

By: Representative Williams

To: Ways and Means

HOUSE BILL NO. 1141
(As Passed the House)

1 AN ACT TO REENACT SECTIONS 57-1-351, 57-1-353, 57-1-355,
2 57-1-357, 57-1-359, 57-1-363, 57-1-365, 57-1-367 AND 57-1-369,
3 MISSISSIPPI CODE OF 1972, WHICH AUTHORIZE THE DEPARTMENT OF
4 ECONOMIC AND COMMUNITY DEVELOPMENT TO ACT ON BEHALF OF THE STATE
5 OF MISSISSIPPI IN SUBMITTING A SITING PROPOSAL FOR A CERTAIN
6 PROJECT DESIGNATED AS "PROJECT COUGAR" AND PROVIDE THAT IF THE
7 STATE IS SELECTED AS THE SITE FOR THE PROJECT THE DEPARTMENT OF
8 ECONOMIC AND COMMUNITY DEVELOPMENT MAY ACT ON BEHALF OF THE STATE
9 AND REPRESENT THE STATE IN THE PLANNING, FINANCING, DEVELOPMENT,
10 CONSTRUCTION AND OPERATION OF SUCH PROJECT; TO REENACT SECTION 6,
11 CHAPTER 301, LAWS OF 1998, WHICH AUTHORIZES THE ISSUANCE GENERAL
12 OBLIGATION BONDS IN THE AMOUNT OF \$25,000,000.00 FOR SUCH PROJECT;
13 TO AMEND SECTION 11, CHAPTER 301, LAWS OF 1998, TO DELETE THE
14 REPEALER ON SECTIONS 57-1-351 THROUGH 57-1-369, MISSISSIPPI CODE
15 OF 1972, AND SECTION 6, CHAPTER 301, LAWS OF 1998; TO CREATE A NEW
16 CODE SECTION TO BE CODIFIED AS SECTION 57-1-371, MISSISSIPPI CODE
17 OF 1972, TO PROVIDE THAT SECTIONS 57-1-351 THROUGH 57-1-369,
18 MISSISSIPPI CODE OF 1972, AND SECTION 6, CHAPTER 301, LAWS OF
19 1998, SHALL BE REPEALED ON July 1, 2001, UNLESS BEFORE SUCH DATE
20 THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF ECONOMIC AND COMMUNITY
21 DEVELOPMENT FILES AN AFFIDAVIT WITH THE SECRETARY OF STATE
22 CERTIFYING THAT THE STATE OF MISSISSIPPI HAS BEEN FINALLY SELECTED
23 AS THE SITE OF THE PROJECT; AND FOR RELATED PURPOSES.

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

25 SECTION 1. Section 57-1-351, Mississippi Code of 1972, is
26 reenacted as follows:

27 57-1-351. Words and phrases used in Sections 57-1-351
28 through 57-1-369 shall have meanings as follows, unless the
29 context clearly indicates a different meaning:

30 (a) "Bonds" means general obligation bonds, interim
31 notes and other evidences of debt of the State of Mississippi
32 issued pursuant to Sections 57-1-351 through 57-1-369.

33 (b) "DECD" means the Department of Economic and
34 Community Development.

35 (c) "Facility related to the project" means and
36 includes any of the following, as the same may pertain to the
37 project within the project area: (i) facilities to provide

38 potable and industrial water supply systems, sewage and waste
39 disposal systems and water, natural gas and electric transmission
40 systems to the site of the project; (ii) airports, airfields and
41 air terminals; (iii) rail lines; (iv) port facilities; (v)
42 highways, streets and other roadways; (vi) public school
43 buildings, classrooms and instructional facilities, including any
44 functionally related facilities; (vii) parks, outdoor recreation
45 facilities and athletic facilities; (viii) auditoriums, pavilions,
46 campgrounds, art centers, cultural centers, folklore centers and
47 other public facilities; and (ix) health care facilities, public
48 or private.

49 (d) "Person" means any natural person, corporation,
50 association, partnership, receiver, trustee, guardian, executor,
51 administrator, fiduciary, governmental unit, public agency,
52 political subdivision, or any other group acting as a unit, and
53 the plural as well as the singular.

54 (e) "Project" means any private company developed under
55 the name "Project Cougar" that is a heavy manufacturing enterprise
56 which will be located on more than two hundred fifty (250) acres
57 of land, will require a building that contains in excess of five
58 hundred thousand (500,000) square feet and will employ in excess
59 of one thousand (1,000) people at the facility in a full-time
60 capacity.

61 (f) "Project area" means the project site, together
62 with any area or territory within the state lying within fifteen
63 (15) miles of any portion of the project site whether or not such
64 area or territory be contiguous. The project area shall also
65 include all territory within a county if any portion of such
66 county lies within fifteen (15) miles of any portion of the
67 project site. "Project site" means the real property on which the
68 principal facilities of the enterprise will operate.

69 (g) "Public agency" means:

70 (i) Any department, board, commission, institution
71 or other agency or instrumentality of the state;

72 (ii) Any city, town, county, political
73 subdivision, school district or other district created or existing
74 under the laws of the state or any public agency of any such city,
75 town, county, political subdivision or district;

76 (iii) Any department, commission, agency or
77 instrumentality of the United States of America; and

78 (iv) Any other state of the United States of
79 America which may be cooperating with respect to location of the
80 project within the state, or any agency thereof.

