds.

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

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

539 **SECTION 32.** The State Treasurer is authorized, without
540 further process of law, to certify to the Department of Finance
541 and Administration the necessity for warrants, and the Department
542 of Finance and Administration is authorized and directed to issue
543 such warrants, in such amounts as may be necessary to pay when due
544 the principal of, premium, if any, and interest on, or the
545 accreted value of, all bonds issued under this act; and the State
546 Treasurer shall forward the necessary amount to the designated
547 place or places of payment of such bonds in ample time to
548 discharge such bonds, or the interest thereon, on the due dates
549 thereof.

550 **SECTION 33.** This act shall be deemed to be full and complete
551 authority for the exercise of the powers therein granted, but this

552 act shall not be deemed to repeal or to be in derogation of any
553 existing law of this state.

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

556 57-1-16. (1) As used in this section:

557 (a) "Extraordinary economic development opportunity"
558 means a new or expanded business or industry which maintains a
559 strong financial condition and minimal credit risk and creates
560 substantial employment, particularly in areas of high
561 unemployment.

562 (b) "Local economic development entities" means public
563 or private nonprofit local economic development entities,
564 including, but not limited to, chambers of commerce, local
565 authorities, commissions or other entities created by local and
566 private legislation or districts created pursuant to Section
567 19-5-99.

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

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

583 (b) Monies in the fund which are derived from the
584 proceeds of general obligation bonds may be used to reimburse

585 reasonable actual and necessary costs incurred by the MDA in
586 providing assistance under this section through the use of general
587 obligation bonds. An accounting of actual costs incurred for
588 which reimbursement is sought shall be maintained for each grant
589 by the MDA. Reimbursement of reasonable actual and necessary
590 costs for a grant shall not exceed three percent (3%) of the
591 proceeds of bonds issued for such grant. Monies authorized for a
592 particular grant may not be used to reimburse administrative costs
593 for unrelated grants. Reimbursements made under this subsection
594 shall satisfy any applicable federal tax law requirements.

595 (3) The MDA shall establish a grant program to make grants
596 from the ACE Fund created under this section. Local economic
597 development entities may apply to the MDA for a grant under this
598 section in the manner provided for in subsection (4) of this
599 section.

600 (4) (a) Any business or industry desiring assistance from a
601 local economic development entity under this section shall submit
602 an application to the local economic development entity which
603 shall include, at a minimum:

604 (i) Evidence that the business or industry meets
605 the definition of an extraordinary economic development
606 opportunity;

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

610 (iii) A description, including the cost, of the
611 requested assistance;

612 (iv) A description of the purpose for which the
613 assistance is requested;

614 (v) A two-year business plan;

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

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

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

620 (b) The MDA shall require that binding commitments be
621 entered into requiring that:

622 (i) The minimum requirements of this section and
623 such other requirements as the MDA considers proper shall be met;
624 and

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

628 (c) Upon receipt of the application from a business or
629 industry, the local economic development entity may apply to the
630 MDA for assistance under this section. Such application must
631 contain evidence that the business or industry meets the
632 definition of an extraordinary economic development opportunity, a
633 demonstration that the business or industry is at an economic
634 disadvantage by locating the new or expanded project in the
635 county, a description, including the cost, of the requested
636 assistance, and a statement of what efforts have been made or are
637 being made by the business or industry for securing or qualifying
638 for other local, state, federal or private funds for the project.

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

643 (5) The MDA shall promulgate rules and regulations, in
644 accordance with the Mississippi Administrative Procedures Law, for
645 the implementation of this section. However, before the
646 implementation of any such rules and regulations, they shall be
647 submitted to a committee consisting of five (5) members of the
648 Senate Finance Committee and five (5) members of the House of

649 Representatives Ways and Means Committee, appointed by the
650 respective committee chairmen.

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

653 57-1-307. (1) The State Bond Commission, at one time, or
654 from time to time, may declare by resolution the necessity for
655 issuance of general obligation bonds of the State of Mississippi
656 to provide funds for all costs incurred or to be incurred for the
657 purposes described in Section 57-1-303. Upon the adoption of a
658 resolution by the Mississippi Development Authority, declaring the
659 necessity for the issuance of any part or all of the general
660 obligation bonds authorized by this section, the Mississippi
661 Development Authority shall deliver a certified copy of its
662 resolution or resolutions to the State Bond Commission. Upon
663 receipt of such resolution, the State Bond Commission, in its
664 discretion, may act as the issuing agent, prescribe the form of
665 the bonds, advertise for and accept bids, issue and sell the bonds
666 so authorized to be sold and do any and all other things necessary
667 and advisable in connection with the issuance and sale of such
668 bonds. The total amount of bonds issued under Sections 57-1-307
669 through 57-1-335 shall not exceed One Hundred Five Million Dollars
670 (\$105,000,000.00); provided, however, that an additional amount of
671 bonds may be issued under Sections 57-1-307 and 57-1-335 in an
672 amount not to exceed Thirteen Million Dollars (\$13,000,000.00),
673 and the proceeds of any such additional amount of bonds so issued
674 shall be utilized solely to provide loans for capital improvements
675 that would qualify for the issuance of bonds whose interest is
676 exempt from income taxation under the provisions of the Internal
677 Revenue Code.

678 (2) Proceeds from the sale of bonds shall be deposited in
679 the special fund created in Section 57-1-303. Any investment
680 earnings on amounts deposited into the special fund created in
681 Section 57-1-303 shall be used to pay debt service on bonds issued

682 under Sections 57-1-307 through 57-1-335, in accordance with the
683 proceedings authorizing issuance of such bonds.

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

686 57-61-25. (1) The seller is authorized to borrow, on the
687 credit of the state upon receipt of a resolution from the
688 Mississippi Development Authority requesting the same, money not
689 exceeding the aggregate sum of Three Hundred Twelve Million
690 Dollars (\$312,000,000.00), not including money borrowed to refund
691 outstanding bonds, notes or replacement notes, as may be necessary
692 to carry out the purposes of this chapter. The rate of interest
693 on any such bonds or notes which are not subject to taxation shall
694 not exceed the rates set forth in Section 75-17-101, Mississippi
695 Code of 1972, for general obligation bonds.

696 (2) As evidence of indebtedness authorized in this chapter,
697 general or limited obligation bonds of the state shall be issued
698 from time to time, to provide monies necessary to carry out the
699 purposes of this chapter for such total amounts, in such form, in
700 such denominations payable in such currencies (either domestic or
701 foreign or both) and subject to such terms and conditions of
702 issue, redemption and maturity, rate of interest and time of
703 payment of interest as the seller directs, except that such bonds
704 shall mature or otherwise be retired in annual installments
705 beginning not more than five (5) years from date thereof and
706 extending not more than thirty (30) years from date thereof.

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

711 (4) All bonds and notes issued under authority of this
712 chapter may be general or limited obligations of the state, and
713 the full faith and credit of the State of Mississippi as to
714 general obligation bonds, or the revenues derived from projects

715 assisted as to limited obligation bonds, are hereby pledged for
716 the payment of the principal of and interest on such bonds and
717 notes.

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

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

724 (7) The seller is authorized to provide, by resolution, for
725 the issuance of refunding bonds for the purpose of refunding any
726 debt issued under the provision of this chapter and then
727 outstanding, either by voluntary exchange with the holders of the
728 outstanding debt or to provide funds to redeem and the costs of
729 issuance and retirement of the debt, at maturity or at any call
730 date. The issuance of the refunding bonds, the maturities and
731 other details thereof, the rights of the holders thereof and the
732 duties of the issuing officials in respect to the same shall be
733 governed by the provisions of this section, insofar as they may be
734 applicable.

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

739 (9) The proceeds of bonds issued under this chapter after
740 April 9, 2002, may be used to reimburse reasonable actual and
741 necessary costs incurred by the Mississippi Development Authority
742 in administering a program or providing assistance related to a
743 project, or both, for which funding is provided from the use of
744 proceeds of such bonds. An accounting of actual costs incurred
745 for which reimbursement is sought shall be maintained for each
746 project by the Mississippi Development Authority. Reimbursement
747 of reasonable actual and necessary costs for a program or project

748 shall not exceed three percent (3%) of the proceeds of bonds
749 issued for such program or project. Monies authorized for a
750 particular program or project may not be used to reimburse
751 administrative costs for unrelated programs or projects.
752 Reimbursements under this subsection shall satisfy any applicable
753 federal tax law requirements.

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

756 57-61-34. Notwithstanding any provision of this chapter to
757 the contrary, the Mississippi Development Authority shall utilize
758 not more than Nineteen Million Dollars (\$19,000,000.00) out of the
759 proceeds of bonds authorized to be issued in this chapter to be
760 made available as interest-bearing loans to municipalities or
761 private companies to aid in the establishment of business
762 incubation centers and the creation of new and expanding research
763 and development and technology-based business and industry.

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

769 The requirements of Section 57-61-9 shall not apply to any
770 loan made under this section. The Mississippi Development
771 Authority shall establish criteria and guidelines to govern loans
772 made pursuant to this section.

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

775 57-61-36. (1) Notwithstanding any provision of this chapter
776 to the contrary, the Mississippi Development Authority shall
777 utilize not more than Twelve Million Five Hundred Thousand Dollars
778 (\$12,500,000.00) out of the proceeds of bonds authorized to be
779 issued in this chapter for the purpose of making grants to

780 municipalities through a development infrastructure grant fund to
781 complete infrastructure related to new or expanded industry.

782 (2) Notwithstanding any provision of this chapter to the
783 contrary, the Mississippi Development Authority may utilize not
784 more than Seven Million Dollars (\$7,000,000.00) out of the
785 proceeds of bonds authorized to be issued in this chapter for the
786 purpose of making interest-bearing loans to any agency,
787 department, institution, instrumentality or political subdivision
788 of the state; or any agency, department, institution or
789 instrumentality of any political subdivision of the state; or any
790 business, organization, corporation, association or other legal
791 entity meeting criteria established by the department, through a
792 housing development revolving loan fund, to construct or repair
793 housing for low or moderate income earners; provided, however,
794 that the department may not utilize any bond proceeds authorized
795 under this chapter for the purpose of making any loans to the
796 Mississippi Home Corporation for any purpose whatsoever. No more
797 than forty percent (40%) of the additional bonds authorized by
798 Chapter 559, Laws of 1998, may be used for multiple family housing
799 activities. Funds authorized under this subsection may be
800 deposited in the Mississippi Affordable Housing Development Fund
801 authorized in Section 43-33-759 and used for purposes authorized
802 by that section. This subsection (2) shall be repealed from and
803 after July 1, 2006.

804 (3) Notwithstanding any provision of this chapter to the
805 contrary, the Mississippi Development Authority shall utilize not
806 more than Twenty Million Five Hundred Thousand Dollars
807 (\$20,500,000.00) out of the proceeds of bonds authorized to be
808 issued in this chapter for the purpose of making grants or loans
809 to municipalities through an equipment and public facilities grant
810 and loan fund to aid in infrastructure-related improvements as
811 determined by the Mississippi Development Authority, the purchase
812 of equipment and in the purchase, construction or repair and

813 renovation of public facilities. Any bonds previously issued for
814 the Development Infrastructure Revolving Loan Program which have
815 not been loaned or applied for are eligible to be administered as
816 grants or loans.

817 The requirements of Section 57-61-9 shall not apply to any
818 grant made under this subsection. The Mississippi Development
819 Authority may establish criteria and guidelines to govern grants
820 made pursuant to this subsection.

821 (4) Notwithstanding any provision of this chapter to the
822 contrary, the Mississippi Development Authority may utilize not
823 more than Seven Hundred Fifty Thousand Dollars (\$750,000.00) out
824 of the proceeds of bonds authorized to be issued in this chapter
825 in order to match federal funds available from the United States
826 Department of Agriculture for the purpose of establishing an
827 intermediary relending program to be administered by the
828 Mississippi Development Authority. The Mississippi Development
829 Authority may establish criteria and guidelines to govern loans
830 made under such program. This subsection (4) shall be repealed
831 from and after April 9, 2002.

832 (5) The Mississippi Development Authority may establish a
833 capital access program and may contract with any financial
834 institution to participate in the program upon such terms and
835 conditions as the authority shall consider necessary and proper.
836 The Mississippi Development Authority may establish loss reserve
837 accounts at financial institutions that participate in the program
838 and require payments by the financial institution and the borrower
839 to such loss reserve accounts. All money in such loss reserve
840 accounts is the property of the Mississippi Development Authority.

841 Under the capital access program a participating financial
842 institution may make a loan to any borrower the Mississippi
843 Development Authority determines to be qualified under rules and
844 regulations adopted by the authority and be protected against
845 losses from such loans as provided in the program. Under such

846 rules and regulations as may be adopted by the Mississippi
847 Development Authority, a participating financial institution may
848 submit claims for the reimbursement for losses incurred as a
849 result of default on loans by qualified borrowers.

850 Notwithstanding any provision of this chapter to the
851 contrary, the Mississippi Development Authority may utilize not
852 more than Seven Hundred Fifty Thousand Dollars (\$750,000.00) out
853 of the proceeds of bonds authorized to be issued in this chapter
854 for the purpose of making payments to loan loss reserve accounts
855 established at financial institutions that participate in the
856 capital access program established by the Mississippi Development
857 Authority.

858 (6) Notwithstanding any provision of this chapter to the
859 contrary, the Mississippi Development Authority shall utilize not
860 more than Two Hundred Thousand Dollars (\$200,000.00) out of the
861 proceeds of bonds authorized to be issued in this chapter for the
862 purpose of assisting Warren County, Mississippi, in the
863 continuation and completion of the study for the proposed Kings
864 Point levee.

865 (7) Notwithstanding any provision of this chapter to the
866 contrary, the Mississippi Development Authority shall utilize not
867 more than One Hundred Thousand Dollars (\$100,000.00) out of the
868 proceeds of bonds authorized to be issued in this chapter for the
869 purpose of developing a long-range plan for coordinating the
870 resources of the state institutions of higher learning, the
871 community and junior colleges, the Mississippi Development
872 Authority and other state agencies in order to promote economic
873 development in the state.

874 (8) Notwithstanding any other provision of this chapter to
875 the contrary, the Mississippi Development Authority shall use not
876 more than One Hundred Fifty Thousand Dollars (\$150,000.00) out of
877 the proceeds of bonds authorized to be issued in this chapter for
878 the purpose of providing assistance to municipalities that have

879 received community development block grant funds for repair,
880 renovation and other improvements to buildings for use as
881 community centers. Assistance provided to a municipality under
882 this subsection shall be used by the municipality to match such
883 community development block grant funds. The maximum amount of
884 assistance that may be provided to a municipality under this
885 subsection shall not exceed Seventy-five Thousand Dollars
886 (\$75,000.00) in the aggregate.

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

888 (a) "Manufacturing enterprise" means an enterprise
889 that:

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

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

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

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

902 (3) Any tax credit claimed under this section but not used
903 in any taxable year may be carried forward for five (5) years from
904 the close of the tax year in which the eligible investment was
905 made, but the credit established by this section taken in any one
906 tax year shall not exceed fifty percent (50%) of the taxpayer's
907 state income tax liability which is attributable to income derived
908 from operations in the state for that year reduced by the sum of
909 all other income tax credits allowable to the taxpayer, except
910 credit for tax payments made by or on behalf of the taxpayer.

911 (4) The maximum credit that may be claimed by a taxpayer on
912 any project shall be limited to One Million Dollars
913 (\$1,000,000.00).

914 (5) The credit received under this section is subject to
915 recapture if the property for which the tax credit was received is
916 disposed of, or converted to, other than business use. The amount
917 of the credit subject to recapture is one hundred percent (100%)
918 of the credit in the first year and fifty percent (50%) of the
919 credit in the second year. This subsection shall not apply in
920 cases in which an entire facility is sold.

921 (6) The sale, merger, acquisition, reorganization,
922 bankruptcy or relocation from one county to another county within
923 the state of any manufacturing enterprise may not create new
924 eligibility in any succeeding business entity, but any unused
925 manufacturing investment tax credit may be transferred and
926 continued by any transferee of the enterprise. The State Tax
927 Commission shall determine whether or not qualifying net increases
928 or decreases have occurred or proper transfers of credit have been
929 made and may require reports, promulgate regulations, and hold
930 hearings as needed for substantiation and qualification.

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

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

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

939 27-31-101. (1) County boards of supervisors and municipal
940 authorities are hereby authorized and empowered, in their
941 discretion, to grant exemptions from ad valorem taxation, except
942 state ad valorem taxation. * * * However, the governing
943 authorities shall not exempt ad valorem taxes for school district

944 purposes on tangible property used in, or necessary to, the
945 operation of the manufacturers and other new enterprises * * *
946 enumerated by classes in this section, except to the extent
947 authorized in Sections 27-31-104 and 27-31-105(2), nor shall they
948 exempt from ad valorem taxes the products of the manufacturers or
949 other new enterprises or automobiles and trucks belonging to
950 the * * * manufacturers or other new enterprises operating on and
951 over the highways of the State of Mississippi. The time of such
952 exemption shall be for a period not to exceed a total of ten (10)
953 years which shall begin on the date of completion of the new
954 enterprise for which the exemption is granted; however, boards of
955 supervisors and municipal authorities, in lieu of granting the
956 exemption for one (1) period of ten (10) years, may grant the
957 exemption in a period of less than ten (10) years. When the
958 initial exemption period granted is less than ten (10) years, the
959 boards of supervisors and municipal authorities may grant a
960 subsequent consecutive period or periods to follow the initial
961 period of exemption, provided that the total of all periods of
962 exemption shall not exceed ten (10) years. The date of completion
963 of the new enterprise, from which the initial period of exemption
964 shall begin, shall be the date on which operations of the new
965 enterprise begin. Any request for an exemption must be made in
966 writing by June 1 of the year immediately following the year in
967 which the date of completion of a new enterprise occurs.

968 * * *

969 (2) Any board of supervisors or municipal authority which
970 has granted an exemption for a period of less than ten (10) years
971 may grant subsequent periods of exemption to run consecutively
972 with the initial exemption period, or a subsequently granted
973 exemption period, but in no case shall the total of the exemption
974 periods granted for a new enterprise exceed ten (10) years. Any
975 consecutive period of exemption shall be granted by entry of an
976 order by the board or the authority granting the consecutive

977 exemption on its minutes, reflecting the granting of the
978 consecutive exemption period and the dates upon which such
979 consecutive exemption period begins and expires. The entry of
980 this order granting the consecutive period of exemption shall be
981 made before the expiration of the exemption period immediately
982 preceding the consecutive exemption period being granted.

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

986 (a) Warehouse and/or distribution centers;

987 (b) Manufacturing, processors and refineries;

988 (c) Research facilities;

989 (d) Corporate regional and national headquarters
990 meeting minimum criteria established by the Mississippi
991 Development Authority;

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

994 (f) Air transportation and maintenance facilities
995 meeting minimum criteria established by the Mississippi
996 Development Authority;

997 (g) Recreational facilities that impact tourism meeting
998 minimum criteria established by the Mississippi Development
999 Authority; * * *

1000 (h) Data/information processing enterprises or
1001 facilities meeting minimum criteria established by the Mississippi
1002 Development Authority;

1003 (i) Technology intensive enterprises or facilities
1004 meeting criteria established by the Mississippi Development
1005 Authority; and

1006 (j) Telecommunications enterprises meeting minimum
1007 criteria established by the Mississippi Development Authority.

