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To: Ways and Means

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1644

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

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

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

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

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

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

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

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

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

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

73 so authorized to be sold and do any and all other things necessary
74 and advisable in connection with the issuance and sale of such
75 bonds. The total amount of bonds issued under this act shall not
76 exceed Twenty-five Million Dollars (\$25,000,000.00).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

235 institution's or agency's fleet vehicles operated by January 1,
236 2008.

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

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

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

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

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

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

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

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

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

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

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

282 (3) No person who receives a credit under the provisions of
283 this section shall alter the vehicle for which a credit is
284 received in any manner that changes the vehicle to such a
285 condition that the vehicle is no longer a hybrid-electric vehicle.

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

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

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

304 (a) "Department" means the Department of Environmental
305 Quality.

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

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

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

332 (d) "Base building" means all areas of a building not
333 intended for occupancy by a tenant or owner, including the

334 structural components of the building, exterior walls, floors,
335 windows, roofs, foundations, chimneys and stacks, parking areas,
336 mechanical rooms and mechanical systems, and owner-controlled or
337 operated service spaces, sidewalks, main lobby, shafts and
338 vertical transportation mechanisms, stairways, and corridors.

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

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

353 (g) "Eligible building" means a building located in the
354 state that:

355 (i) Is a building used primarily for residential
356 purposes;

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

364 (iii) Is a newly constructed building for which a
365 certificate of occupancy was not issued before the effective date
366 of this act, and: 1. Is located on a qualified brownfields site,

367 as defined under state law; 2. Is located in a priority funding
368 area and is not located on wetlands, the alteration of which
369 requires a permit under § 404 of the federal Clean Water Act, 33
370 USCS § 1344; or

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

375 (h) "Fuel cell" means a device that produces
376 electricity directly from hydrogen or hydrocarbon fuel through a
377 noncombustive electrochemical process.

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

381 (j) "Green whole building" means a building for which
382 the base building is a green base building and all space is green
383 space.

384 (k) "Green tenant space" means tenant space in a
385 building if the building is an eligible building and the tenant
386 space meets the requirements of this section.

387 (l) "Incremental cost of building-integrated
388 photovoltaic modules" means:

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

395 (ii) Incremental labor costs properly allocable to
396 on-site preparation, assembly, and original installation of
397 photovoltaic modules; and

398 (iii) Incremental costs of architectural and
399 engineering services and designs and plans directly related to the
400 construction or installation of photovoltaic modules.

401 (m) "Qualifying alternate energy sources" means
402 building-integrated and nonbuilding-integrated photovoltaic
403 modules, wind turbines, and fuel cells installed to serve the base
404 building or tenant space that:

405 (i) Have the capability to monitor their actual
406 power output;

407 (ii) Are fully commissioned upon installation, and
408 annually thereafter, to ensure that the systems meet their design
409 specifications; and

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

412 (n) "Tenant improvements" means improvements that are
413 necessary or appropriate to support or conduct the business of a
414 tenant or occupying owner.

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

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

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

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

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

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

428 (i) The taxpayer has obtained and filed an initial
429 credit certificate and an eligibility certificate issued under
430 this section;

431 (ii) A certificate of occupancy for the building
432 has been issued; and

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

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

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

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

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

451 (i) One Hundred Twenty Dollars (\$120) per square
452 foot for that portion of the building that comprises the base
453 building; and

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

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

462 (b) The allowable costs used to determine the credit
463 amount allowed under this subsection for a green base building may

464 not exceed, in the aggregate, One Hundred Twenty Dollars (\$120.00)
465 per square foot.

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

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

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

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

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

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

494 (b) The amount of the credit allowed under this
495 subsection is twenty percent (20%) of the sum of the capitalized
496 costs paid or incurred by an owner or tenant with respect to each

497 fuel cell installed, including the cost of the foundation or
498 platform and the labor costs associated with installation.