81 (h) "State" means State of Mississippi.

82 SECTION 2. Section 57-1-353, Mississippi Code of 1972, is
83 reenacted as follows:

84 57-1-353. DECD is hereby designated and empowered to act on
85 behalf of the state in submitting a siting proposal for the
86 project eligible for assistance under Sections 57-1-351 through
87 57-1-369. DECD is empowered to take all steps appropriate or
88 necessary to effect the siting, development, and operation of the
89 project within the state. If the state is selected as the
90 preferred site for the project, DECD is hereby designated and
91 empowered to act on behalf of the state and to represent the state
92 in the planning, financing, development, construction and
93 operation of the project or any facility related to the project,
94 with the concurrence of the affected public agency. DECD may take
95 affirmative steps to coordinate fully all aspects of the
96 submission of a siting proposal for the project and, if the state
97 is selected as the preferred site, to coordinate fully, with the
98 concurrence of the affected public agency, the development of the
99 project or any facility related to the project with private
100 business, the United States Government and other public agencies.

101 All public agencies are encouraged to cooperate to the fullest
102 extent possible to effectuate the duties of DECD; however, the
103 development of the project or any facility related to the project
104 by DECD may be done only with the concurrence of the affected
105 public agency.

106 SECTION 3. Section 57-1-355, Mississippi Code of 1972, is
107 reenacted as follows:

108 57-1-355. DECD, in addition to any and all powers now or
109 hereafter granted to it, is empowered and shall exercise

110 discretion and the use of these powers depending on the
111 circumstances of the project or projects:

112 (a) To employ or contract with architects, engineers,
113 attorneys, accountants, construction and financial experts and
114 such other advisors, consultants and agents as may be necessary in
115 its judgment and to fix and pay their compensation.

116 (b) To make such applications and enter into such
117 contracts for financial assistance as may be appropriate under
118 applicable federal or state law.

119 (c) To apply for, accept and utilize grants, gifts and
120 other funds or aid from any source for any purpose contemplated by
121 Sections 57-1-351 through 57-1-369, and to comply, subject to the
122 provisions of Sections 57-1-351 through 57-1-369, with the terms
123 and conditions thereof.

124 (d) To acquire by purchase or lease any public lands
125 and public property, including sixteenth section lands and lieu
126 lands, within the project area, which are necessary for the
127 project. Sixteenth section lands or lieu lands acquired under
128 Sections 57-1-351 through 57-1-369 shall be deemed to be acquired
129 for the purposes of industrial development thereon and such
130 acquisition will serve a higher public interest in accordance with
131 the purposes of Sections 57-1-351 through 57-1-369.

132 (e) If DECD identifies any land owned by the state as
133 being necessary, for the location or use of the project, or any
134 facility related to the project, to recommend to the Legislature
135 the conveyance of such land or any interest therein, as the
136 Legislature deems appropriate.

137 (f) To make or cause to be made such examinations and
138 surveys as may be necessary to the planning, design, construction
139 and operation of the project.

140 (g) From and after the date of notification to DECD by
141 the enterprise that the state has been finally selected as the
142 site of the project, to acquire by condemnation and to own,
143 maintain, use, operate and convey or otherwise dispose of any and

144 all property of any kind, real, personal or mixed, or any interest
145 or estate therein, within the project area, necessary for the
146 project or any facility related to the project, with the
147 concurrence of the affected public agency, and the exercise of the
148 powers granted by Sections 57-1-351 through 57-1-369, according to
149 the procedures provided by Chapter 27, Title 11, Mississippi Code
150 of 1972, except as modified by Sections 57-1-351 through 57-1-369.

151 (i) In acquiring lands by condemnation, DECD shall
152 not acquire minerals or royalties in minerals unless a competent
153 registered professional engineer shall have certified that the
154 acquisition of such minerals and royalties in minerals is
155 necessary for purposes of the project; provided that limestone,
156 clay, chalk, sand and gravel shall not be considered as minerals
157 within the meaning of this section; and

158 (ii) Unless minerals or royalties in minerals have
159 been acquired by condemnation or otherwise, no person or persons
160 owning the drilling rights or the right to share in production of
161 minerals shall be prevented from exploring, developing, or
162 producing oil or gas with necessary rights-of-way for ingress and
163 egress, pipelines and other means of transporting interests on any
164 land or interest therein of the authority held or used for the
165 purposes of Sections 57-1-351 through 57-1-369; but any such
166 activities shall be under such reasonable regulation by DECD as
167 will adequately protect the project contemplated by Sections
168 57-1-351 through 57-1-369 as provided in paragraph (r) of this
169 section.

170 (h) To negotiate the necessary relocation or rerouting
171 of roads and highways, railroad, telephone and telegraph lines and
172 properties, electric power lines, pipelines and related
173 facilities, or to require the anchoring or other protection of any
174 of these, provided due compensation is paid to the owners thereof
175 or agreement is had with such owners regarding the payment of the
176 cost of such relocation, and to acquire by condemnation or
177 otherwise easements or rights-of-way for such relocation or

178 rerouting and to convey the same to the owners of the facilities
179 being relocated or rerouted in connection with the purposes of
180 Sections 57-1-351 through 57-1-369.