1008 The term "telecommunications enterprises" means entities engaged
1009 in the creation, display, management, storage, processing,

1010 transmission or distribution for compensation of images, text,
1011 voice, video or data by wire or by wireless means, or entities
1012 engaged in the construction, design, development, manufacture,
1013 maintenance or distribution for compensation of devices, products,
1014 software or structures used in the above activities. Companies
1015 organized to do business as commercial broadcast radio stations,
1016 television stations or news organizations primarily serving
1017 in-state markets shall not be included within the definition of
1018 the term "telecommunications enterprises."

1019 **SECTION 41.** Section 27-65-17, Mississippi Code of 1972, is
1020 amended as follows:

1021 27-65-17. (1) (a) Except as otherwise provided in this
1022 section, upon every person engaging or continuing within this
1023 state in the business of selling any tangible personal property
1024 whatsoever there is hereby levied, assessed and shall be collected
1025 a tax equal to seven percent (7%) of the gross proceeds of the
1026 retail sales of the business * * *.

1027 (b) Retail sales of farm tractors shall be taxed at the
1028 rate of one percent (1%) when made to farmers for agricultural
1029 purposes.

1030 (c) Retail sales of farm implements sold to farmers and
1031 used directly in the production of poultry, ratite, domesticated
1032 fish as defined in Section 69-7-501, livestock, livestock
1033 products, agricultural crops or ornamental plant crops or used for
1034 other agricultural purposes shall be taxed at the rate of three
1035 percent (3%) when used on the farm. The three percent (3%) rate
1036 shall also apply to all equipment used in logging, pulpwood
1037 operations or tree farming which is either:

1038 (i) Self-propelled, or * * *

1039 (ii) Mounted so that it is * * * permanently
1040 attached to other equipment which is self-propelled or * * *
1041 permanently attached to other equipment drawn by a vehicle which
1042 is self-propelled.

1043 (d) Except as otherwise provided in subsection (3) of
1044 this section, retail sales of aircraft, automobiles, trucks,
1045 truck-tractors, semitrailers and mobile homes shall be taxed at
1046 the rate of three percent (3%).

1047 (e) Sales of manufacturing machinery or manufacturing
1048 machine parts when made to a manufacturer or custom processor for
1049 plant use only when the machinery and machine parts will be used
1050 exclusively and directly within this state in manufacturing a
1051 commodity for sale, rental or in processing for a fee shall be
1052 taxed at the rate of one and one-half percent (1-1/2%).

1053 (f) Sales of machinery and machine parts when made to a
1054 technology intensive enterprise for plant use only when the
1055 machinery and machine parts will be used exclusively and directly
1056 within this state for industrial purposes, including, but not
1057 limited to, manufacturing or research and development activities,
1058 shall be taxed at the rate of one and one-half percent (1-1/2%).
1059 In order to be considered a technology intensive enterprise for
1060 purposes of this paragraph:

1061 (i) The enterprise shall meet minimum criteria
1062 established by the Mississippi Development Authority;

1063 (ii) The enterprise shall employ at least ten (10)
1064 persons in full-time jobs;

1065 (iii) At least ten percent (10%) of the workforce
1066 in the facility operated by the enterprise shall be scientists,
1067 engineers or computer specialists;

1068 (iv) The enterprise shall manufacture plastics,
1069 chemicals, automobiles, aircraft, computers or electronics; or
1070 shall be a research and development facility, a computer design or
1071 related facility, or a software publishing facility or other
1072 technology intensive facility or enterprise as determined by the
1073 Mississippi Development Authority;

1074 (v) The average wage of all workers employed by
1075 the enterprise at the facility shall be at least one hundred fifty
1076 percent (150%) of the state average annual wage; and

1077 (vi) The enterprise must provide a basic health
1078 care plan to all employees at the facility.

1079 (g) Sales of materials for use in track and track
1080 structures to a railroad whose rates are fixed by the Interstate
1081 Commerce Commission or the Mississippi Public Service Commission
1082 shall be taxed at the rate of three percent (3%).

1083 (h) Sales of tangible personal property to electric
1084 power associations for use in the ordinary and necessary operation
1085 of their generating or distribution systems shall be taxed at the
1086 rate of one percent (1%).

1087 (i) Wholesale sales of beer shall be taxed at the rate
1088 of seven percent (7%), and the retailer shall file a return and
1089 compute the retail tax on retail sales but may take credit for the
1090 amount of the tax paid to the wholesaler on the return covering
1091 the subsequent sales of same property, provided adequate invoices
1092 and records are maintained to substantiate the credit.

1093 (j) Wholesale sales of food and drink for human
1094 consumption to full service vending machine operators to be sold
1095 through vending machines located apart from and not connected with
1096 other taxable businesses shall be taxed at the rate of eight
1097 percent (8%).

1098 * * *

1099 (2) From and after January 1, 1995, retail sales of private
1100 carriers of passengers and light carriers of property, as defined
1101 in Section 27-51-101, shall be taxed an additional two percent
1102 (2%).

1103 (3) In lieu of the tax levied in subsection (1) of this
1104 section, there is levied on retail sales of truck-tractors and
1105 semitrailers used in interstate commerce and registered under the
1106 International Registration Plan (IRP) or any similar reciprocity

1107 agreement or compact relating to the proportional registration of
1108 commercial vehicles entered into as provided for in Section
1109 27-19-143, a tax at the rate of three percent (3%) of the portion
1110 of the sale that is attributable to the usage of such
1111 truck-tractor or semitrailer in Mississippi. The portion of the
1112 retail sale that is attributable to the usage of such
1113 truck-tractor or semitrailer in Mississippi is the retail sales
1114 price of the truck-tractor or semitrailer multiplied by the
1115 percentage of the total miles traveled by the vehicle that are
1116 traveled in Mississippi. The tax levied pursuant to this
1117 subsection (3) shall be collected by the State Tax Commission from
1118 the purchaser of such truck-tractor or semitrailer at the time of
1119 registration of such truck-tractor or semitrailer.

1120 (4) A manufacturer selling at retail in this state shall be
1121 required to make returns of the gross proceeds of such sales and
1122 pay the tax imposed in this section.

1123 (5) Any person exercising any privilege taxable under
1124 Section 27-65-15 and selling his natural resource products at
1125 wholesale or to exempt persons shall pay the tax levied by such
1126 section in lieu of the tax levied by this section.

1127 **SECTION 42.** Section 27-65-19, Mississippi Code of 1972, is
1128 amended as follows:

1129 27-65-19. (1) (a) Except as otherwise provided in this
1130 subsection, upon every person selling to consumers, electricity,
1131 current, power, potable water, steam, coal, natural gas, liquefied
1132 petroleum gas or other fuel, there is hereby levied, assessed and
1133 shall be collected a tax equal to seven percent (7%) of the gross
1134 income of the business. Provided, gross income from sales to
1135 consumers of electricity, current, power, natural gas, liquefied
1136 petroleum gas or other fuel for residential heating, lighting or
1137 other residential noncommercial or nonagricultural use, and sales
1138 of potable water for residential, noncommercial or nonagricultural
1139 use shall be excluded from taxable gross income of the business.

1140 Provided further, upon every such seller using electricity,
1141 current, power, potable water, steam, coal, natural gas, liquefied
1142 petroleum gas or other fuel for nonindustrial purposes, there is
1143 hereby levied, assessed and shall be collected a tax equal to
1144 seven percent (7%) of the cost or value of the product or service
1145 used.

1146 (b) There is hereby levied, assessed and shall be
1147 collected a tax equal to one and one-half percent (1-1/2%) of the
1148 gross income of the business when the electricity, current, power,
1149 steam, coal, natural gas, liquefied petroleum gas or other fuel is
1150 sold to or used by a manufacturer, custom processor, technology
1151 intensive enterprise meeting the criteria provided for in Section
1152 27-65-17(1)(f), or public service company for industrial purposes,
1153 which shall include that used to generate electricity, to operate
1154 an electrical distribution or transmission system, to operate
1155 pipeline compressor or pumping stations or to operate railroad
1156 locomotives; however, sales of fuel used to produce electric power
1157 by a company primarily engaged in the business of producing,
1158 generating or distributing electric power for sale shall be exempt
1159 from sales tax as provided in Section 27-65-107.

1160 (c) The one and one-half percent (1-1/2%) industrial
1161 rate provided for in this subsection shall also apply when the
1162 electricity, current, power, steam, coal, natural gas, liquefied
1163 petroleum gas or other fuel is sold to a producer or processor for
1164 use directly in the production of poultry or poultry products, the
1165 production of livestock and livestock products, the production of
1166 domesticated fish and domesticated fish products, the production
1167 of marine aquaculture products, the production of plants or food
1168 by commercial horticulturists, the processing of milk and milk
1169 products, the processing of poultry and livestock feed, and the
1170 irrigation of farm crops.

1171 (d) The one and one-half percent (1-1/2%) rate provided
1172 for in this subsection shall not apply to sales of fuel for

1173 automobiles, trucks, truck-tractors, buses, farm tractors or
1174 airplanes.

1175 (e) Upon every person operating a telegraph or
1176 telephone business for the transmission of messages or
1177 conversations between points within this state, there is hereby
1178 levied, assessed and shall be collected a tax equal to seven
1179 percent (7%) of the gross income of such business, with no
1180 deduction or allowance for any part of an intrastate rate charge
1181 because of routing across a state line. Charges by one
1182 telecommunications provider to another telecommunications provider
1183 holding a permit issued under Section 27-65-27 for services that
1184 are resold by such other telecommunications provider, including,
1185 but not limited to, access charges, shall not be subject to the
1186 tax levied pursuant to this paragraph (e). However, any sale of a
1187 prepaid telephone calling card or prepaid authorization number, or
1188 both, shall be deemed to be the sale of tangible personal property
1189 subject only to such taxes imposed by law on the sale of tangible
1190 personal property. If the sale of a prepaid telephone calling
1191 card or prepaid authorization number does not take place at the
1192 vendor's place of business, it shall be conclusively determined to
1193 take place at the customer's shipping address. The
1194 reauthorization of a prepaid telephone calling card or a prepaid
1195 authorization number shall be conclusively determined to take
1196 place at the customer's billing address. Except for the
1197 provisions governing the sale of a prepaid telephone calling card
1198 or prepaid authorization number, this paragraph (e) shall not
1199 apply to persons providing mobile telecommunications services that
1200 are taxed pursuant to paragraph (g) of this section.

1201 (f) Upon every person operating a telegraph or
1202 telecommunications business for the transmission of messages or
1203 conversations originating in this state or terminating in this
1204 state via interstate telecommunications, which are charged to the
1205 customer's service address in this state, regardless of where such

1206 amount is billed or paid, there is hereby levied, assessed and
1207 shall be collected a tax equal to seven percent (7%) of the gross
1208 income received by such business from such interstate
1209 telecommunications. However, a person, upon proof that he has
1210 paid a tax in another state on such event, shall be allowed a
1211 credit against the tax imposed in this paragraph (f) on interstate
1212 telecommunications charges to the extent that the amount of such
1213 tax is properly due and actually paid in such other state and to
1214 the extent that the rate of sales tax imposed by and paid to such
1215 other state does not exceed the rate of sales tax imposed by this
1216 paragraph (f). Charges by one telecommunications provider to
1217 another telecommunications provider holding a permit issued under
1218 Section 27-65-27 for services that are resold by such other
1219 telecommunications provider, including, but not limited to, access
1220 charges, shall not be subject to the tax levied pursuant to this
1221 paragraph (f). This paragraph (f) shall not apply to persons
1222 providing mobile telecommunications services that are taxed
1223 pursuant to paragraph (g) of this subsection.

1224 (g) (i) Upon every person providing mobile
1225 telecommunications services in this state there is hereby levied,
1226 assessed and shall be collected:

1227 1. A tax equal to seven percent (7%) of the
1228 gross income received on such services from all charges for
1229 transmission of messages or conversations between points within
1230 any single state as they shall be construed to be within this
1231 state; and

1232 2. A tax equal to seven percent (7%) on the
1233 gross income received from all charges for services that originate
1234 in one state and terminate in any other state.

1235 Charges by one telecommunications provider to another
1236 telecommunications provider holding a permit issued under Section
1237 27-65-27 for services that are resold by such other
1238 telecommunications provider, including, but not limited to, access

1239 charges, shall not be subject to the tax levied pursuant to this
1240 paragraph (g).

1241 (ii) Subject to the provisions of 4 USCS 116(c),
1242 the tax levied by this paragraph (g) shall apply only to those
1243 charges for mobile telecommunications services subject to tax
1244 which are deemed to be provided to a customer by a home service
1245 provider pursuant to 4 USCS 117(a), if the customer's place of
1246 primary use is located within this state.

1247 (iii) A home service provider shall be responsible
1248 for obtaining and maintaining the customer's place of primary use.
1249 The home service provider shall be entitled to rely on the
1250 applicable residential or business street address supplied by such
1251 customer, if the home service provider's reliance is in good
1252 faith; and the home service provider shall be held harmless from
1253 liability for any additional taxes based on a different
1254 determination of the place of primary use for taxes that are
1255 customarily passed on to the customer as a separate itemized
1256 charge. A home service provider shall be allowed to treat the
1257 address used for purposes of the tax levied by this chapter for
1258 any customer under a service contract in effect on August 1, 2002,
1259 as that customer's place of primary use for the remaining term of
1260 such service contract or agreement, excluding any extension or
1261 renewal of such service contract or agreement. Month-to-month
1262 services provided after the expiration of a contract shall be
1263 treated as an extension or renewal of such contract or agreement.

1264 If the commissioner determines that the address used by a
1265 home service provider as a customer's place of primary use does
1266 not meet the definition of the term "place of primary use" as
1267 defined in this paragraph, the commissioner shall give binding
1268 notice to the home service provider to change the place of primary
1269 use on a prospective basis from the date of notice of
1270 determination; however, the customer shall have the opportunity,

1271 prior to such notice of determination, to demonstrate that such
1272 address satisfies such definition.

1273 The commission has the right to collect any taxes due
1274 directly from the home service provider's customer that has failed
1275 to provide an address that meets the definition of the term "place
1276 of primary use" which resulted in a failure of tax otherwise due
1277 being remitted.

1278 (iv) For purposes of this paragraph (g):

1279 1. "Place of primary use" means the street
1280 address representative of where the customer's use of mobile
1281 telecommunications services primarily occurs, which shall be
1282 either the residential street address of the customer or the
1283 primary business street address of the customer.

1284 2. "Customer" means the person or entity that
1285 contracts with the home service provider for mobile
1286 telecommunications services. For determining the place of primary
1287 use, in those instances in which the end user of mobile
1288 telecommunications services is not the contracting party, the end
1289 user of the mobile telecommunications services shall be deemed the
1290 customer. The term "customer" shall not include a reseller of
1291 mobile telecommunications service, or a serving carrier under an
1292 arrangement to serve the customer outside the home service
1293 provider's licensed service area.

1294 3. "Home service provider" means the
1295 facilities-based carrier or reseller with which the customer
1296 contracts for the provision of mobile telecommunications services.

1297 (h) (i) For purposes of this paragraph (h), "bundled
1298 transaction" means a transaction that consists of distinct and
1299 identifiable properties or services which are sold for a single
1300 nonitemized price but which are treated differently for tax
1301 purposes.

1302 (ii) In the case of a bundled transaction that
1303 includes telecommunications services taxed under this section in

1304 which the price of the bundled transaction is attributable to
1305 properties or services that are taxable and nontaxable, the
1306 portion of the price that is attributable to any nontaxable
1307 property or service shall be subject to the tax unless the
1308 provider can reasonably identify that portion from its books and
1309 records kept in the regular course of business.

1310 (iii) In the case of a bundled transaction that
1311 includes telecommunications services subject to tax under this
1312 section in which the price is attributable to properties or
1313 services that are subject to the tax but the tax revenue from the
1314 different properties or services are dedicated to different funds
1315 or purposes, the provider shall allocate the price among the
1316 properties or services:

1317 1. By reasonably identifying the portion of
1318 the price attributable to each of the properties and services from
1319 its books and records kept in the regular course of business; or

1320 2. Based on a reasonable allocation
1321 methodology approved by the commission.

1322 (iv) This paragraph (h) shall not create a right
1323 of action for a customer to require that the provider or the
1324 commission, for purposes of determining the amount of tax
1325 applicable to a bundled transaction, allocate the price to the
1326 different portions of the transaction in order to minimize the
1327 amount of tax charged to the customer. A customer shall not be
1328 entitled to rely on the fact that a portion of the price is
1329 attributable to properties or services not subject to tax unless
1330 the provider elects, after receiving a written request from the
1331 customer in the form required by the provider, to provide
1332 verifiable data based upon the provider's books and records that
1333 are kept in the regular course of business that reasonably
1334 identifies the portion of the price attributable to the properties
1335 or services not subject to the tax.

1336 (2) Persons making sales to consumers of electricity,
1337 current, power, natural gas, liquefied petroleum gas or other fuel
1338 for residential heating, lighting or other residential
1339 noncommercial or nonagricultural use or sales of potable water for
1340 residential, noncommercial or nonagricultural use shall indicate
1341 on each statement rendered to customers that such charges are
1342 exempt from sales taxes.

1343 (3) There is hereby levied, assessed and shall be paid on
1344 transportation charges on shipments moving between points within
1345 this state when paid directly by the consumer, a tax equal to the
1346 rate applicable to the sale of the property being transported.
1347 Such tax shall be reported and paid directly to the State Tax
1348 Commission by the consumer.

1349 **SECTION 43.** Section 27-65-101, Mississippi Code of 1972, is
1350 amended as follows:

1351 27-65-101. (1) The exemptions from the provisions of this
1352 chapter which are of an industrial nature or which are more
1353 properly classified as industrial exemptions than any other
1354 exemption classification of this chapter shall be confined to
1355 those persons or property exempted by this section or by the
1356 provisions of the Constitution of the United States or the State
1357 of Mississippi. No industrial exemption as now provided by any
1358 other section except Section 57-3-33 shall be valid as against the
1359 tax herein levied. Any subsequent industrial exemption from the
1360 tax levied hereunder shall be provided by amendment to this
1361 section. No exemption provided in this section shall apply to
1362 taxes levied by Section 27-65-15 or 27-65-21.

1363 The tax levied by this chapter shall not apply to the
1364 following:

1365 (a) Sales of boxes, crates, cartons, cans, bottles and
1366 other packaging materials to manufacturers and wholesalers for use
1367 as containers or shipping materials to accompany goods sold by
1368 said manufacturers or wholesalers where possession thereof will

1369 pass to the customer at the time of sale of the goods contained
1370 therein and sales to anyone of containers or shipping materials
1371 for use in ships engaged in international commerce.

1372 (b) Sales of raw materials, catalysts, processing
1373 chemicals, welding gases or other industrial processing gases
1374 (except natural gas) to a manufacturer for use directly in
1375 manufacturing or processing a product for sale or rental or
1376 repairing or reconditioning vessels or barges of fifty (50) tons
1377 load displacement and over. For the purposes of this exemption,
1378 electricity used directly in the electrolysis process in the
1379 production of sodium chlorate shall be considered a raw material.
1380 This exemption shall not apply to any property used as fuel except
1381 to the extent that such fuel comprises by-products which have no
1382 market value.