499 (c) The costs used to determine the credit amount
500 allowed under this subsection for installation of a fuel cell:

501 (i) May not exceed One Thousand Dollars (\$1,000)
502 per kilowatt of installed DC rated capacity of the fuel cell; and

503 (ii) Shall be reduced by the amount of any
504 federal, State, or local grant:

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

507 2. Not included in the federal gross income
508 of the taxpayer.

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

515 (b) The amount of the credit allowed under this
516 subsection is:

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

520 (ii) Twenty-five (25%) of the cost of
521 nonbuilding-integrated photovoltaic modules, including the cost of
522 the foundation or platform and the labor costs associated with
523 installation.

524 (c) The costs used to determine the credit amount
525 allowed under this subsection for installation of photovoltaic
526 modules:

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

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

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

534 2. Not included in the federal gross income
535 of the taxpayer.

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

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

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

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

557 (b) The regulations adopted under this subsection shall
558 provide that the energy use shall be no more than sixty-five
559 percent (65%) for new construction of a base building, or
560 seventy-five percent (75%) in the case of rehabilitation of a base
561 building, of the energy use attributable to a reference building

562 which meets the requirements of applicable energy efficiency
563 standards.

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

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

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

582 (b) The initial credit certificate issued under this
583 paragraph:

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

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

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

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

594 (e) The department may not issue initial credit
595 certificates during a state fiscal year, in the aggregate, for
596 more than Twenty-five Million Dollars (\$25,000,000) worth of
597 credits.

598 (f) Except as otherwise provided in this section,
599 initial credit certificates shall be limited in their
600 applicability, as follows:

601 Credits in the aggregate may	With respect to taxable
602 not be allowed for more than:	years beginning:
603 \$1 million	2005
604 \$2 million	2006
605 \$3 million	2007
606 \$4 million	2008
607 \$5 million	2009
608 \$4 million	2010
609 \$3 million	2011
610 \$2 million	2012
611 \$1 million	2013

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

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

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

627 (2) (a) For each taxable year for which a taxpayer claims a
628 credit under this section with respect to a green whole building,
629 green base building, green tenant space, fuel cell, photovoltaic
630 module, or wind turbine, the taxpayer shall obtain an eligibility
631 certificate from an architect or professional engineer licensed to
632 practice in this state.

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

637 (i) The building, base building, or tenant space
638 with respect to which the credit is claimed is a green whole
639 building, green base building, or green tenant space;

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

643 (iii) The certification under subparagraph (ii) of
644 this paragraph:

645 1. Shall be made in accordance with the
646 regulations adopted by the department under this section
647 specifying the standards and guidelines for each credit under this
648 section; and

649 2. Shall set forth the specific findings on
650 which the certification was based.

651 (iv) The taxpayer shall file the eligibility
652 certificate and the associated initial credit certificate with the
653 taxpayer's income tax return and shall file duplicate copies of
654 the eligibility certificate with the department; and

655 (v) The eligibility certificate shall include:

656 1. Sufficient information to identify each
657 building or space; and

658 2. Any other information that the department
659 or the Tax Commission requires by regulation.

660 (3) If the department has reason to believe that an
661 architect or professional engineer, in making any certification
662 under this subsection, engaged in professional misconduct, the
663 department shall inform the appropriate professional board of the
664 suspected misconduct.

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

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

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

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

678 (b) The amount of the credits claimed;

679 (c) The geographical distribution of the credits
680 claimed; and

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

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

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

688 27-65-15. (1) Upon every person engaging or continuing
689 within this state in the business of mining, quarrying, drilling
690 or otherwise producing, or causing to be produced for sale,
691 profit, or commercial use, limestone, sand, gravel, dirt, coal,
692 lignite or other mineral or natural resource products, except

693 timber, oil, natural gas and salt, there is hereby levied and
694 assessed and shall be collected taxes as follows:

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

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

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

709 (3) The commission shall prescribe equitable and uniform
710 rules for ascertaining value.

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

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

724 **SECTION 24.** (1) The Legislature finds and determines that
725 the petroleum industry is an essential element of the Mississippi

726 economy and is therefore of vital importance to the health and
727 welfare of all Mississippians.

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

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

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