1383 (c) The gross proceeds of sales of dry docks, offshore
1384 drilling equipment for use in oil exploitation or production,
1385 vessels or barges of fifty (50) tons load displacement and over,
1386 when sold by the manufacturer or builder thereof.

1387 (d) Sales to commercial fishermen of commercial fishing
1388 boats of over five (5) tons load displacement and not more than
1389 fifty (50) tons load displacement as registered with the United
1390 States Coast Guard and licensed by the Mississippi Commission on
1391 Marine Resources.

1392 (e) The gross income from repairs to vessels and barges
1393 engaged in foreign trade or interstate transportation.

1394 (f) Sales of petroleum products to vessels or barges
1395 for consumption in marine international commerce or interstate
1396 transportation businesses.

1397 (g) Sales and rentals of rail rolling stock (and
1398 component parts thereof) for ultimate use in interstate commerce
1399 and gross income from services with respect to manufacturing,
1400 repairing, cleaning, altering, reconditioning or improving such
1401 rail rolling stock (and component parts thereof).

1402 (h) Sales of raw materials, catalysts, processing
1403 chemicals, welding gases or other industrial processing gases
1404 (except natural gas) used or consumed directly in manufacturing,
1405 repairing, cleaning, altering, reconditioning or improving such
1406 rail rolling stock (and component parts thereof). This exemption
1407 shall not apply to any property used as fuel.

1408 (i) Sales of machinery or tools or repair parts
1409 therefor or replacements thereof, fuel or supplies used directly
1410 in manufacturing, converting or repairing ships of three thousand
1411 (3,000) tons load displacement and over, but not to include office
1412 and plant supplies or other equipment not directly used on the
1413 ship being built, converted or repaired.

1414 (j) Sales of tangible personal property to persons
1415 operating ships in international commerce for use or consumption
1416 on board such ships. This exemption shall be limited to cases in
1417 which procedures satisfactory to the commissioner, ensuring
1418 against use in this state other than on such ships, are
1419 established.

1420 (k) Sales of materials used in the construction of a
1421 building, or any addition or improvement thereon, and sales of any
1422 machinery and equipment not later than three (3) months after the
1423 completion of construction of the building, or any addition
1424 thereon, to be used therein, to qualified businesses, as defined
1425 in Section 57-51-5, which are located in a county or portion
1426 thereof designated as an enterprise zone pursuant to Sections
1427 57-51-1 through 57-51-15.

1428 (l) Sales of materials used in the construction of a
1429 building, or any addition or improvement thereon, and sales of any
1430 machinery and equipment not later than three (3) months after the
1431 completion of construction of the building, or any addition
1432 thereon, to be used therein, to qualified businesses, as defined
1433 in Section 57-54-5.

1434 (m) Income from storage and handling of perishable
1435 goods by a public storage warehouse.

1436 (n) The value of natural gas lawfully injected into the
1437 earth for cycling, repressuring or lifting of oil, or lawfully
1438 vented or flared in connection with the production of oil;
1439 however, if any gas so injected into the earth is sold for such
1440 purposes, then the gas so sold shall not be exempt.

1441 (o) The gross collections from self-service commercial
1442 laundering, drying, cleaning and pressing equipment.

1443 (p) Sales of materials used in the construction of a
1444 building, or any addition or improvement thereon, and sales of any
1445 machinery and equipment not later than three (3) months after the
1446 completion of construction of the building, or any addition
1447 thereon, to be used therein, to qualified companies, certified as
1448 such by the Mississippi Development Authority under Section
1449 57-53-1.

1450 (q) Sales of component materials used in the
1451 construction of a building, or any addition or improvement
1452 thereon, sales of machinery and equipment to be used therein, and
1453 sales of manufacturing or processing machinery and equipment which
1454 is permanently attached to the ground or to a permanent foundation
1455 and which is not by its nature intended to be housed within a
1456 building structure, not later than three (3) months after the
1457 initial start-up date, to permanent business enterprises engaging
1458 in manufacturing or processing in Tier Three areas (as such term
1459 is defined in Section 57-73-21), which businesses are certified by
1460 the State Tax Commission as being eligible for the exemption
1461 granted in this paragraph (q).

1462 (r) Sales of component materials used in the
1463 construction of a building, or any addition or improvement
1464 thereon, and sales of any machinery and equipment not later than
1465 three (3) months after the completion of the building, addition or
1466 improvement thereon, to be used therein, for any company

1467 establishing or transferring its national or regional headquarters
1468 from within or outside the State of Mississippi and creating a
1469 minimum of thirty-five (35) jobs at the new headquarters in this
1470 state. The Tax Commission shall establish criteria and prescribe
1471 procedures to determine if a company qualifies as a national or
1472 regional headquarters for the purpose of receiving the exemption
1473 provided in this paragraph.

1474 (s) The gross proceeds from the sale of semitrailers,
1475 trailers, boats, travel trailers, motorcycles and all-terrain
1476 cycles if exported from this state within forty-eight (48) hours
1477 and registered and first used in another state.

1478 (t) Gross income from the storage and handling of
1479 natural gas in underground salt domes and in other underground
1480 reservoirs, caverns, structures and formations suitable for such
1481 storage.

1482 (u) Sales of machinery and equipment to nonprofit
1483 organizations if the organization: (i) is tax-exempt pursuant to
1484 Section 501(c)(4) of the Internal Revenue Code of 1986, as
1485 amended; (ii) assists in the implementation of the national
1486 contingency plan or area contingency plan, and which is created in
1487 response to the requirements of Title IV, Subtitle B of the Oil
1488 Pollution Act of 1990, Public Law 101-380; and (iii) engages
1489 primarily in programs to contain, clean up and otherwise mitigate
1490 spills of oil or other substances occurring in the United States
1491 coastal and tidal waters. For purposes of this exemption,
1492 "machinery and equipment" means any ocean-going vessels, barges,
1493 booms, skimmers and other capital equipment used primarily in the
1494 operations of nonprofit organizations referred to herein.

1495 (v) Sales or leases of materials and equipment to
1496 approved business enterprises as provided under the Growth and
1497 Prosperity Act.

1498 (w) From and after July 1, 2001, sales of pollution
1499 control equipment to manufacturers or custom processors for

1500 industrial use. For the purposes of this exemption, "pollution
1501 control equipment" means equipment, devices, machinery or systems
1502 used or acquired to prevent, control, monitor or reduce air, water
1503 or groundwater pollution, or solid or hazardous waste as required
1504 by federal or state law or regulation.

1505 (x) Sales or leases to a manufacturer of motor vehicles
1506 operating a project that has been certified by the Mississippi
1507 Major Economic Impact Authority as a project as defined in Section
1508 57-75-5(f)(iv)1 of machinery and equipment; special tooling such
1509 as dies, molds, jigs and similar items treated as special tooling
1510 for federal income tax purposes; or repair parts therefor or
1511 replacements thereof; repair services thereon; fuel, supplies,
1512 electricity, coal and natural gas used directly in the manufacture
1513 of motor vehicles or motor vehicle parts or used to provide
1514 climate control for manufacturing areas.

1515 (y) Sales or leases of component materials, machinery
1516 and equipment used in the construction of a building, or any
1517 addition or improvement thereon to an enterprise operating a
1518 project that has been certified by the Mississippi Major Economic
1519 Impact Authority as a project as defined in Section
1520 57-75-5(f)(iv)1 and any other sales or leases required to
1521 establish or operate such project.

1522 (z) Sales of component materials and equipment to a
1523 business enterprise as provided under Section 57-64-33.

1524 (aa) The gross income from the stripping and painting
1525 of commercial aircraft engaged in foreign or interstate
1526 transportation business.

1527 (bb) Sales of production items used in the production
1528 of motion pictures such as film; videotape; component building
1529 materials used in the construction of a set; makeup; fabric used
1530 as or in the making of costumes; clothing, including, shoes,
1531 accessories and jewelry used as wardrobes; materials used as set
1532 dressing; materials used as props on a set or by an actor;

1533 materials used in the creation of special effects; and expendable
1534 items purchased for limited use by grip, electric and camera
1535 departments such as tape, fasteners and compressed air. For the
1536 purposes of this paragraph * * * the term "motion picture" means a
1537 nationally distributed feature-length film, video, television
1538 series or commercial made in Mississippi, in whole or in part, for
1539 theatrical or television viewing or as a television pilot. The
1540 term "motion picture" shall not include the production of
1541 television coverage of news and athletic events, or a film, video,
1542 television series or commercial that contains any material or
1543 performance defined in Section 97-29-103.

1544 (cc) Sales of component materials used in the
1545 construction of a facility, or any addition or improvement
1546 thereon, and sales or leases of machinery and equipment not later
1547 than three (3) months after the completion of construction of the
1548 facility, or any addition or improvement thereto, to be used in
1549 the building or any addition or improvement thereto, to a
1550 permanent business enterprise operating a data/information
1551 enterprise in Tier Three areas (as such areas are designated in
1552 accordance with Section 57-73-21), meeting minimum criteria
1553 established by the Mississippi Development Authority.

1554 (dd) Sales of component materials used in the
1555 construction of a facility, or any addition or improvement
1556 thereto, and sales of machinery and equipment not later than three
1557 (3) months after the completion of construction of the facility,
1558 or any addition or improvement thereto, to be used in the facility
1559 or any addition or improvement thereto, to technology intensive
1560 enterprises for industrial purposes in Tier Three areas (as such
1561 areas are designated in accordance with Section 57-73-21), as
1562 certified by the State Tax Commission. For purposes of this
1563 paragraph, an enterprise must meet the criteria provided for in
1564 Section 27-65-17(1)(f) in order to be considered a technology
1565 intensive enterprise.

1566 (2) Sales of component materials used in the construction of
1567 a building, or any addition or improvement thereon, sales of
1568 machinery and equipment to be used therein, and sales of
1569 manufacturing or processing machinery and equipment which is
1570 permanently attached to the ground or to a permanent foundation
1571 and which is not by its nature intended to be housed within a
1572 building structure, not later than three (3) months after the
1573 initial start-up date, to permanent business enterprises engaging
1574 in manufacturing or processing in Tier Two areas and Tier One
1575 areas (as such areas are designated in accordance with Section
1576 57-73-21), which businesses are certified by the State Tax
1577 Commission as being eligible for the exemption granted in this
1578 paragraph, shall be exempt from one-half (1/2) of the taxes
1579 imposed on such transactions under this chapter.

1580 (3) Sales of component materials used in the construction of
1581 a facility, or any addition or improvement thereon, and sales or
1582 leases of machinery and equipment not later than three (3) months
1583 after the completion of construction of the facility, or any
1584 addition or improvement thereto, to be used in the building or any
1585 addition or improvement thereto, to a permanent business
1586 enterprise operating a data/information enterprise in Tier Two
1587 areas and Tier One areas (as such areas are designated in
1588 accordance with Section 57-73-21), which businesses meet minimum
1589 criteria established by the Mississippi Development Authority,
1590 shall be exempt from one-half (1/2) of the taxes imposed on such
1591 transaction under this chapter.

1592 (4) Sales of component materials used in the construction of
1593 a facility, or any addition or improvement thereto, and sales of
1594 machinery and equipment not later than three (3) months after the
1595 completion of construction of the facility, or any addition or
1596 improvement thereto, to be used in the building or any addition or
1597 improvement thereto, to technology intensive enterprises for
1598 industrial purposes in Tier Two areas and Tier One areas (as such

1599 areas are designated in accordance with Section 57-73-21), which
1600 businesses are certified by the State Tax Commission as being
1601 eligible for the exemption granted in this paragraph, shall be
1602 exempt from one-half (1/2) of the taxes imposed on such
1603 transactions under this chapter. For purposes of this subsection,
1604 an enterprise must meet the criteria provided for in Section
1605 27-65-17(1)(f) in order to be considered a technology intensive
1606 enterprise.

1607 (5) (a) For purposes of this subsection:

1608 (i) "Telecommunications enterprises" shall have
1609 the meaning ascribed to such term in Section 57-73-21(13);

1610 (ii) "Tier One areas" mean counties designated as
1611 Tier One areas pursuant to Section 57-73-21(1);

1612 (iii) "Tier Two areas" mean counties designated as
1613 Tier Two areas pursuant to Section 57-73-21(1);

1614 (iv) "Tier Three areas" mean counties designated
1615 as Tier Three areas pursuant to Section 57-73-21(1); and

1616 (v) "Equipment used in the deployment of broadband
1617 technologies" means any equipment capable of being used for or in
1618 connection with the transmission of information at a rate, prior
1619 to taking into account the effects of any signal degradation, that
1620 is not less than three hundred eighty-four (384) kilobits per
1621 second in at least one direction, including, but not limited to,
1622 asynchronous transfer mode switches, digital subscriber line
1623 access multiplexers, routers, servers, multiplexers, fiber optics
1624 and related equipment.

1625 (b) Sales of equipment to telecommunications
1626 enterprises after June 30, 2003, and before July 1, 2013, that is
1627 installed in Tier One areas and used in the deployment of
1628 broadband technologies shall be exempt from one-half (1/2) of the
1629 taxes imposed on such transactions under this chapter.

1630 (c) Sales of equipment to telecommunications
1631 enterprises after June 30, 2003, and before July 1, 2013, that is

1632 installed in Tier Two and Tier Three areas and used in the
1633 deployment of broadband technologies shall be exempt from the
1634 taxes imposed on such transactions under this chapter.

1635 **SECTION 44.** Section 57-73-21, Mississippi Code of 1972, is
1636 amended as follows:

1637 **[In cases involving business enterprises that received or**
1638 **applied for the job tax credit authorized by this section prior to**
1639 **January 1, 2005, this section shall read as follows:]**

1640 57-73-21. (1) Annually by December 31, using the most
1641 current data available from the University Research Center,
1642 Mississippi Department of Employment Security * * * and the United
1643 States Department of Commerce, the State Tax Commission shall rank
1644 and designate the state's counties as provided in this section.
1645 The twenty-eight (28) counties in this state having a combination
1646 of the highest unemployment rate and lowest per capita income for
1647 the most recent thirty-six-month period, with equal weight being
1648 given to each category, are designated Tier Three areas. The
1649 twenty-seven (27) counties in the state with a combination of the
1650 next highest unemployment rate and next lowest per capita income
1651 for the most recent thirty-six-month period, with equal weight
1652 being given to each category, are designated Tier Two areas. The
1653 twenty-seven (27) counties in the state with a combination of the
1654 lowest unemployment rate and the highest per capita income for the
1655 most recent thirty-six-month period, with equal weight being given
1656 to each category, are designated Tier One areas. Counties
1657 designated by the Tax Commission qualify for the appropriate tax
1658 credit for jobs as provided in subsections (2), (3) and (4) of
1659 this section. The designation by the Tax Commission is effective
1660 for the tax years of permanent business enterprises which begin
1661 after the date of designation. For companies which plan an
1662 expansion in their labor forces, the Tax Commission shall
1663 prescribe certification procedures to ensure that the companies
1664 can claim credits in future years without regard to whether or not

1665 a particular county is removed from the list of Tier Three or Tier
1666 Two areas.

1667 (2) Permanent business enterprises primarily engaged in
1668 manufacturing, processing, warehousing, distribution, wholesaling
1669 and research and development, or permanent business enterprises
1670 designated by rule and regulation of the Mississippi Development
1671 Authority as air transportation and maintenance facilities, final
1672 destination or resort hotels having a minimum of one hundred fifty
1673 (150) guest rooms, recreational facilities that impact tourism,
1674 movie industry studios, telecommunications enterprises, data or
1675 information processing enterprises or computer software
1676 development enterprises or any technology intensive facility or
1677 enterprise, in counties designated by the Tax Commission as Tier
1678 Three areas are allowed a job tax credit for taxes imposed by
1679 Section 27-7-5 equal to Two Thousand Dollars (\$2,000.00) annually
1680 for each net new full-time employee job for five (5) years
1681 beginning with years two (2) through six (6) after the creation of
1682 the job. The number of new full-time jobs must be determined by
1683 comparing the monthly average number of full-time employees
1684 subject to the Mississippi income tax withholding for the taxable
1685 year with the corresponding period of the prior taxable year.
1686 Only those permanent businesses that increase employment by ten
1687 (10) or more in a Tier Three area are eligible for the credit.
1688 Credit is not allowed during any of the five (5) years if the net
1689 employment increase falls below ten (10). The Tax Commission
1690 shall adjust the credit allowed each year for the net new
1691 employment fluctuations above the minimum level of ten (10).

1692 (3) Permanent business enterprises primarily engaged in
1693 manufacturing, processing, warehousing, distribution, wholesaling
1694 and research and development, or permanent business enterprises
1695 designated by rule and regulation of the Mississippi Development
1696 Authority as air transportation and maintenance facilities, final
1697 destination or resort hotels having a minimum of one hundred fifty

1698 (150) guest rooms, recreational facilities that impact tourism,
1699 movie industry studios, telecommunications enterprises, data or
1700 information processing enterprises or computer software
1701 development enterprises or any technology intensive facility or
1702 enterprise, in counties that have been designated by the Tax
1703 Commission as Tier Two areas are allowed a job tax credit for
1704 taxes imposed by Section 27-7-5 equal to One Thousand Dollars
1705 (\$1,000.00) annually for each net new full-time employee job for
1706 five (5) years beginning with years two (2) through six (6) after
1707 the creation of the job. The number of new full-time jobs must be
1708 determined by comparing the monthly average number of full-time
1709 employees subject to Mississippi income tax withholding for the
1710 taxable year with the corresponding period of the prior taxable
1711 year. Only those permanent businesses that increase employment by
1712 fifteen (15) or more in Tier Two areas are eligible for the
1713 credit. The credit is not allowed during any of the five (5)
1714 years if the net employment increase falls below fifteen (15).
1715 The Tax Commission shall adjust the credit allowed each year for
1716 the net new employment fluctuations above the minimum level of
1717 fifteen (15).

1718 (4) Permanent business enterprises primarily engaged in
1719 manufacturing, processing, warehousing, distribution, wholesaling
1720 and research and development, or permanent business enterprises
1721 designated by rule and regulation of the Mississippi Development
1722 Authority as air transportation and maintenance facilities, final
1723 destination or resort hotels having a minimum of one hundred fifty
1724 (150) guest rooms, recreational facilities that impact tourism,
1725 movie industry studios, telecommunications enterprises, data or
1726 information processing enterprises or computer software
1727 development enterprises or any technology intensive facility or
1728 enterprise, in counties designated by the Tax Commission as Tier
1729 One areas are allowed a job tax credit for taxes imposed by
1730 Section 27-7-5 equal to Five Hundred Dollars (\$500.00) annually

1731 for each net new full-time employee job for five (5) years
1732 beginning with years two (2) through six (6) after the creation of
1733 the job. The number of new full-time jobs must be determined by
1734 comparing the monthly average number of full-time employees
1735 subject to Mississippi income tax withholding for the taxable year
1736 with the corresponding period of the prior taxable year. Only
1737 those permanent businesses that increase employment by twenty (20)
1738 or more in Tier One areas are eligible for the credit. The credit
1739 is not allowed during any of the five (5) years if the net
1740 employment increase falls below twenty (20). The Tax Commission
1741 shall adjust the credit allowed each year for the net new
1742 employment fluctuations above the minimum level of twenty (20).

1743 (5) In addition to the credits authorized in subsections
1744 (2), (3) and (4), an additional Five Hundred Dollars (\$500.00)
1745 credit for each net new full-time employee or an additional One
1746 Thousand Dollars (\$1,000.00) credit for each net new full-time
1747 employee who is paid a salary, excluding benefits which are not
1748 subject to Mississippi income taxation, of at least one hundred
1749 twenty-five percent (125%) of the average annual wage of the state
1750 or an additional Two Thousand Dollars (\$2,000.00) credit for each
1751 net new full-time employee who is paid a salary, excluding
1752 benefits which are not subject to Mississippi income taxation, of
1753 at least two hundred percent (200%) of the average annual wage of
1754 the state, shall be allowed for any company establishing or
1755 transferring its national or regional headquarters from within or
1756 outside the State of Mississippi. A minimum of thirty-five (35)
1757 jobs must be created to qualify for the additional credit. The
1758 State Tax Commission shall establish criteria and prescribe
1759 procedures to determine if a company qualifies as a national or
1760 regional headquarters for purposes of receiving the credit awarded
1761 in this subsection. As used in this subsection, the average
1762 annual wage of the state is the most recently published average

1763 annual wage as determined by the Mississippi Department of
1764 Employment Security * * *.

1765 (6) In addition to the credits authorized in subsections
1766 (2), (3), (4) and (5), any job requiring research and development
1767 skills (chemist, engineer, etc.) shall qualify for an additional
1768 One Thousand Dollars (\$1,000.00) credit for each net new full-time
1769 employee.

1770 (7) Tax credits for five (5) years for the taxes imposed by
1771 Section 27-7-5 shall be awarded for additional net new full-time
1772 jobs created by business enterprises qualified under subsections
1773 (2), (3), (4), (5) and (6) of this section. The Tax Commission
1774 shall adjust the credit allowed in the event of employment
1775 fluctuations during the additional five (5) years of credit.

1776 (8) The sale, merger, acquisition, reorganization,
1777 bankruptcy or relocation from one county to another county within
1778 the state of any business enterprise may not create new
1779 eligibility in any succeeding business entity, but any unused job
1780 tax credit may be transferred and continued by any transferee of
1781 the business enterprise. The Tax Commission shall determine
1782 whether or not qualifying net increases or decreases have occurred
1783 or proper transfers of credit have been made and may require
1784 reports, promulgate regulations, and hold hearings as needed for
1785 substantiation and qualification.

1786 (9) Any tax credit claimed under this section but not used
1787 in any taxable year may be carried forward for five (5) years from
1788 the close of the tax year in which the qualified jobs were
1789 established but the credit established by this section taken in
1790 any one tax year must be limited to an amount not greater than
1791 fifty percent (50%) of the taxpayer's state income tax liability
1792 which is attributable to income derived from operations in the
1793 state for that year.

1794 (10) No business enterprise for the transportation,
1795 handling, storage, processing or disposal of hazardous waste is
1796 eligible to receive the tax credits provided in this section.

1797 (11) The credits allowed under this section shall not be
1798 used by any business enterprise or corporation other than the
1799 business enterprise actually qualifying for the credits.

1800 (12) The tax credits provided for in this section shall be
1801 in addition to any tax credits described in Sections 57-51-13(b),
1802 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official
1803 action by the Department of Economic Development prior to July 1,
1804 1989, to any business enterprise determined prior to July 1, 1989,
1805 by the Department of Economic Development to be a qualified
1806 business as defined in Section 57-51-5(f) or Section 57-54-5(d) or
1807 a qualified company as described in Section 57-53-1, as the case
1808 may be; however, from and after July 1, 1989, tax credits shall be
1809 allowed only under either this section or Sections 57-51-13(b),
1810 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time
1811 employee.

1812 (13) As used in this section, the term "telecommunications
1813 enterprises" means entities engaged in the creation, display,
1814 management, storage, processing, transmission or distribution for
1815 compensation of images, text, voice, video or data by wire or by
1816 wireless means, or entities engaged in the construction, design,
1817 development, manufacture, maintenance or distribution for
1818 compensation of devices, products, software or structures used in
1819 the above activities. Companies organized to do business as
1820 commercial broadcast radio stations, television stations or news
1821 organizations primarily serving in-state markets shall not be
1822 included within the definition of the term "telecommunications
1823 enterprises."

1824 [In cases involving business enterprises that apply for the
1825 job tax credit authorized by this section from and after January
1826 1, 2005, this section shall read as follows:]

1827 57-73-21. (1) Annually by December 31, using the most
1828 current data available from the University Research Center,
1829 Mississippi Department of Employment Security * * * and the United
1830 States Department of Commerce, the State Tax Commission shall rank
1831 and designate the state's counties as provided in this section.
1832 The twenty-eight (28) counties in this state having a combination
1833 of the highest unemployment rate and lowest per capita income for
1834 the most recent thirty-six-month period, with equal weight being
1835 given to each category, are designated Tier Three areas. The
1836 twenty-seven (27) counties in the state with a combination of the
1837 next highest unemployment rate and next lowest per capita income
1838 for the most recent thirty-six-month period, with equal weight
1839 being given to each category, are designated Tier Two areas. The
1840 twenty-seven (27) counties in the state with a combination of the
1841 lowest unemployment rate and the highest per capita income for the
1842 most recent thirty-six-month period, with equal weight being given
1843 to each category, are designated Tier One areas. Counties
1844 designated by the Tax Commission qualify for the appropriate tax
1845 credit for jobs as provided in * * * this section. The
1846 designation by the Tax Commission is effective for the tax years
1847 of permanent business enterprises which begin after the date of
1848 designation. For companies which plan an expansion in their labor
1849 forces, the Tax Commission shall prescribe certification
1850 procedures to ensure that the companies can claim credits in
1851 future years without regard to whether or not a particular county
1852 is removed from the list of Tier Three or Tier Two areas.

1853 (2) As used in this section:

1854 (a) "Business enterprises" means entities primarily
1855 engaged in:

1856 (i) Manufacturing, processing, warehousing,
1857 distribution, wholesaling and research and development, or

1858 (ii) Permanent business enterprises designated by
1859 rule and regulation of the Mississippi Development Authority as

1860 air transportation and maintenance facilities, final destination
1861 or resort hotels having a minimum of one hundred fifty (150) guest
1862 rooms, recreational facilities that impact tourism, movie industry
1863 studios, telecommunications enterprises, data or information
1864 processing enterprises or computer software development
1865 enterprises or any technology intensive facility or enterprise.

1866 (b) "Telecommunications enterprises" means entities
1867 engaged in the creation, display, management, storage, processing,
1868 transmission or distribution for compensation of images, text,
1869 voice, video or data by wire or by wireless means, or entities
1870 engaged in the construction, design, development, manufacture,
1871 maintenance or distribution for compensation of devices, products,
1872 software or structures used in the above activities. Companies
1873 organized to do business as commercial broadcast radio stations,
1874 television stations or news organizations primarily serving
1875 in-state markets shall not be included within the definition of
1876 the term "telecommunications enterprises."

1877 (3) Permanent business enterprises * * * in counties
1878 designated by the Tax Commission as Tier Three areas are allowed a
1879 job tax credit for taxes imposed by Section 27-7-5 equal to ten
1880 percent (10%) of the payroll of the enterprise for net new
1881 full-time employee jobs for five (5) years beginning with years
1882 two (2) through six (6) after the creation of the minimum number
1883 of jobs required by this subsection. The number of new full-time
1884 jobs must be determined by comparing the monthly average number of
1885 full-time employees subject to the Mississippi income tax
1886 withholding for the taxable year with the corresponding period of
1887 the prior taxable year. Only those permanent business enterprises
1888 that increase employment by ten (10) or more in a Tier Three area
1889 are eligible for the credit. Credit is not allowed during any of
1890 the five (5) years if the net employment increase falls below ten
1891 (10). The Tax Commission shall adjust the credit allowed each

1892 year for the net new employment fluctuations above the minimum
1893 level of ten (10).

1894 (4) Permanent business enterprises * * * in counties that
1895 have been designated by the Tax Commission as Tier Two areas are
1896 allowed a job tax credit for taxes imposed by Section 27-7-5 equal
1897 to five percent (5%) of the payroll of the enterprise for net new
1898 full-time employee jobs for five (5) years beginning with years
1899 two (2) through six (6) after the creation of the minimum number
1900 of jobs required by this subsection. The number of new full-time
1901 jobs must be determined by comparing the monthly average number of
1902 full-time employees subject to Mississippi income tax withholding
1903 for the taxable year with the corresponding period of the prior
1904 taxable year. Only those permanent business enterprises that
1905 increase employment by fifteen (15) or more in Tier Two areas are
1906 eligible for the credit. The credit is not allowed during any of
1907 the five (5) years if the net employment increase falls below
1908 fifteen (15). The Tax Commission shall adjust the credit allowed
1909 each year for the net new employment fluctuations above the
1910 minimum level of fifteen (15).

1911 (5) Permanent business enterprises * * * in counties
1912 designated by the Tax Commission as Tier One areas are allowed a
1913 job tax credit for taxes imposed by Section 27-7-5 equal to two
1914 and one-half percent (2.5%) of the payroll of the enterprise for
1915 net new full-time employee jobs for five (5) years beginning with
1916 years two (2) through six (6) after the creation of the minimum
1917 number of jobs required by this subsection. The number of new
1918 full-time jobs must be determined by comparing the monthly average
1919 number of full-time employees subject to Mississippi income tax
1920 withholding for the taxable year with the corresponding period of
1921 the prior taxable year. Only those permanent business enterprises
1922 that increase employment by twenty (20) or more in Tier One areas
1923 are eligible for the credit. The credit is not allowed during any
1924 of the five (5) years if the net employment increase falls below

1925 twenty (20). The Tax Commission shall adjust the credit allowed
1926 each year for the net new employment fluctuations above the
1927 minimum level of twenty (20).

1928 (6) In addition to the other credits authorized in this
1929 section, an additional Five Hundred Dollars (\$500.00) credit for
1930 each net new full-time employee or an additional One Thousand
1931 Dollars (\$1,000.00) credit for each net new full-time employee who
1932 is paid a salary, excluding benefits which are not subject to
1933 Mississippi income taxation, of at least one hundred twenty-five
1934 percent (125%) of the average annual wage of the state or an
1935 additional Two Thousand Dollars (\$2,000.00) credit for each net
1936 new full-time employee who is paid a salary, excluding benefits
1937 which are not subject to Mississippi income taxation, of at least
1938 two hundred percent (200%) of the average annual wage of the
1939 state, shall be allowed for any company establishing or
1940 transferring its national or regional headquarters from within or
1941 outside the State of Mississippi. A minimum of thirty-five (35)
1942 jobs must be created to qualify for the additional credit. The
1943 State Tax Commission shall establish criteria and prescribe
1944 procedures to determine if a company qualifies as a national or
1945 regional headquarters for purposes of receiving the credit awarded
1946 in this subsection. As used in this subsection, the average
1947 annual wage of the state is the most recently published average
1948 annual wage as determined by the Mississippi Department of
1949 Employment Security * * *.

1950 (7) In addition to the other credits authorized in this
1951 section, any job requiring research and development skills
1952 (chemist, engineer, etc.) shall qualify for an additional One
1953 Thousand Dollars (\$1,000.00) credit for each net new full-time
1954 employee.

1955 (8) (a) Tax credits for five (5) years for the taxes
1956 imposed by Section 27-7-5 shall be awarded for increases in the
1957 annual payroll for net new full-time jobs created by business

1958 enterprises qualified under this section. The Tax Commission
1959 shall adjust the credit allowed in the event of payroll
1960 fluctuations during the additional five (5) years of credit.

1961 (b) Tax credits for five (5) years for the taxes
1962 imposed by Section 27-7-5 shall be awarded for additional net new
1963 full-time jobs created by business enterprises qualified under
1964 subsections * * * (6) and (7) of this section. The Tax Commission
1965 shall adjust the credit allowed in the event of employment
1966 fluctuations during the additional five (5) years of credit.

1967 (9) The sale, merger, acquisition, reorganization,
1968 bankruptcy or relocation from one county to another county within
1969 the state of any business enterprise may not create new
1970 eligibility in any succeeding business entity, but any unused job
1971 tax credit may be transferred and continued by any transferee of
1972 the business enterprise. The Tax Commission shall determine
1973 whether or not qualifying net increases or decreases have occurred
1974 or proper transfers of credit have been made and may require
1975 reports, promulgate regulations, and hold hearings as needed for
1976 substantiation and qualification.

1977 (10) Any tax credit claimed under this section but not used
1978 in any taxable year may be carried forward for five (5) years from
1979 the close of the tax year in which the qualified jobs were
1980 established but the credit established by this section taken in
1981 any one tax year must be limited to an amount not greater than
1982 fifty percent (50%) of the taxpayer's state income tax liability
1983 which is attributable to income derived from operations in the
1984 state for that year.

1985 (11) No business enterprise for the transportation,
1986 handling, storage, processing or disposal of hazardous waste is
1987 eligible to receive the tax credits provided in this section.

1988 (12) The credits allowed under this section shall not be
1989 used by any business enterprise or corporation other than the
1990 business enterprise actually qualifying for the credits.

1991 (13) The tax credits provided for in this section shall be
1992 in addition to any tax credits described in Sections 57-51-13(b),
1993 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official
1994 action by the Department of Economic Development prior to July 1,
1995 1989, to any business enterprise determined prior to July 1, 1989,
1996 by the Department of Economic Development to be a qualified
1997 business as defined in Section 57-51-5(f) or Section 57-54-5(d) or
1998 a qualified company as described in Section 57-53-1, as the case
1999 may be; however, from and after July 1, 1989, tax credits shall be
2000 allowed only under either this section or Sections 57-51-13(b),
2001 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time
2002 employee.

2003 * * *

2004 **SECTION 45.** Section 57-10-401, Mississippi Code of 1972, is
2005 reenacted and amended as follows:

2006 **[In cases involving an economic development project for which**
2007 **the Mississippi Business Finance Corporation has issued bonds for**
2008 **the purpose of financing the approved costs of such project prior**
2009 **to July 1, 1994, this section shall read as follows:]**

2010 57-10-401. As used in Sections 57-10-401 through 57-10-445
2011 the following terms shall have the meanings ascribed to them
2012 herein unless the context clearly indicates otherwise:

2013 (a) "Approved company" means any eligible company
2014 seeking to locate an economic development project in a county,
2015 which eligible company is approved by the corporation.

2016 (b) "Approved costs" means:

2017 (i) Obligations incurred for equipment and labor
2018 and to contractors, subcontractors, builders and materialmen in
2019 connection with the acquisition, construction and installation of
2020 an economic development project;

2021 (ii) The cost of acquiring land or rights in land
2022 and any cost incidental thereto, including recording fees;

2023 (iii) The cost of contract bonds and of insurance
2024 of all kinds that may be required or necessary during the course
2025 of acquisition, construction and installation of an economic
2026 development project which is not paid by the contractor or
2027 contractors or otherwise provided for;

2028 (iv) All costs of architectural and engineering
2029 services, including test borings, surveys, estimates, plans and
2030 specifications, preliminary investigations, and supervision of
2031 construction, as well as for the performance of all the duties
2032 required by or consequent upon the acquisition, construction and
2033 installation of an economic development project;

2034 (v) All costs which shall be required to be paid
2035 under the terms of any contract or contracts for the acquisition,
2036 construction and installation of an economic development project;

2037 (vi) All costs, expenses and fees incurred in
2038 connection with the issuance of bonds pursuant to Sections
2039 57-10-401 through 57-10-445;

2040 (vii) All costs funded by a loan made under the
2041 Mississippi Small Enterprise Development Finance Act; and

2042 (viii) All costs of professionals permitted to be
2043 engaged under the Mississippi Small Enterprise Development Finance
2044 Act for a loan made under such act.

2045 (c) "Assessment" means the job development assessment
2046 fee authorized in Section 57-10-413.

2047 (d) "Bonds" means the revenue bonds, notes or other
2048 debt obligations of the corporation authorized to be issued by the
2049 corporation on behalf of an eligible company or other state
2050 agency.

2051 (e) "Corporation" means the Mississippi Business
2052 Finance Corporation created under Section 57-10-167, Mississippi
2053 Code of 1972.

2054 (f) "Economic development project" means and includes
2055 the acquisition of any equipment or real estate in a county and

2056 the construction and installation thereon, and with respect
2057 thereto, of improvements and facilities necessary or desirable for
2058 improvement of the real estate, including surveys, site tests and
2059 inspections, subsurface site work, excavation, removal of
2060 structures, roadways, cemeteries and other surface obstructions,
2061 filling, grading and provision of drainage, storm water detention,
2062 installation of utilities such as water, sewer, sewage treatment,
2063 gas, electricity, communications and similar facilities, off-site
2064 construction of utility extensions to the boundaries of the real
2065 estate, and the acquisition, construction and installation of
2066 manufacturing, telecommunications, data processing, distribution
2067 or warehouse facilities on the real estate, for lease or financial
2068 arrangement by the corporation to an approved company for use and
2069 occupancy by the approved company or its affiliates for
2070 manufacturing, telecommunications, data processing, distribution
2071 or warehouse purposes. Such term also includes, without
2072 limitation, any project the financing of which has been approved
2073 under the Mississippi Small Enterprise Development Finance Act.

2074 (g) "Eligible company" means any corporation,
2075 partnership, sole proprietorship, business trust, or other entity
2076 which is:

2077 (i) Engaged in manufacturing which meets the
2078 standards promulgated by the corporation under Sections 57-10-401
2079 through 57-10-445;

2080 (ii) A private company approved by the corporation
2081 for a loan under the Mississippi Small Enterprise Development
2082 Finance Act;

2083 (iii) A distribution or warehouse facility
2084 employing a minimum of fifty (50) people or employing a minimum of
2085 twenty (20) people and having a capital investment in such
2086 facility of at least Five Million Dollars (\$5,000,000.00); or

2087 (iv) A telecommunications or data processing
2088 business.

2089 (h) "Executive director" means the Executive Director
2090 of the Mississippi Business Finance Corporation.

2091 (i) "Financing agreement" means any financing documents
2092 and agreements, indentures, loan agreements, lease agreements,
2093 security agreements and the like, entered into by and among the
2094 corporation, private lenders and an approved company with respect
2095 to an economic development project.

2096 (j) "Manufacturing" means any activity involving the
2097 manufacturing, processing, assembling or production of any
2098 property, including the processing resulting in a change in the
2099 conditions of the property and any activity functionally related
2100 thereto, together with the storage, warehousing, distribution and
2101 related office facilities in respect thereof as determined by the
2102 Mississippi Business Finance Corporation; however, in no event
2103 shall "manufacturing" include mining, coal or mineral processing,
2104 or extraction of Mississippi minerals.

2105 (k) "State agency" means any state board, commission,
2106 committee, council, university, department or unit thereof created
2107 by the Constitution or laws of this state.

2108 (l) "Revenues" shall not be considered state funds.

2109 (m) "State" means the State of Mississippi.

2110 (n) "Mississippi Small Enterprise Development Finance
2111 Act" means the provisions of law contained in Section 57-71-1 et
2112 seq.

2113 **[In cases involving an economic development project for which**
2114 **the Mississippi Business Finance Corporation has not issued bonds**
2115 **for the purpose of financing the approved costs of such project**
2116 **prior to July 1, 1994, this section shall read as follows:]**

2117 57-10-401. As used in Sections 57-10-401 through 57-10-445
2118 the following terms shall have the meanings ascribed to them
2119 herein unless the context clearly indicates otherwise:

2120 (a) "Approved company" means any eligible company
2121 seeking to locate an economic development project in a county,
2122 which eligible company is approved by the corporation.

2123 (b) "Approved costs" means:

2124 (i) Obligations incurred for equipment and labor
2125 and to contractors, subcontractors, builders and materialmen in
2126 connection with the acquisition, construction and installation of
2127 an economic development project;

2128 (ii) The cost of acquiring land or rights in land
2129 and any cost incidental thereto, including recording fees;

2130 (iii) The cost of contract bonds and of insurance
2131 of all kinds that may be required or necessary during the course
2132 of acquisition, construction and installation of an economic
2133 development project which is not paid by the contractor or
2134 contractors or otherwise provided for;

2135 (iv) All costs of architectural and engineering
2136 services, including test borings, surveys, estimates, plans and
2137 specifications, preliminary investigations, and supervision of
2138 construction, as well as for the performance of all the duties
2139 required by or consequent upon the acquisition, construction and
2140 installation of an economic development project;

2141 (v) All costs which shall be required to be paid
2142 under the terms of any contract or contracts for the acquisition,
2143 construction and installation of an economic development project;

2144 (vi) All costs, expenses and fees incurred in
2145 connection with the issuance of bonds pursuant to Sections
2146 57-10-401 through 57-10-445;

2147 (vii) All costs funded by a loan made under the
2148 Mississippi Small Enterprise Development Finance Act; and

2149 (viii) All costs of professionals permitted to be
2150 engaged under the Mississippi Small Enterprise Development Finance
2151 Act for a loan made under such act.

2152 (c) "Assessment" means the job development assessment
2153 fee authorized in Section 57-10-413.

2154 (d) "Bonds" means the revenue bonds, notes or other
2155 debt obligations of the corporation authorized to be issued by the
2156 corporation on behalf of an eligible company or other state
2157 agency.

2158 (e) "Corporation" means the Mississippi Business
2159 Finance Corporation created under Section 57-10-167, Mississippi
2160 Code of 1972.

2161 (f) "Economic development project" means and includes
2162 the acquisition of any equipment or real estate in a county and
2163 the construction and installation thereon, and with respect
2164 thereto, of improvements and facilities necessary or desirable for
2165 improvement of the real estate, including surveys, site tests and
2166 inspections, subsurface site work, excavation, removal of
2167 structures, roadways, cemeteries and other surface obstructions,
2168 filling, grading and provision of drainage, storm water detention,
2169 installation of utilities such as water, sewer, sewage treatment,
2170 gas, electricity, communications and similar facilities, off-site
2171 construction of utility extensions to the boundaries of the real
2172 estate, and the acquisition, construction and installation of
2173 manufacturing, telecommunications, data processing, distribution
2174 or warehouse facilities on the real estate, for lease or financial
2175 arrangement by the corporation to an approved company for use and
2176 occupancy by the approved company or its affiliates for
2177 manufacturing, telecommunications, data processing, distribution
2178 or warehouse purposes. Such term also includes, without
2179 limitation, any project the financing of which has been approved
2180 under the Mississippi Small Enterprise Development Finance Act.

2181 If an eligible company closes a facility in this state and
2182 becomes an approved company under the provisions of Sections
2183 57-10-401 through 57-10-449, only that portion of the project for
2184 which such company is attempting to obtain financing that is in

2185 excess of the value of the closed facility shall be included
2186 within the definition of the term "economic development project."
2187 The Mississippi Business Finance Corporation shall promulgate
2188 rules and regulations to govern the determination of the
2189 difference between the value of the closed facility and the new
2190 facility.

2191 (g) "Eligible company" means any corporation,
2192 partnership, sole proprietorship, business trust, or other entity
2193 which:

2194 (i) Engaged in manufacturing which meets the
2195 standards promulgated by the corporation under Sections 57-10-401
2196 through 57-10-445;

2197 (ii) A private company approved by the corporation
2198 for a loan under the Mississippi Small Enterprise Development
2199 Finance Act;

2200 (iii) A distribution or warehouse facility
2201 employing a minimum of fifty (50) people or employing a minimum of
2202 twenty (20) people and having a capital investment in such
2203 facility of at least Five Million Dollars (\$5,000,000.00); * * *

2204 (iv) A telecommunications or data/information
2205 processing business meeting criteria established by the
2206 Mississippi Business Finance Corporation;

2207 (v) National or regional headquarters meeting
2208 criteria established by the Mississippi Business Finance
2209 Corporation;

2210 (vi) Research and development facilities meeting
2211 criteria established by the Mississippi Business Finance
2212 Corporation; or

2213 (vii) Technology intensive enterprises or
2214 facilities meeting criteria established by the Mississippi
2215 Business Finance Corporation.

2216 (h) "Executive director" means the Executive Director
2217 of the Mississippi Business Finance Corporation.

2218 (i) "Financing agreement" means any financing documents
2219 and agreements, indentures, loan agreements, lease agreements,
2220 security agreements and the like, entered into by and among the
2221 corporation, private lenders and an approved company with respect
2222 to an economic development project.

2223 (j) "Manufacturing" means any activity involving the
2224 manufacturing, processing, assembling or production of any
2225 property, including the processing resulting in a change in the
2226 conditions of the property and any activity functionally related
2227 thereto, together with the storage, warehousing, distribution and
2228 related office facilities in respect thereof as determined by the
2229 Mississippi Business Finance Corporation; however, in no event
2230 shall "manufacturing" include mining, coal or mineral processing,
2231 or extraction of Mississippi minerals.

2232 (k) "State agency" means any state board, commission,
2233 committee, council, university, department or unit thereof created
2234 by the Constitution or laws of this state.

2235 (l) "Revenues" shall not be considered state funds.

2236 (m) "State" means the State of Mississippi.

2237 (n) "Mississippi Small Enterprise Development Finance
2238 Act" means the provisions of law contained in Section 57-71-1 et
2239 seq.

2240 **SECTION 46.** Section 57-10-403, Mississippi Code of 1972, is
2241 reenacted as follows:

2242 57-10-403. (1) The Legislature finds and declares that the
2243 general welfare and material well-being of citizens of the state
2244 depend in large measure upon the development and growth of
2245 industry in the state.

2246 (2) The Legislature finds and declares further that it is in
2247 the best interest of the state to induce the location or expansion
2248 of manufacturing facilities within this state in order to advance
2249 the public purposes of relieving unemployment by creating new jobs
2250 within this state that, but for the inducements to be offered by

2251 the corporation to approved companies as herein provided, would
2252 not exist, and of creating new sources of tax revenues for the
2253 support of the public services provided by this state and country.

2254 (3) The Legislature finds and declares further that the
2255 authority granted by this article and the purposes to be
2256 accomplished hereby are proper governmental and public purposes
2257 for which public monies may be expended, and that the inducement
2258 of the location or expansion of manufacturing facilities within
2259 the state is of paramount importance, mandating that the
2260 provisions of this article be liberally construed and applied in
2261 order to advance the public purposes.

2262 **SECTION 47.** Section 57-10-405, Mississippi Code of 1972, is
2263 reenacted as follows:

2264 57-10-405. In addition to its other powers and duties, the
2265 corporation shall have all the powers necessary or convenient to
2266 carry out and effectuate the purposes and provisions of Sections
2267 57-10-401 through 57-10-445, including, but without limiting the
2268 generality of the foregoing, the power:

2269 (a) To provide and finance economic development
2270 projects under the provisions of Sections 57-10-401 through
2271 57-10-445, and cooperate with counties, municipalities and
2272 eligible companies in order to promote, foster and support
2273 economic development within the counties and municipalities;

2274 (b) To conduct hearings and inquiries, in the manner
2275 and by the methods as it deems desirable, including, without
2276 limitation, appointment of special committees, for the purpose of
2277 gathering information with respect to counties, municipalities,
2278 eligible companies and economic development projects, for the
2279 purpose of making any determinations necessary or desirable in the
2280 furtherance of Sections 57-10-401 through 57-10-445;

2281 (c) To negotiate the terms of, and enter into financing
2282 agreements with, approved companies, and in connection therewith
2283 to acquire, convey, sell, own, lease, mortgage, finance, foreclose

2284 or otherwise dispose of any property, real or personal, in
2285 connection with an economic development project, and to pay, or
2286 cause to be paid, in accordance with the provisions of a financing
2287 agreement, the approved costs of an economic development project
2288 from any funds available therefor, including, without limitation,
2289 funds available as the result of the issuance of bonds under the
2290 Mississippi Small Enterprise Development Finance Act;

2291 (d) To delegate to the executive director the rights
2292 and powers of the corporation required for the proper and
2293 desirable execution of the purposes of this article;

2294 (e) To consent, if it deems it necessary or desirable
2295 in the fulfillment of its purposes, to the modification of the
2296 terms of any financing agreements of any kind to which the
2297 corporation is a party;

2298 (f) To include in any borrowing the amounts deemed
2299 necessary by the corporation to pay financing charges, consultant,
2300 advisory and legal fees, fees for bond insurance, letters of
2301 credit or other forms of credit enhancement, investment advisory
2302 fees, trustees' fees and other expenses necessary or incident to
2303 the borrowing;

2304 (g) To make and publish administrative regulations
2305 respecting its programs and other administrative regulations
2306 necessary or appropriate to effectuate the purposes of Sections
2307 57-10-401 through 57-10-445, and necessary to administer the
2308 procedures and program as provided for in Sections 57-10-401
2309 through 57-10-445;

2310 (h) To make, execute and effectuate any and all
2311 agreements or other documents with any governmental agency or any
2312 person, corporation, association, partnership, or other
2313 organization or entity, necessary or appropriate to accomplish the
2314 purposes of Sections 57-10-401 through 57-10-445, including any
2315 financing agreements with state agencies or any political

2316 subdivisions of the state under which funds may be pledged by or
2317 to the corporation for the payment of its bonds;

2318 (i) To accept gifts, devises, bequests, grants, loans,
2319 appropriations, revenue sharing, other financing and assistance
2320 and any other aid from any source and to agree to, and to comply
2321 with, conditions attached thereto;

2322 (j) To sue and be sued in its own name, plead and be
2323 impleaded; and

2324 (k) To invest any funds held by the corporation or its
2325 agents or trustees, under Sections 57-10-401 through 57-10-445,
2326 including, but not limited to, the proceeds of bonds issued under
2327 Sections 57-10-401 through 57-10-445, reserve or other funds, or
2328 any monies not required for immediate disbursement, and the
2329 investment income on any of the foregoing, in obligations
2330 authorized by Sections 57-10-401 through 57-10-445.

2331 **SECTION 48.** Section 57-10-407, Mississippi Code of 1972, is
2332 reenacted as follows:

2333 57-10-407. The corporation may accept and expend: (a)
2334 monies which may be appropriated from time to time by the
2335 Legislature; (b) monies which may be available under the
2336 Mississippi Small Enterprise Development Finance Act; or (c)
2337 monies which may be received from any source, including income
2338 from the corporation's operations, under Sections 57-10-401
2339 through 57-10-445, for effectuating the purposes of Sections
2340 57-10-401 through 57-10-445, including, without limitation, the
2341 payment of the expenses of administration and operation incurred
2342 pursuant to Sections 57-10-401 through 57-10-445 and the
2343 establishment and, if deemed desirable, maintenance of a reserve
2344 or contingency fund for the administration of Sections 57-10-401
2345 through 57-10-445.

2346 **SECTION 49.** Section 57-10-409, Mississippi Code of 1972, is
2347 reenacted as follows:

2348 **[In cases involving an economic development project for which**
2349 **the Mississippi Business Finance Corporation has issued bonds for**
2350 **the purpose of financing the approved costs of such project prior**
2351 **to July 1, 1994, this section shall read as follows:]**

2352 57-10-409. The corporation may enter into, with any approved
2353 company, a financing agreement with respect to its economic
2354 development project. The terms and provisions of each financing
2355 agreement shall be determined by negotiations between the
2356 corporation and the approved company, except that each financing
2357 agreement shall include the following provisions:

2358 (a) If the corporation issues any bonds in connection
2359 with an economic development project, the term of the financing
2360 agreement shall not be less than the last maturity of the bonds
2361 issued with respect to the economic development project, except
2362 that the financing agreement may terminate upon the earlier
2363 redemption of all of the bonds issued with respect to the economic
2364 development project and may grant to the approved company an
2365 option to purchase the economic development project from the
2366 corporation upon the termination of the financing agreement for
2367 such consideration and under such terms and conditions the
2368 corporation may approve. Nothing in this paragraph shall limit
2369 the extension of the term of a financing agreement if there is a
2370 refunding of the correlative bonds or otherwise.

2371 (b) If the corporation issues any bonds in connection
2372 with an economic development project, the financing agreement
2373 shall specify that the annual obligations of the approved company
2374 under Sections 57-10-401 through 57-10-445 shall equal in each
2375 year at least the annual debt service for that year on the bonds
2376 issued with respect to the economic development project; and the
2377 approved company shall pay such obligation of the financing
2378 agreement to the trustee for bonds issued for the benefit of the
2379 approved company, at such time and in such amounts sufficient to
2380 amortize such bonds.

2381 (c) If the corporation loans funds to an approved
2382 company that is a private company under the Mississippi Small
2383 Enterprise Development Finance Act, the financing agreement shall
2384 include the terms and conditions of the loan required by Section
2385 57-71-1 et seq.

2386 (d) (i) In consideration for financing agreement
2387 payment, the approved company may be permitted the following
2388 during the period of time in which the financing agreement is in
2389 effect, not to exceed twenty-five (25) years:

2390 1. A tax credit on the amount provided for in
2391 Section 27-7-22.3(2), Mississippi Code of 1972; plus

2392 2. The aggregate assessment withheld by the
2393 approved company in each year.

2394 (ii) The income tax credited to the approved
2395 company referred to herein shall be credited in the fiscal year of
2396 the financing agreement in which the tax return of the approved
2397 company is filed. The approved company shall not be required to
2398 pay estimated tax payments under Section 27-7-319, Mississippi
2399 Code of 1972.

2400 (e) (i) The financing agreement shall provide that the
2401 assessments, when added to the credit for the state corporate
2402 income tax herein granted, shall not exceed the total financing
2403 agreement annual payment by the approved company in any year;
2404 however, to the extent that financing agreement annual payments
2405 exceed credits received and assessments collected in any year, the
2406 excess payment may be recouped from excess credits or assessment
2407 collections in succeeding years.

2408 (ii) If during any fiscal year of the financing
2409 agreement the total of the income tax credit granted to the
2410 approved company plus the assessment collected from the wages of
2411 the employees equals the annual payment pursuant to the financing
2412 agreement, and if all excess payments pursuant to the financing
2413 agreement accumulated in prior years have been recouped, the

2414 assessment collected from the wages of the employees shall cease
2415 for the remainder of the fiscal year of the financing agreement.

2416 (f) The financing agreement shall provide that:

2417 (i) It may be assigned by the approved company
2418 only upon the prior written consent of the corporation following
2419 the adoption of a resolution by the corporation to such effect;
2420 and

2421 (ii) Upon the default by the approved company in
2422 the obligation to render its annual payment, the corporation shall
2423 have the right, at its option, to declare the financing agreement
2424 in default and to accelerate the total of all annual payments that
2425 are to be made or to terminate the financing agreement and cause
2426 to be sold the economic development project at public or private
2427 sale, or to pursue any other remedies available under the Uniform
2428 Commercial Code, as from time to time amended, or otherwise
2429 available in law or equity.

2430 **[In cases involving an economic development project for which**
2431 **the Mississippi Business Finance Corporation has not issued bonds**
2432 **for the purpose of financing the approved costs of such project**
2433 **prior to July 1, 1994, but has issued bonds for such project prior**
2434 **to July 1, 1997, or in cases involving an economic development**
2435 **project which has been induced by a resolution of the Board of**
2436 **Directors of the Mississippi Business Finance Corporation that has**
2437 **been filed with the State Tax Commission prior to July 1, 1997,**
2438 **this section shall read as follows:]**

2439 57-10-409. The corporation may enter into, with any approved
2440 company, a financing agreement with respect to its economic
2441 development project. The terms and provisions of each financing
2442 agreement shall be determined by negotiations between the
2443 corporation and the approved company, except that each financing
2444 agreement shall include the following provisions:

2445 (a) If the corporation issues any bonds in connection
2446 with an economic development project, the term of the financing

2447 agreement shall not be less than the last maturity of the bonds
2448 issued with respect to the economic development project, except
2449 that the financing agreement may terminate upon the earlier
2450 redemption of all of the bonds issued with respect to the economic
2451 development project and may grant to the approved company an
2452 option to purchase the economic development project from the
2453 corporation upon the termination of the financing agreement for
2454 such consideration and under such terms and conditions the
2455 corporation may approve. Nothing in this paragraph shall limit
2456 the extension of the term of a financing agreement if there is a
2457 refunding of the correlative bonds or otherwise.

2458 (b) If the corporation issues any bonds in connection
2459 with an economic development project, the financing agreement
2460 shall specify that the annual obligations of the approved company
2461 under Sections 57-10-401 through 57-10-445 shall equal in each
2462 year at least the annual debt service for that year on the bonds
2463 issued with respect to the economic development project; and the
2464 approved company shall pay such obligation of the financing
2465 agreement to the trustee for bonds issued for the benefit of the
2466 approved company, at such time and in such amounts sufficient to
2467 amortize such bonds.

2468 (c) If the corporation loans funds to an approved
2469 company that is a private company under the Mississippi Small
2470 Enterprise Development Finance Act, the financing agreement shall
2471 include the terms and conditions of the loan required by Section
2472 57-71-1 et seq.

2473 (d) (i) In consideration for financing agreement
2474 payment, the approved company may be permitted the following
2475 during the period of time in which the financing agreement is in
2476 effect, not to exceed twenty-five (25) years:

2477 1. A tax credit on the amount provided for in
2478 Section 27-7-22.3(2), Mississippi Code of 1972; plus

2479 2. The aggregate assessment withheld by the
2480 approved company in each year.

2481 (ii) The income tax credited to the approved
2482 company referred to herein shall be credited in the fiscal year of
2483 the financing agreement in which the tax return of the approved
2484 company is filed. The approved company shall not be required to
2485 pay estimated tax payments under Section 27-7-319, Mississippi
2486 Code of 1972.

2487 (e) (i) The financing agreement shall provide that the
2488 assessments, when added to the credit for the state corporate
2489 income tax herein granted, shall not exceed the total financing
2490 agreement annual payment by the approved company in any year;
2491 however, to the extent that financing agreement annual payments
2492 exceed credits received and assessments collected in any year, the
2493 excess payment may be recouped from excess credits or assessment
2494 collections in succeeding years not to exceed three (3) years
2495 following the termination of the period of time during which the
2496 financing agreement is in effect.

2497 (ii) If during any fiscal year of the financing
2498 agreement the total of the income tax credit granted to the
2499 approved company plus the assessment collected from the wages of
2500 the employees equals the annual payment pursuant to the financing
2501 agreement, and if all excess payments pursuant to the financing
2502 agreement accumulated in prior years have been recouped, the
2503 assessment collected from the wages of the employees shall cease
2504 for the remainder of the fiscal year of the financing agreement.

2505 (f) The financing agreement shall provide that:

2506 (i) It may be assigned by the approved company
2507 only upon the prior written consent of the corporation following
2508 the adoption of a resolution by the corporation to such effect;
2509 and

2510 (ii) Upon the default by the approved company in
2511 the obligation to render its annual payment, the corporation shall

2512 have the right, at its option, to declare the financing agreement
2513 in default and to accelerate the total of all annual payments that
2514 are to be made or to terminate the financing agreement and cause
2515 to be sold the economic development project at public or private
2516 sale, or to pursue any other remedies available under the Uniform
2517 Commercial Code, as from time to time amended, or otherwise
2518 available in law or equity.

2519 **[In cases involving an economic development project for which**
2520 **the Mississippi Business Finance Corporation has not issued bonds**
2521 **for the purpose of financing the approved costs of such project**
2522 **prior to July 1, 1997, or in cases involving an economic**
2523 **development project which has not been induced by a resolution of**
2524 **the Board of Directors of the Mississippi Business Finance**
2525 **Corporation that has been filed with the State Tax Commission**
2526 **prior to July 1, 1997, this section shall read as follows:]**

2527 57-10-409. The corporation may enter into, with any approved
2528 company, a financing agreement with respect to its economic
2529 development project. The terms and provisions of each financing
2530 agreement shall be determined by negotiations between the
2531 corporation and the approved company, except that each financing
2532 agreement shall include the following provisions:

2533 (a) If the corporation issues any bonds in connection
2534 with an economic development project, the term of the financing
2535 agreement shall not be less than the last maturity of the bonds
2536 issued with respect to the economic development project, except
2537 that the financing agreement may terminate upon the earlier
2538 redemption of all of the bonds issued with respect to the economic
2539 development project and may grant to the approved company an
2540 option to purchase the economic development project from the
2541 corporation upon the termination of the financing agreement for
2542 such consideration and under such terms and conditions the
2543 corporation may approve. Nothing in this paragraph shall limit

2544 the extension of the term of a financing agreement if there is a
2545 refunding of the correlative bonds or otherwise.

2546 (b) If the corporation issues any bonds in connection
2547 with an economic development project, the financing agreement
2548 shall specify that the annual obligations of the approved company
2549 under Sections 57-10-401 through 57-10-445 shall equal in each
2550 year at least the annual debt service for that year on the bonds
2551 issued with respect to the economic development project; and the
2552 approved company shall pay such obligation of the financing
2553 agreement to the trustee for bonds issued for the benefit of the
2554 approved company, at such time and in such amounts sufficient to
2555 amortize such bonds.

2556 (c) If the corporation loans funds to an approved
2557 company that is a private company under the Mississippi Small
2558 Enterprise Development Finance Act, the financing agreement shall
2559 include the terms and conditions of the loan required by Section
2560 57-71-1 et seq.

2561 (d) (i) In consideration for financing agreement
2562 payment, the approved company may be permitted a tax credit on the
2563 amount provided for in Section 27-7-22.3(2), Mississippi Code of
2564 1972, during the period of time in which the financing agreement
2565 is in effect, not to exceed twenty-five (25) years.

2566 (ii) The income tax credited to the approved
2567 company referred to herein shall be credited in the fiscal year of
2568 the financing agreement in which the tax return of the approved
2569 company is filed. The approved company shall not be required to
2570 pay estimated tax payments under Section 27-7-319, Mississippi
2571 Code of 1972.

2572 (e) The financing agreement shall provide that:

2573 (i) It may be assigned by the approved company
2574 only upon the prior written consent of the corporation following
2575 the adoption of a resolution by the corporation to such effect;
2576 and

2577 (ii) Upon the default by the approved company in
2578 the obligation to render its annual payment, the corporation shall
2579 have the right, at its option, to declare the financing agreement
2580 in default and to accelerate the total of all annual payments that
2581 are to be made or to terminate the financing agreement and cause
2582 to be sold the economic development project at public or private
2583 sale, or to pursue any other remedies available under the Uniform
2584 Commercial Code, as from time to time amended, or otherwise
2585 available in law or equity.

2586 **SECTION 50.** Section 57-10-411, Mississippi Code of 1972, is
2587 reenacted as follows:

2588 57-10-411. Ninety (90) days after the filing of the tax
2589 return of the approved company, the State Tax Commission shall
2590 certify to the corporation the state income tax liability for the
2591 preceding year of each approved company with respect to an
2592 economic development project financed under Sections 57-10-401
2593 through 57-10-445, and the amounts of any tax credits taken under
2594 Sections 57-10-401 through 57-10-445.

2595 **SECTION 51.** Section 57-10-413, Mississippi Code of 1972, is
2596 reenacted as follows:

2597 **[In cases involving an economic development project for which**
2598 **the Mississippi Business Finance Corporation has issued bonds for**
2599 **the purpose of financing the approved costs of such project prior**
2600 **to July 1, 1994, this section shall read as follows:]**

2601 57-10-413. (1) The approved company may require that each
2602 employee whose gross wages are equivalent to Five Dollars (\$5.00)
2603 or more per hour, as a condition of employment, agrees to pay a
2604 job development assessment fee not to exceed a certain percentage
2605 of the gross wages of each such employee whose job was created as
2606 a result of the economic development project, for the purpose of
2607 retiring the bonds which fund the economic development project or
2608 other indebtedness. The job development assessment fee shall not

2609 exceed the following percentages of the gross wages of the
2610 employee:

2611 (a) Two percent (2%), if the gross wages of the
2612 employee are equivalent to Five Dollars (\$5.00) or more per hour
2613 but less than Seven Dollars (\$7.00) per hour;

2614 (b) Four percent (4%), if the gross wages of the
2615 employee are equivalent to Seven Dollars (\$7.00) or more per hour
2616 but less than Nine Dollars (\$9.00) per hour; and

2617 (c) Six percent (6%), if the gross wages of the
2618 employee are equivalent to Nine Dollars (\$9.00) or more per hour.

2619 (2) Each employee so assessed shall be entitled to credits
2620 against Mississippi income taxes as provided in Section 27-7-22.3.

2621 (3) If an approved company shall elect to impose the
2622 assessment as a condition of employment, it shall deduct the
2623 assessment from each paycheck of each employee.

2624 (4) Any approved company collecting an assessment as
2625 provided in subsection (1) of this section shall make its payroll
2626 books and records available to the corporation at such reasonable
2627 times as the corporation shall request and shall file with the
2628 corporation documentation respecting the assessment as the
2629 corporation may require.

2630 (5) Any assessment of the wages of employees of an approved
2631 company in connection with their employment at an economic
2632 development project under subsection (1) of this section shall
2633 lapse on the date the bonds are retired.

2634 **[In cases involving an economic development project for which**
2635 **the Mississippi Business Finance Corporation has not issued bonds**
2636 **for the purpose of financing the approved costs of such project**
2637 **prior to July 1, 1994, but has issued bonds for such project prior**
2638 **to July 1, 1997, or in cases involving an economic development**
2639 **project which has been induced by a resolution of the Board of**
2640 **Directors of the Mississippi Business Finance Corporation that has**

2641 **been filed with the State Tax Commission prior to July 1, 1997,**
2642 **this section shall read as follows:]**

2643 57-10-413. (1) Except as otherwise provided for in
2644 subsection (6) of this section, the approved company may require
2645 that each employee whose gross wages are equivalent to Five
2646 Dollars (\$5.00) or more per hour, as a condition of employment,
2647 agrees to pay a job development assessment fee not to exceed a
2648 certain percentage of the gross wages of each such employee whose
2649 job was created as a result of the economic development project,
2650 for the purpose of retiring the bonds which fund the economic
2651 development project or other indebtedness. The job development
2652 assessment fee shall not exceed the following percentages of the
2653 gross wages of the employee:

2654 (a) Two percent (2%), if the gross wages of the
2655 employee are equivalent to Five Dollars (\$5.00) or more per hour
2656 but less than Seven Dollars (\$7.00) per hour;

2657 (b) Four percent (4%), if the gross wages of the
2658 employee are equivalent to Seven Dollars (\$7.00) or more per hour
2659 but less than Nine Dollars (\$9.00) per hour; and

2660 (c) Six percent (6%), if the gross wages of the
2661 employee are equivalent to Nine Dollars (\$9.00) or more per hour.

2662 (2) Each employee so assessed shall be entitled to credits
2663 against Mississippi income taxes as provided in Section 27-7-22.3.

2664 (3) If an approved company shall elect to impose the
2665 assessment as a condition of employment, it shall deduct the
2666 assessment from each paycheck of each employee.

2667 (4) Any approved company collecting an assessment as
2668 provided in subsection (1) of this section shall make its payroll
2669 books and records available to the corporation at such reasonable
2670 times as the corporation shall request and shall file with the
2671 corporation documentation respecting the assessment as the
2672 corporation may require.

2673 (5) Any assessment of the wages of employees of an approved
2674 company in connection with their employment at an economic
2675 development project under subsection (1) of this section shall
2676 lapse on the date the bonds are retired.

2677 (6) If an eligible company closes a facility in this state
2678 and becomes an approved company under the provisions of Sections
2679 57-10-401 through 57-10-449, only those jobs created in excess of
2680 those that existed at the closed facility at the time of the
2681 closure shall be eligible for the imposition of the job
2682 development assessment fee. The Mississippi Business Finance
2683 Corporation shall promulgate rules and regulations to govern the
2684 determination of the number of jobs upon which the job development
2685 assessment fee may be imposed.

2686 **SECTION 52.** Section 57-10-415, Mississippi Code of 1972, is
2687 reenacted as follows:

2688 57-10-415. Every issue of bonds under Sections 57-10-401
2689 through 57-10-445 shall be payable solely out of any revenues of
2690 the corporation as provided in Sections 57-10-401 through
2691 57-10-445. The bonds additionally may be secured by a pledge of
2692 any grant, contribution or guarantee from the federal government
2693 or any person or a pledge by the corporation of any revenues from
2694 any source.

2695 **SECTION 53.** Section 57-10-417, Mississippi Code of 1972, is
2696 reenacted as follows:

2697 57-10-417. The bonds issued by the corporation under
2698 Sections 57-10-401 through 57-10-445 shall be limited obligations
2699 of the corporation and shall not constitute a debt, liability or
2700 general obligation of the state or any political subdivision
2701 thereof (other than the corporation), or a pledge of the faith and
2702 credit of the state or any political subdivision thereof (other
2703 than the corporation), but shall be payable solely as provided by
2704 the corporation under Sections 57-10-401 through 57-10-445. No
2705 member or officer of the board of directors of the corporation nor

2706 any person executing the bonds shall be liable personally on the
2707 bonds by reason of the issuance thereof. Each bond issued under
2708 Sections 57-10-401 through 57-10-445 shall contain on the face
2709 thereof a statement that neither the state, nor any other
2710 political subdivision thereof, shall be obligated to pay the same
2711 or the interest thereon or other costs incident thereto except
2712 from the revenue or money pledged by the corporation and that
2713 neither the faith and credit nor the taxing power of the state or
2714 any political subdivision thereof is pledged to the payment of the
2715 principal of, or the interest on, such bond.

2716 **SECTION 54.** Section 57-10-419, Mississippi Code of 1972, is
2717 reenacted as follows:

2718 57-10-419. (1) The corporation may issue in its own name,
2719 from time to time, for the purpose of financing the approved costs
2720 of an economic development project, its bonds and may pledge for
2721 the payment thereof funds derived in respect of any financing
2722 agreement or other arrangement entered into by the corporation and
2723 an approved company under Sections 57-10-401 through 57-10-445.

2724 (2) In anticipation of the issuance of bonds, the
2725 corporation may provide for the issuance, at one time or from time
2726 to time, of bond anticipation notes. The principal of and the
2727 interest on the notes shall be payable solely from the funds
2728 herein provided for the payment. Any notes may be made payable
2729 from the proceeds of bonds or renewal notes; or, if bond or
2730 renewal note proceeds are not available, the notes may be paid
2731 from any available revenues or assets of the corporation.

2732 (3) The bonds issued under Sections 57-10-401 through
2733 57-10-445 shall be authorized by a resolution of the corporation,
2734 shall bear such date or dates, and shall mature at such time or
2735 times as such resolution may provide, except that no bond shall
2736 mature more than twenty-five (25) years from the date of issue.
2737 Bonds which are not subject to taxation shall bear interest at
2738 such rate or rates, be in such denominations, be in such form,

2739 carry such registration privileges, be executed in such manner, be
2740 payable in such medium of payment, at such place or places, and be
2741 subject to such terms of redemption, including redemption before
2742 maturity, as such resolution may provide. Except as expressly
2743 provided otherwise in Sections 57-10-401 through 57-10-445, the
2744 provisions of other laws of the state relating to the issuance of
2745 revenue bonds shall not apply to bonds issued by the corporation.
2746 As to bonds issued hereunder and designated as taxable bonds by
2747 the corporation, any immunity to taxation by the United States
2748 government of interest on such bonds or notes is hereby waived.
2749 Bonds of the corporation may be sold by the corporation at public
2750 or private sale, from time to time, and at such price or prices as
2751 the corporation shall determine.

2752 (4) The proceeds of any bonds shall be used solely for the
2753 purposes for which issued and shall be disbursed in the manner and
2754 under the restrictions, if any, that the corporation may provide
2755 in the resolution authorizing the issuance of the bonds or in a
2756 trust indenture securing the same.

2757 (5) The principal and interest on the bonds issued by the
2758 corporation shall be payable solely and only from proceeds derived
2759 under a financing agreement and shall be secured solely by the
2760 economic development project, the proceeds of the financing
2761 agreement, and such other assets as may be available, but not
2762 including revenues of the state.

2763 (6) Before the preparation of definitive certificates
2764 evidencing the bonds, the corporation may issue, under like
2765 restrictions, interim receipts or temporary certificates, with or
2766 without coupons, exchangeable for definitive certificates when the
2767 certificates have been executed and are available for delivery.
2768 The corporation may also provide for the replacement of any
2769 certificates which become mutilated or are destroyed or lost.

2770 **SECTION 55.** Section 57-10-421, Mississippi Code of 1972, is
2771 reenacted as follows:

2772 57-10-421. In addition to the requirements provided for in
2773 Section 57-10-419, any resolution authorizing the issuance of
2774 bonds under Sections 57-10-401 through 57-10-445 may contain
2775 provisions as to:

2776 (a) The setting aside of reserves or sinking funds and
2777 the regulations and disposition thereof;

2778 (b) Limitations on the issuance of additional bonds,
2779 the terms upon which additional bonds may be issued and secured,
2780 and the refunding of outstanding or other bonds;

2781 (c) The procedure, if any, by which the terms of any of
2782 the proceedings under which the bonds are being issued may be
2783 amended or abrogated, the number or percentage of bondholders who
2784 or which must consent thereto, and the manner in which the consent
2785 may be given;

2786 (d) The vesting in a trustee or trustees of such
2787 property, rights, powers and duties in trust as the company may
2788 determine, and limiting or abrogating the right of bondholders to
2789 appoint a trustee or limiting the rights, powers and duties of the
2790 trustee;

2791 (e) Defining the act or omissions to act which shall
2792 constitute a default and the obligations or duties of the
2793 corporation to the holders of the bonds, and providing for the
2794 rights and remedies of the holders of the bonds in the event of
2795 default, which rights and remedies may include the general laws of
2796 the state and other provisions of Sections 57-10-401 through
2797 57-10-445; or

2798 (f) Any other matter, of like or different character,
2799 which in any way affects the security or protection of the holders
2800 of the bonds.

2801 **SECTION 56.** Section 57-10-423, Mississippi Code of 1972, is
2802 reenacted as follows:

2803 57-10-423. Any pledge made by the corporation shall be valid
2804 and binding from the time when the pledge was made. The revenues

2805 or properties so pledged and thereafter received by the
2806 corporation shall immediately be subject to the lien of such
2807 pledge without any physical delivery thereof or further act, and
2808 the lien of any such pledge shall be valid and binding as against
2809 all parties having claims of any kind in tort, contract or
2810 otherwise against the corporation, irrespective of whether the
2811 parties have notice thereof. Neither the resolution nor any other
2812 instrument by which a pledge is created need be recorded.

2813 **SECTION 57.** Section 57-10-425, Mississippi Code of 1972, is
2814 reenacted as follows:

2815 57-10-425. The corporation, subject to the provisions in
2816 proceedings relating to outstanding bonds as may then exist, may
2817 purchase bonds out of any funds available therefor, which shall
2818 thereupon be canceled, at any reasonable price which, if the bonds
2819 are then redeemable, shall not exceed the redemption price (and
2820 premium, if any) then applicable plus accrued interest to the
2821 redemption date thereof.

2822 **SECTION 58.** Section 57-10-427, Mississippi Code of 1972, is
2823 reenacted as follows:

2824 57-10-427. The bonds may be secured by an indenture by and
2825 between the corporation and a corporate trustee which may be any
2826 bank or other corporation having the power of a trust company or
2827 any trust company within or without this state. Such indenture
2828 may contain such provisions for protecting and enforcing the
2829 rights and remedies of the bondholders as may be reasonable and
2830 proper and not in violation of law, including covenants setting
2831 forth the duties of the corporation in relation to the exercise of
2832 its powers and the custody, safekeeping and application of all
2833 money. The corporation may provide by the indenture for the
2834 payment of the proceeds of the bonds and revenues to the trustee
2835 under the indenture or other depository, and for the method of
2836 disbursement thereof, with such safeguards and restrictions as the
2837 corporation may determine. If the bonds shall be secured by an

2838 indenture, the bondholders shall have no authority to appoint a
2839 separate trustee to represent them.

2840 **SECTION 59.** Section 57-10-429, Mississippi Code of 1972, is
2841 reenacted as follows:

2842 57-10-429. In the event that any of the members or officers
2843 of the board of directors of the corporation shall cease to be
2844 members or officers of the board prior to the delivery of any
2845 bonds signed by them, their signatures or facsimiles thereof shall
2846 nevertheless be valid and sufficient for all purposes, the same as
2847 if such members or officers had remained in office until such
2848 delivery.

2849 **SECTION 60.** Section 57-10-431, Mississippi Code of 1972, is
2850 reenacted as follows:

2851 57-10-431. The corporation may create and establish such
2852 funds and accounts as may be necessary or desirable for its
2853 purposes under Sections 57-10-401 through 57-10-445.

2854 **SECTION 61.** Section 57-10-433, Mississippi Code of 1972, is
2855 reenacted as follows:

2856 57-10-433. The corporation shall have the power to contract
2857 with the holders of any of its bonds issued under Sections
2858 57-10-401 through 57-10-445 as to the custody, collection,
2859 securing, investment and payment of any money of the corporation,
2860 and of any money held in trust or otherwise for the payment of
2861 bonds, and to carry out such contract. Money held in trust or
2862 otherwise for the payment of bonds or in any way to secure bonds
2863 and deposits of money may be secured in the same manner as money
2864 of the corporation, and all banks and trust companies are
2865 authorized to give security for the deposits.

2866 **SECTION 62.** Section 57-10-435, Mississippi Code of 1972, is
2867 reenacted as follows:

2868 57-10-435. Amendments to Sections 57-10-401 through
2869 57-10-445, enacted after July 1, 1993, shall not limit the rights
2870 vested in the corporation with respect to any agreements made

2871 with, or remedies available to, the holders of bonds issued under
2872 this article or Section 27-7-22.3 prior to the enactment of the
2873 amendments until the bonds, together with all interest thereon,
2874 and all costs and expenses in connection with any proceeding by or
2875 on behalf of the holders, are fully met and discharged.

2876 **SECTION 63.** Section 57-10-437, Mississippi Code of 1972, is
2877 reenacted as follows:

2878 57-10-437. All expenses incurred by the corporation in
2879 carrying out the provisions of Sections 57-10-401 through
2880 57-10-445 shall be payable solely from funds provided under
2881 Sections 57-10-401 through 57-10-445, or other funds of the
2882 corporation. Nothing in Sections 57-10-401 through 57-10-445
2883 shall be construed to authorize the corporation to incur
2884 indebtedness or liability on behalf of or payable by the state or
2885 any other political subdivision thereof.

2886 **SECTION 64.** Section 57-10-439, Mississippi Code of 1972, is
2887 reenacted as follows:

2888 57-10-439. (1) The corporation is hereby declared to be
2889 performing a public function and to be a public body corporate and
2890 a political subdivision of the state. Accordingly, the income,
2891 including any profit made on the sale thereof from all bonds
2892 issued by the corporation, shall at all times be exempt from all
2893 taxation by the state or any political subdivision thereof. If,
2894 after all indebtedness and other obligations of the corporation
2895 are discharged, the corporation is dissolved, its remaining assets
2896 shall inure to the benefit of the state.

2897 (2) With the approval of the appropriate local taxing
2898 authority, all mortgages or deeds of trust executed as security
2899 therefor, all lease or purchase agreements made pursuant to the
2900 provisions hereof, and all purchases required to establish the
2901 industrial enterprise and financed by proceeds from bonds issued
2902 under Sections 57-10-401 through 57-10-445, shall likewise be
2903 exempt from all taxation in the State of Mississippi except the

2904 contractors' tax imposed by Section 27-65-21, and except ad
2905 valorem taxes levied for school district purposes. All projects
2906 and the revenue derived therefrom from any lease thereof shall be
2907 exempt from all taxation in the State of Mississippi, except the
2908 tax levied by Section 27-65-21, except the tax levied under
2909 Chapter 7, Title 27, Mississippi Code of 1972, and except ad
2910 valorem taxes levied for school district purposes.

2911 **SECTION 65.** Section 57-10-441, Mississippi Code of 1972, is
2912 reenacted as follows:

2913 57-10-441. The bonds issued by and under the authority of
2914 Sections 57-10-401 through 57-10-445 by the corporation are
2915 declared to be legal investments in which all public officers or
2916 public bodies of the state, its political subdivisions, all
2917 municipalities and municipal subdivisions, all insurance companies
2918 and associations, and other persons carrying on insurance
2919 business, all banks, bankers, banking associations, trust
2920 companies, savings associations, including savings and loan
2921 associations, building and loan associations, investment
2922 companies, and other persons carrying on a banking business, all
2923 administrators, guardians, executors, trustees and other
2924 fiduciaries, and all other persons who are now or may later be
2925 authorized to invest in bonds or in other obligations of the
2926 state, may invest funds, including capital, in their control or
2927 belonging to them. Such bonds are also hereby made securities
2928 which may be deposited with and received by all public officers
2929 and bodies of the state or any agency or political subdivision of
2930 the state and all municipalities and public corporations for any
2931 purpose for which the deposit of bonds or other obligations of the
2932 state is now or may be later authorized by law.

2933 **SECTION 66.** Section 57-10-443, Mississippi Code of 1972, is
2934 reenacted as follows:

2935 57-10-443. The corporation, within one hundred twenty (120)
2936 days of the close of each fiscal year, shall submit an annual

2937 report of its activities in regard to Sections 57-10-401 through
2938 57-10-445 for the preceding year to the Governor. The Clerk of
2939 the House of Representatives and the Secretary of the Senate each
2940 shall receive a copy of the report by making a request for it to
2941 the corporation. Each report shall set forth a complete operating
2942 and financial statement in regard to Sections 57-10-401 through
2943 57-10-445 for the corporation during the fiscal year it covers.

2944 **SECTION 67.** Section 57-10-445, Mississippi Code of 1972, is
2945 reenacted as follows:

2946 57-10-445. Nothing contained in Sections 57-10-401 through
2947 57-10-445 is to be construed as a restriction or limitation upon
2948 any powers which the corporation might otherwise have under any
2949 other law of the state. Insofar as the provisions of Sections
2950 57-10-401 through 57-10-445 are inconsistent with the provisions
2951 of any other law, the provisions of Sections 57-10-401 through
2952 57-10-445 shall be controlling, and the powers conferred by
2953 Sections 57-10-401 through 57-10-445 shall be regarded as
2954 supplemental and additional to powers conferred by any other laws.
2955 No proceedings, notice or approval shall be required for the
2956 issuance of any bonds or any instrument or the security therefor,
2957 except as provided in Sections 57-10-401 through 57-10-445.

2958 The provisions of Sections 57-10-401 through 57-10-445 shall
2959 be liberally construed to accomplish the purposes of Sections
2960 57-10-401 through 57-10-445.

2961 The powers granted and the duties imposed in Sections
2962 57-10-401 through 57-10-445 shall be construed to be independent
2963 and severable. If any one or more sections, subsections,
2964 sentences or parts of any of Sections 57-10-401 through 57-10-445
2965 shall be adjudged unconstitutional or invalid, such adjudication
2966 shall not affect, impair or invalidate the remaining provisions
2967 thereof, but shall be confined in its operation to the specific
2968 provisions so held unconstitutional or invalid.

2969 **SECTION 68.** Section 27-7-22.3, Mississippi Code of 1972, is
2970 reenacted as follows:

2971 **[In cases involving an economic development project for which**
2972 **the Mississippi Business Finance Corporation has issued bonds for**
2973 **the purpose of financing the approved costs of such project prior**
2974 **to July 1, 1994, this section shall read as follows:]**

2975 27-7-22.3. (1) For taxpayers who are required to pay a job
2976 assessment fee as provided in Section 57-10-413, there shall be
2977 allowed as a credit against the taxes imposed by this chapter, an
2978 amount equal to the amount of the job assessment fee imposed upon
2979 such taxpayer pursuant to Section 57-10-413. If the amount
2980 allowable as a credit exceeds the tax imposed by this article and
2981 Section 27-7-22.3, the amount of such excess shall not be
2982 refundable or carried forward to any other taxable year.

2983 (2) For any approved company as defined in Section
2984 57-10-401, there shall be allowed against the taxes imposed by
2985 this chapter on the income of the approved company generated by or
2986 arising out of the economic development project (as defined in
2987 Section 57-10-401), a credit in an amount not to exceed the total
2988 debt service paid under a financing agreement entered into under
2989 Section 57-10-409. The tax credit allowed in this subsection
2990 shall not exceed the amount of taxes due the State of Mississippi.

2991 **[In cases involving an economic development project for which**
2992 **the Mississippi Business Finance Corporation has not issued bonds**
2993 **for the purpose of financing the approved costs of such project**
2994 **prior to July 1, 1994, but has issued bonds for such project prior**
2995 **to July 1, 1997, or in cases involving an economic development**
2996 **project which has been induced by a resolution of the Board of**
2997 **Directors of the Mississippi Business Finance Corporation that has**
2998 **been filed with the State Tax Commission prior to July 1, 1997,**
2999 **this section shall read as follows:]**

3000 27-7-22.3. (1) For taxpayers who are required to pay a job
3001 assessment fee as provided in Section 57-10-413, there shall be

3002 allowed as a credit against the taxes imposed by this chapter, an
3003 amount equal to the amount of the job assessment fee imposed upon
3004 such taxpayer pursuant to Section 57-10-413. If the amount
3005 allowable as a credit exceeds the tax imposed by this article and
3006 Section 27-7-22.3, the amount of such excess shall not be
3007 refundable or carried forward to any other taxable year.

3008 (2) For any approved company as defined in Section
3009 57-10-401, there shall be allowed against the taxes imposed by
3010 this chapter on the income of the approved company generated by or
3011 arising out of the economic development project (as defined in
3012 Section 57-10-401), a credit in an amount not to exceed the total
3013 debt service paid under a financing agreement entered into under
3014 Section 57-10-409. The tax credit allowed in this subsection
3015 shall not exceed the amount of taxes due the State of Mississippi.
3016 The amount of income of the approved company generated by or
3017 arising out of the economic development project shall be
3018 determined by a formula adopted by the Mississippi Business
3019 Finance Corporation.

3020 **[In cases involving an economic development project for which**
3021 **the Mississippi Business Finance Corporation has not issued bonds**
3022 **for the purpose of financing the approved costs of such project**
3023 **prior to July 1, 1997, or in cases involving an economic**
3024 **development project which has not been induced by a resolution of**
3025 **the Board of Directors of the Mississippi Business Finance**
3026 **Corporation that has been filed with the State Tax Commission**
3027 **prior to July 1, 1997, this section shall read as follows:]**

3028 27-7-22.3. For any approved company as defined in Section
3029 57-10-401, there shall be allowed against the taxes imposed by
3030 this chapter on the income of the approved company generated by or
3031 arising out of the economic development project (as defined in
3032 Section 57-10-401), a credit in an amount not to exceed the total
3033 debt service paid under a financing agreement entered into under
3034 Section 57-10-409; provided, however, that the tax credit allowed

3035 in this subsection shall not exceed eighty percent (80%) of the
3036 amount of taxes due the State of Mississippi prior to the
3037 application of the credit. To the extent that financing agreement
3038 annual payments exceed the amount of the credit authorized
3039 pursuant to this section in any taxable year, such excess payment
3040 may be recouped from excess credits in succeeding years not to
3041 exceed three (3) years following the date upon which the credit
3042 was earned. The amount of income of the approved company
3043 generated by or arising out of the economic development project
3044 shall be determined by a formula adopted by the Mississippi
3045 Business Finance Corporation.

3046 **SECTION 69.** Section 57-10-449, Mississippi Code of 1972, is
3047 amended as follows:

3048 57-10-449. Sections 57-10-401 through 57-10-445 and
3049 27-7-22.3 shall be repealed from and after October 1, 2006.

3050 **SECTION 70.** Section 57-62-5, Mississippi Code of 1972, is
3051 amended as follows:

3052 **[For businesses or industries that received or applied for**
3053 **incentive payments prior to July 1, 2005, this section shall read**
3054 **as follows:]**

3055 57-62-5. As used in this chapter, the following words and
3056 phrases shall have the meanings ascribed in this section unless
3057 the context clearly indicates otherwise:

3058 (a) "Qualified business or industry" means any
3059 corporation, limited liability company, partnership, sole
3060 proprietorship, business trust or other legal entity and subunits
3061 or affiliates thereof, pursuant to rules and regulations of the
3062 MDA, which provides an average annual salary, excluding benefits
3063 which are not subject to Mississippi income taxes, of at least one
3064 hundred twenty-five percent (125%) of the most recently published
3065 state average annual wage or the most recently published average
3066 annual wage of the county in which the qualified business or
3067 industry is located as determined by the Mississippi Department of

3068 Employment Security, whichever is the lesser. An establishment
3069 shall not be considered to be a qualified business or industry
3070 unless it offers, or will offer within one hundred eighty (180)
3071 days of the date it receives the first incentive payment pursuant
3072 to the provisions of this chapter, a basic health benefits plan to
3073 the individuals it employs in new direct jobs in this state which
3074 is approved by the MDA. Qualified business or industry does not
3075 include retail business or gaming business;

3076 (b) "New direct job" means full-time employment in this
3077 state in a qualified business or industry that has qualified to
3078 receive an incentive payment pursuant to this chapter, which
3079 employment did not exist in this state before the date of approval
3080 by the MDA of the application of the qualified business or
3081 industry pursuant to the provisions of this chapter. "New direct
3082 job" shall include full-time employment in this state of employees
3083 who are employed by an entity other than the establishment that
3084 has qualified to receive an incentive payment and who are leased
3085 to the qualified business or industry, if such employment did not
3086 exist in this state before the date of approval by the MDA of the
3087 application of the establishment;

3088 (c) "Full-time job" means a job of at least thirty-five
3089 (35) hours per week;

3090 (d) "Estimated direct state benefits" means the tax
3091 revenues projected by the MDA to accrue to the state as a result
3092 of the qualified business or industry;

3093 (e) "Estimated direct state costs" means the costs
3094 projected by the MDA to accrue to the state as a result of the
3095 qualified business or industry;

3096 (f) "Estimated net direct state benefits" means the
3097 estimated direct state benefits less the estimated direct state
3098 costs;

3099 (g) "Net benefit rate" means the estimated net direct
3100 state benefits computed as a percentage of gross payroll, provided
3101 that:

3102 (i) Except as otherwise provided in this paragraph
3103 (g), the net benefit rate may be variable and shall not exceed
3104 four percent (4%) of the gross payroll; and shall be set in the
3105 sole discretion of the MDA;

3106 (ii) In no event shall incentive payments,
3107 cumulatively, exceed the estimated net direct state benefits;

3108 (h) "Gross payroll" means wages for new direct jobs of
3109 the qualified business or industry; and

3110 (i) "MDA" means the Mississippi Development Authority.

3111 **[For businesses or industries that apply for incentive**
3112 **payments from and after July 1, 2005, this section shall read as**
3113 **follows:]**

3114 57-62-5. As used in this chapter, the following words and
3115 phrases shall have the meanings ascribed in this section unless
3116 the context clearly indicates otherwise:

3117 (a) "Qualified business or industry" means any
3118 corporation, limited liability company, partnership, sole
3119 proprietorship, business trust or other legal entity and subunits
3120 or affiliates thereof, pursuant to rules and regulations of the
3121 MDA, which:

3122 (i) Is a data/information processing enterprise
3123 meeting minimum criteria established by the MDA that provides an
3124 average annual salary, excluding benefits which are not subject to
3125 Mississippi income taxes, of at least one hundred percent (100%)
3126 of the most recently published state average annual wage or the
3127 most recently published average annual wage of the county in which
3128 the qualified business or industry is located as determined by the
3129 Mississippi Department of Employment Security, whichever is the
3130 lesser, and creates not less than two hundred (200) new direct
3131 jobs if the enterprise is located in a Tier One or Tier Two area

3132 (as such areas are designated in accordance with Section
3133 57-73-21), or which creates not less than one hundred (100) new
3134 jobs if the enterprise is located in a Tier Three area (as such
3135 areas are designated in accordance with Section 57-73-21);

3136 (ii)_ Is a manufacturing or distribution enterprise
3137 meeting minimum criteria established by the MDA that provides an
3138 average annual salary, excluding benefits which are not subject to
3139 Mississippi income taxes, of at least one hundred ten percent
3140 (110%) of the most recently published state average annual wage or
3141 the most recently published average annual wage of the county in
3142 which the qualified business or industry is located as determined
3143 by the Mississippi Department of Employment Security, whichever is
3144 the lesser, invests not less than Twenty Million Dollars
3145 (\$20,000,000.00) in land, buildings and equipment, and creates not
3146 less than fifty (50) new direct jobs if the enterprise is located
3147 in a Tier One or Tier Two area (as such areas are designated in
3148 accordance with Section 57-73-21), or which creates not less than
3149 twenty (20) new jobs if the enterprise is located in a Tier Three
3150 area (as such areas are designated in accordance with Section
3151 57-73-21);

3152 (iii)_ Is a corporation, limited liability company,
3153 partnership, sole proprietorship, business trust or other legal
3154 entity and subunits or affiliates thereof, pursuant to rules and
3155 regulations of the MDA, which provides an average annual salary,
3156 excluding benefits which are not subject to Mississippi income
3157 taxes, of at least one hundred twenty-five percent (125%) of the
3158 most recently published state average annual wage or the most
3159 recently published average annual wage of the county in which the
3160 qualified business or industry is located as determined by the
3161 Mississippi Department of Employment Security, whichever is the
3162 lesser. An establishment shall not be considered to be a
3163 qualified business or industry unless it offers, or will offer
3164 within one hundred eighty (180) days of the date it receives the

3165 first incentive payment pursuant to the provisions of this
3166 chapter, a basic health benefits plan to the individuals it
3167 employs in new direct jobs in this state which is approved by the
3168 MDA. Qualified business or industry does not include retail
3169 business or gaming business; or

3170 (iv) Is a research and development or a technology
3171 intensive enterprise meeting minimum criteria established by the
3172 MDA that provides an average annual salary, excluding benefits
3173 which are not subject to Mississippi income taxes, of at least one
3174 hundred fifty percent (150%) of the most recently published state
3175 average annual wage or the most recently published average annual
3176 wage of the county in which the qualified business or industry is
3177 located as determined by the Mississippi Department of Employment
3178 Security, whichever is the lesser, and creates not less than ten
3179 (10) new direct jobs.

3180 An establishment shall not be considered to be a qualified
3181 business or industry unless it offers, or will offer within one
3182 hundred eighty (180) days of the date it receives the first
3183 incentive payment pursuant to the provisions of this chapter, a
3184 basic health benefits plan to the individuals it employs in new
3185 direct jobs in this state which is approved by the MDA. Qualified
3186 business or industry does not include retail business or gaming
3187 business.

3188 (b) "New direct job" means full-time employment in this
3189 state in a qualified business or industry that has qualified to
3190 receive an incentive payment pursuant to this chapter, which
3191 employment did not exist in this state before the date of approval
3192 by the MDA of the application of the qualified business or
3193 industry pursuant to the provisions of this chapter. "New direct
3194 job" shall include full-time employment in this state of employees
3195 who are employed by an entity other than the establishment that
3196 has qualified to receive an incentive payment and who are leased
3197 to the qualified business or industry, if such employment did not

3198 exist in this state before the date of approval by the MDA of the
3199 application of the establishment.

3200 (c) "Full-time job" or "full-time employment" means a
3201 job of at least thirty-five (35) hours per week.

3202 (d) "Estimated direct state benefits" means the tax
3203 revenues projected by the MDA to accrue to the state as a result
3204 of the qualified business or industry.

3205 (e) "Estimated direct state costs" means the costs
3206 projected by the MDA to accrue to the state as a result of the
3207 qualified business or industry.

3208 (f) "Estimated net direct state benefits" means the
3209 estimated direct state benefits less the estimated direct state
3210 costs.

3211 (g) "Net benefit rate" means the estimated net direct
3212 state benefits computed as a percentage of gross payroll, provided
3213 that:

3214 (i) Except as otherwise provided in this paragraph
3215 (g), the net benefit rate may be variable and shall not exceed
3216 four percent (4%) of the gross payroll; and shall be set in the
3217 sole discretion of the MDA;

3218 (ii) In no event shall incentive payments,
3219 cumulatively, exceed the estimated net direct state benefits.

3220 (h) "Gross payroll" means wages for new direct jobs of
3221 the qualified business or industry. * * *

3222 (i) "MDA" means the Mississippi Development Authority.

3223 **SECTION 71.** Section 57-62-9, Mississippi Code of 1972, is
3224 amended as follows:

3225 **[For businesses or industries that received or applied for**
3226 **incentive payments prior to July 1, 2005, this section shall read**
3227 **as follows:]**

3228 57-62-9. (1) Except as otherwise provided in this section,
3229 a qualified business or industry that meets the qualifications
3230 specified in the Mississippi Advantage Jobs Act may receive

3231 quarterly incentive payments for a period not to exceed ten (10)
3232 years from the State Tax Commission pursuant to the provisions of
3233 the Mississippi Advantage Jobs Act in an amount which shall be
3234 equal to the net benefit rate multiplied by the actual gross
3235 payroll of new direct jobs for a calendar quarter as verified by
3236 the Mississippi Department of Employment Security, but not to
3237 exceed the amount of money previously paid into the fund by the
3238 employer. A qualified business or industry that is a project as
3239 defined in Section 57-75-5(f)(iv)1 may elect the date upon which
3240 the ten-year period will begin. Such date may not be later than
3241 sixty (60) months after the date the business or industry applied
3242 for incentive payments.

3243 (2) (a) A qualified business or industry that is a project
3244 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to
3245 receive incentive payments for an additional period not to exceed
3246 five (5) years beyond the expiration date of the initial ten-year
3247 period if:

3248 (i) The qualified business or industry creates at
3249 least three thousand (3,000) new direct jobs within five (5) years
3250 after the date the business or industry commences commercial
3251 production;

3252 (ii) Within five (5) years after the date the
3253 business or industry commences commercial production, the average
3254 annual wage of the jobs is at least one hundred fifty percent
3255 (150%) of the most recently published state average annual wage or
3256 the most recently published average annual wage of the county in
3257 which the qualified business or industry is located as determined
3258 by the Mississippi Department of Employment Security, whichever is
3259 the lesser. The criteria for the average annual wage requirement
3260 shall be based upon the state average annual wage or the average
3261 annual wage of the county whichever is appropriate, at the time of
3262 creation of the minimum number of jobs, and the threshold

3263 established at that time will remain constant for the duration of
3264 the additional period; and

3265 (iii) The qualified business or industry meets and
3266 maintains the job and wage requirements of subparagraphs (i) and
3267 (ii) of this paragraph (a) for four (4) consecutive calendar
3268 quarters.

3269 (b) A qualified business or industry that is a project
3270 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
3271 incentive payments for the additional period provided in paragraph
3272 (a) of this subsection (2) may apply to the MDA to receive
3273 incentive payments for an additional period not to exceed ten (10)
3274 years beyond the expiration date of the additional period provided
3275 in paragraph (a) of this subsection (2) if:

3276 (i) The qualified business or industry creates at
3277 least four thousand (4,000) new direct jobs after qualifying for
3278 the additional incentive period provided in paragraph (a) of this
3279 subsection (2) but before the expiration of the additional period.
3280 For purposes of determining whether the business or industry meets
3281 the minimum jobs requirement of this subparagraph (i), the number
3282 of jobs the business or industry created in order to meet the
3283 minimum jobs requirement of paragraph (a) of this subsection (2)
3284 shall be subtracted from the minimum jobs requirement of this
3285 subparagraph (i);

3286 (ii) The average annual wage of the jobs is at
3287 least one hundred fifty percent (150%) of the most recently
3288 published state average annual wage or the most recently published
3289 average annual wage of the county in which the qualified business
3290 or industry is located as determined by the Mississippi Department
3291 of Employment Security, whichever is the lesser. The criteria for
3292 the average annual wage requirement shall be based upon the state
3293 average annual wage or the average annual wage of the county
3294 whichever is appropriate, at the time of creation of the minimum

3295 number of jobs, and the threshold established at that time will
3296 remain constant for the duration of the additional period; and

3297 (iii) The qualified business or industry meets and
3298 maintains the job and wage requirements of subparagraphs (i) and
3299 (ii) of this paragraph (b) for four (4) consecutive calendar
3300 quarters.

3301 (3) In order to receive incentive payments, an establishment
3302 shall apply to the MDA. The application shall be on a form
3303 prescribed by the MDA and shall contain such information as may be
3304 required by the MDA to determine if the applicant is qualified.

3305 (4) In order to qualify to receive such payments, the
3306 establishment applying shall be required to:

3307 (a) Be engaged in a qualified business or industry;

3308 (b) Provide an average salary, excluding benefits which
3309 are not subject to Mississippi income taxes, of at least one
3310 hundred twenty-five percent (125%) of the most recently published
3311 state average annual wage or the most recently published average
3312 annual wage of the county in which the qualified business or
3313 industry is located as determined by the Mississippi Department of
3314 Employment Security, whichever is the lesser. The criteria for
3315 this requirement shall be based upon the state average annual wage
3316 or the average annual wage of the county whichever is appropriate,
3317 at the time of application, and the threshold established upon
3318 application will remain constant for the duration of the project;

3319 (c) The business or industry must create and maintain a
3320 minimum of ten (10) full-time jobs in counties that have an
3321 average unemployment rate over the previous twelve-month period
3322 which is at least one hundred fifty percent (150%) of the most
3323 recently published state unemployment rate, as determined by the
3324 Mississippi Department of Employment Security or in Tier Three
3325 counties as determined under Section 57-73-21. In all other
3326 counties, the business or industry must create and maintain a
3327 minimum of twenty-five (25) full-time jobs. The criteria for this

3328 requirement shall be based on the designation of the county at the
3329 time of the application. The threshold established upon the
3330 application will remain constant for the duration of the project.
3331 The business or industry must meet its job creation commitment
3332 within twenty-four (24) months of the application approval.
3333 However, if the qualified business or industry is applying for
3334 incentive payments for an additional period under subsection (2)
3335 of this section, the business or industry must comply with the
3336 applicable job and wage requirements of subsection (2) of this
3337 section.

3338 (5) The MDA shall determine if the applicant is qualified to
3339 receive incentive payments. If the applicant is determined to be
3340 qualified by the MDA, the MDA shall conduct a cost/benefit
3341 analysis to determine the estimated net direct state benefits and
3342 the net benefit rate applicable for a period not to exceed ten
3343 (10) years and to estimate the amount of gross payroll for the
3344 period. If the applicant is determined to be qualified to receive
3345 incentive payments for an additional period under subsection (2)
3346 of this section, the MDA shall conduct a cost/benefit analysis to
3347 determine the estimated net direct state benefits and the net
3348 benefit rate applicable for the appropriate additional period and
3349 to estimate the amount of gross payroll for the additional period.
3350 In conducting such cost/benefit analysis, the MDA shall consider
3351 quantitative factors, such as the anticipated level of new tax
3352 revenues to the state along with the cost to the state of the
3353 qualified business or industry, and such other criteria as deemed
3354 appropriate by the MDA, including the adequacy of retirement
3355 benefits that the business or industry provides to individuals it
3356 employs in new direct jobs in this state. In no event shall
3357 incentive payments, cumulatively, exceed the estimated net direct
3358 state benefits. Once the qualified business or industry is
3359 approved by the MDA, an agreement shall be deemed to exist between
3360 the qualified business or industry and the State of Mississippi,

3361 requiring the continued incentive payment to be made as long as
3362 the qualified business or industry retains its eligibility.

3363 (6) Upon approval of such an application, the MDA shall
3364 notify the State Tax Commission and shall provide it with a copy
3365 of the approved application and the estimated net direct state
3366 benefits. The State Tax Commission may require the qualified
3367 business or industry to submit such additional information as may
3368 be necessary to administer the provisions of this chapter. The
3369 qualified business or industry shall report to the State Tax
3370 Commission periodically to show its continued eligibility for
3371 incentive payments. The qualified business or industry may be
3372 audited by the State Tax Commission to verify such eligibility.

3373 **[For businesses or industries that apply for incentive**
3374 **payments from and after July 1, 2005, this section shall read as**
3375 **follows:]**

3376 57-62-9. (1) (a) Except as otherwise provided in this
3377 section, a qualified business or industry that meets the
3378 qualifications specified in the Mississippi Advantage Jobs Act may
3379 receive quarterly incentive payments for a period not to exceed
3380 ten (10) years from the State Tax Commission pursuant to the
3381 provisions of the Mississippi Advantage Jobs Act in an amount
3382 which shall be equal to the net benefit rate multiplied by the
3383 actual gross payroll of new direct jobs for a calendar quarter as
3384 verified by the Mississippi Department of Employment Security, but
3385 not to exceed:

3386 (i) Ninety percent (90%) of the amount of money
3387 previously paid into the fund by the employer if the employer
3388 provides an average annual salary, excluding benefits which are
3389 not subject to Mississippi income taxes, of at least one hundred
3390 seventy-five percent (175%) of the most recently published state
3391 average annual wage or the most recently published average annual
3392 wage of the county in which the qualified business or industry is

3393 located as determined by the Mississippi Department of Employment
3394 Security, whichever is the lesser;

3395 (ii) Eighty percent (80%) of the amount of money
3396 previously paid into the fund by the employer if the employer
3397 provides an average annual salary, excluding benefits which are
3398 not subject to Mississippi income taxes, of at least one hundred
3399 twenty-five percent (125%) but less than one hundred seventy-five
3400 percent (175%) of the most recently published state average annual
3401 wage or the most recently published average annual wage of the
3402 county in which the qualified business or industry is located as
3403 determined by the Mississippi Department of Employment Security,
3404 whichever is the lesser; or

3405 (iii) Seventy percent (70%) of the amount of money
3406 previously paid into the fund by the employer if the employer
3407 provides an average annual salary, excluding benefits which are
3408 not subject to Mississippi income taxes, of less than one hundred
3409 twenty-five percent (125%) of the most recently published state
3410 average annual wage or the most recently published average annual
3411 wage of the county in which the qualified business or industry is
3412 located as determined by the Mississippi Department of Employment
3413 Security, whichever is the lesser.

3414 (b) A qualified business or industry that is a project
3415 as defined in Section 57-75-5(f)(iv)1 may elect the date upon
3416 which the ten-year period will begin. Such date may not be later
3417 than sixty (60) months after the date the business or industry
3418 applied for incentive payments.

3419 (2) (a) A qualified business or industry that is a project
3420 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to
3421 receive incentive payments for an additional period not to exceed
3422 five (5) years beyond the expiration date of the initial ten-year
3423 period if:

3424 (i) The qualified business or industry creates at
3425 least three thousand (3,000) new direct jobs within five (5) years

3426 after the date the business or industry commences commercial
3427 production;

3428 (ii) Within five (5) years after the date the
3429 business or industry commences commercial production, the average
3430 annual wage of the jobs is at least one hundred fifty percent
3431 (150%) of the most recently published state average annual wage or
3432 the most recently published average annual wage of the county in
3433 which the qualified business or industry is located as determined
3434 by the Mississippi Department of Employment Security, whichever is
3435 the lesser. The criteria for the average annual wage requirement
3436 shall be based upon the state average annual wage or the average
3437 annual wage of the county whichever is appropriate, at the time of
3438 creation of the minimum number of jobs, and the threshold
3439 established at that time will remain constant for the duration of
3440 the additional period; and

3441 (iii) The qualified business or industry meets and
3442 maintains the job and wage requirements of subparagraphs (i) and
3443 (ii) of this paragraph (a) for four (4) consecutive calendar
3444 quarters.

3445 (b) A qualified business or industry that is a project
3446 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
3447 incentive payments for the additional period provided in paragraph
3448 (a) of this subsection (2) may apply to the MDA to receive
3449 incentive payments for an additional period not to exceed ten (10)
3450 years beyond the expiration date of the additional period provided
3451 in paragraph (a) of this subsection (2) if:

3452 (i) The qualified business or industry creates at
3453 least four thousand (4,000) new direct jobs after qualifying for
3454 the additional incentive period provided in paragraph (a) of this
3455 subsection (2) but before the expiration of the additional period.
3456 For purposes of determining whether the business or industry meets
3457 the minimum jobs requirement of this subparagraph (i), the number
3458 of jobs the business or industry created in order to meet the

3459 minimum jobs requirement of paragraph (a) of this subsection (2)
3460 shall be subtracted from the minimum jobs requirement of this
3461 subparagraph (i);

3462 (ii) The average annual wage of the jobs is at
3463 least one hundred fifty percent (150%) of the most recently
3464 published state average annual wage or the most recently published
3465 average annual wage of the county in which the qualified business
3466 or industry is located as determined by the Mississippi Department
3467 of Employment Security, whichever is the lesser. The criteria for
3468 the average annual wage requirement shall be based upon the state
3469 average annual wage or the average annual wage of the county
3470 whichever is appropriate, at the time of creation of the minimum
3471 number of jobs, and the threshold established at that time will
3472 remain constant for the duration of the additional period; and

3473 (iii) The qualified business or industry meets and
3474 maintains the job and wage requirements of subparagraphs (i) and
3475 (ii) of this paragraph (b) for four (4) consecutive calendar
3476 quarters.

3477 (3) In order to receive incentive payments, an establishment
3478 shall apply to the MDA. The application shall be on a form
3479 prescribed by the MDA and shall contain such information as may be
3480 required by the MDA to determine if the applicant is qualified.

3481 (4) (a) In order to qualify to receive such payments, the
3482 establishment applying shall be required to meet the definition of
3483 the term "qualified business or industry";

3484 (b) * * * The criteria for the average annual salary
3485 requirement shall be based upon the state average annual wage or
3486 the average annual wage of the county whichever is appropriate, at
3487 the time of application, and the threshold established upon
3488 application will remain constant for the duration of the project;

3489 (c) * * * The business or industry must meet its job
3490 creation commitment within twenty-four (24) months of the
3491 application approval. However, if the qualified business or

3492 industry is applying for incentive payments for an additional
3493 period under subsection (2) of this section, the business or
3494 industry must comply with the applicable job and wage requirements
3495 of subsection (2) of this section.

3496 (5) (a) The MDA shall determine if the applicant is
3497 qualified to receive incentive payments. If the applicant is
3498 determined to be qualified by the MDA, the MDA shall:

3499 (i) Conduct a cost/benefit analysis to determine
3500 the estimated net direct state benefits and the net benefit rate
3501 applicable for a period not to exceed ten (10) years and to
3502 estimate the amount of gross payroll for the period; and

3503 (ii) Require the applicant to execute a
3504 performance agreement with the MDA that specifies the manner in
3505 which the applicant will utilize the incentive payments made to it
3506 under this chapter.

3507 (b) If the applicant is determined to be qualified to
3508 receive incentive payments for an additional period under
3509 subsection (2) of this section, the MDA shall conduct a
3510 cost/benefit analysis to determine the estimated net direct state
3511 benefits and the net benefit rate applicable for the appropriate
3512 additional period and to estimate the amount of gross payroll for
3513 the additional period. In conducting such cost/benefit analysis,
3514 the MDA shall consider quantitative factors, such as the
3515 anticipated level of new tax revenues to the state along with the
3516 cost to the state of the qualified business or industry, and such
3517 other criteria as deemed appropriate by the MDA, including the
3518 adequacy of retirement benefits that the business or industry
3519 provides to individuals it employs in new direct jobs in this
3520 state. In no event shall incentive payments, cumulatively, exceed
3521 the estimated net direct state benefits. Once the qualified
3522 business or industry is approved by the MDA, an agreement shall be
3523 deemed to exist between the qualified business or industry and the
3524 State of Mississippi, requiring the continued incentive payment to

3525 be made as long as the qualified business or industry retains its
3526 eligibility.

3527 (6) Upon approval of such an application, the MDA shall
3528 notify the State Tax Commission and shall provide it with a copy
3529 of the approved application and the estimated net direct state
3530 benefits. The State Tax Commission may require the qualified
3531 business or industry to submit such additional information as may
3532 be necessary to administer the provisions of this chapter. The
3533 qualified business or industry shall report to the State Tax
3534 Commission periodically to show its continued eligibility for
3535 incentive payments. The qualified business or industry may be
3536 audited by the State Tax Commission to verify such eligibility.

3537 **SECTION 72.** Section 57-62-13, Mississippi Code of 1972, is
3538 amended as follows:

3539 57-62-13. (1) As soon as practicable after the end of a
3540 calendar quarter for which a qualified business or industry has
3541 qualified to receive an incentive payment, the qualified business
3542 or industry shall file a claim for the payment with the State Tax
3543 Commission and shall specify the actual number of new direct jobs
3544 created and maintained by the business or industry for the
3545 calendar quarter and the gross payroll thereof. The State Tax
3546 Commission shall verify the actual number of new direct jobs
3547 created and maintained by the business or industry and compliance
3548 with the average annual wage requirements for such business or
3549 industry under this chapter. If the qualified business or
3550 industry files a claim for an incentive payment during an
3551 additional incentive period provided under Section 57-62-9(2), the
3552 State Tax Commission shall verify the actual number of new direct
3553 jobs created and maintained by the business or industry and
3554 compliance with the average annual wage requirements for such
3555 business or industry under this chapter. If the State Tax
3556 Commission is not able to provide such verification utilizing all
3557 available resources, the State Tax Commission may request such

3558 additional information from the business or industry as may be
3559 necessary.

3560 (2) (a) The business or industry must meet the salary and
3561 job requirements of this chapter for four (4) consecutive calendar
3562 quarters prior to payment of the first incentive payment. If the
3563 business or industry does not maintain the salary or job
3564 requirements of this chapter at any other time during the ten-year
3565 period after the date the first payment was made, the incentive
3566 payments shall not be made and shall not be resumed until such
3567 time as the actual verified number of new direct jobs created and
3568 maintained by the business or industry equals or exceeds the
3569 requirements of this chapter for one (1) calendar quarter.

3570 (b) If the business or industry is qualified to receive
3571 incentive payments for an additional period provided under Section
3572 57-62-9(2), the business or industry must meet the wage and job
3573 requirements of Section 57-62-9(2), for four (4) consecutive
3574 calendar quarters prior to payment of the first incentive payment.
3575 If the business or industry does not maintain the wage or job
3576 requirements of Section 57-62-9(2), at any other time during the
3577 appropriate additional period after the date the first payment was
3578 made, the incentive payments shall not be made and shall not be
3579 resumed until such time as the actual verified number of new
3580 direct jobs created and maintained by the business or industry
3581 equals or exceeds the amounts specified in Section 57-62-9(2), for
3582 one (1) calendar quarter.

3583 (3) An establishment that has qualified pursuant to this
3584 chapter may receive payments only in accordance with the provision
3585 under which it initially applied and was approved. If an
3586 establishment that is receiving incentive payments expands, it may
3587 apply for additional incentive payments based on the new gross
3588 payroll for new direct jobs anticipated from the expansion only,
3589 pursuant to this chapter.

3590 (4) As soon as practicable after verification of the
3591 qualified business or industry meeting the requirements of this
3592 chapter and all rules and regulations, the Department of Finance
3593 and Administration, upon requisition of the State Tax Commission,
3594 shall issue a warrant drawn on the Mississippi Advantage Jobs
3595 Incentive Payment Fund to the establishment in the amount of the
3596 net benefit rate multiplied by the actual gross payroll as
3597 determined pursuant to subsection (1) of this section for the
3598 calendar quarter.

3599 **SECTION 73.** Section 39 of this act shall take effect and be
3600 in force from and after January 1, 2005, and the remainder of this
3601 act shall take effect and be in force from and after July 1, 2005.