181 (i) To negotiate the necessary relocation of cemeteries
182 and to pay all reasonable costs thereof.

183 (j) To perform or have performed any and all acts and
184 make all payments necessary to comply with all applicable federal
185 laws, rules or regulations including but not limited to the
186 Uniform Relocation Assistance and Real Property Acquisition
187 Policies Act of 1970 (42 USCS 4601, 4602, 4621 to 4638, and 4651
188 to 4655) and relocation rules and regulations promulgated by any
189 agency or department of the federal government.

190 (k) To construct, extend, improve, maintain, and
191 reconstruct, to cause to be constructed, extended, improved,
192 maintained, and reconstructed, and to use and operate any and all
193 components of the project or any facility related to the project,
194 with the concurrence of the affected public agency, within the
195 project area, necessary to the project and to the exercise of such
196 powers, rights, and privileges granted DECD.

197 (l) To incur or defray any designated portion of the
198 cost of any component of the project or any facility related to
199 the project acquired or constructed by any public agency.

200 (m) To lease, sell or convey any or all property
201 acquired by DECD under the provisions of Sections 57-1-351 through
202 57-1-369 to the enterprise, its successors or assigns, and in
203 connection therewith to pay the costs of title search, perfection
204 of title, title insurance and recording fees as may be required.
205 DECD may provide in the instrument conveying such property a
206 provision that such property shall revert to DECD if, as and when
207 the property is declared by the enterprise to be no longer needed.

208 (n) To enter into contracts with any person or public
209 agency including, but not limited to, contracts authorized by
210 Section 57-1-363, in furtherance of any of the purposes authorized
211 by Sections 57-1-351 through 57-1-369 upon such consideration as

212 DECD and such person or public agency may agree. Any such
213 contract may extend over any period of time, notwithstanding any
214 rule of law to the contrary, may be upon such terms as the parties
215 thereto shall agree, and may provide that it shall continue in
216 effect until bonds specified therein, refunding bonds issued in
217 lieu of such bonds, and all other obligations specified therein
218 are paid or terminated. Any such contract shall be binding upon
219 the parties thereto according to its terms. Such contracts may
220 include an agreement to reimburse the enterprise, its successors
221 and assigns for any assistance provided by the enterprise in the
222 acquisition of real property for the project or any facility
223 related to the project.

224 (o) To establish and maintain reasonable rates and
225 charges for the use of any facility within the project area owned
226 or operated by DECD, and from time to time to adjust such rates
227 and to impose penalties for failure to pay such rates and charges
228 when due.

229 (p) To adopt and enforce with the concurrence of the
230 affected public agency all necessary and reasonable rules and
231 regulations to carry out and effectuate the implementation of the
232 project and any land use plan or zoning classification adopted for
233 the project area, including but not limited to rules, regulations,
234 and restrictions concerning mining, construction, excavation or
235 any other activity the occurrence of which may endanger the
236 structure or operation of the project. Such rules may be enforced
237 within the project area and without the project area as necessary
238 to protect the structure and operation of the project. DECD is
239 authorized to plan or replan, zone or rezone, and make exceptions
240 to any regulations, whether local or state, with the concurrence
241 of the affected public agency which are inconsistent with the
242 design, planning, construction or operation of the project and
243 facilities related to the project.

244 (q) To plan, design, coordinate and implement measures
245 and programs to mitigate impacts on the natural environment caused

246 by the project or any facility related to the project.

247 (r) To develop plans for technology transfer activities
248 to ensure private sector conduits for exchange of information,
249 technology and expertise related to the project to generate
250 opportunities for commercial development within the state.

251 (s) To consult with the State Department of Education
252 and other public agencies for the purpose of improving public
253 schools and curricula within the project area.

254 (t) To consult with the State Board of Health and other
255 public agencies for the purpose of improving medical centers,
256 hospitals and public health centers in order to provide
257 appropriate health care facilities within the project area.

258 (u) To consult with the Office of Minority Business
259 Enterprise Development and other public agencies for the purpose
260 of developing plans for technical assistance and loan programs to
261 maximize the economic impact related to the project for minority
262 business enterprises within the State of Mississippi.

263 (v) To promulgate rules and regulations necessary to
264 effectuate the purposes of Sections 57-1-351 through 57-1-369.

265 SECTION 4. Section 57-1-357, Mississippi Code of 1972, is
266 reenacted as follows:

267 57-1-357. The Board of Trustees of State Institutions of
268 Higher Learning is hereby authorized to support the project by
269 creating institutes and developing curricula of direct benefit to
270 the enterprise. Upon notification to DECD by the enterprise that
271 the state has been selected as the site of the project, the Board
272 of Trustees of State Institutions of Higher Learning may establish
273 and create programs to enhance the project's success.

274 SECTION 5. Section 57-1-359, Mississippi Code of 1972, is
275 reenacted as follows:

276 57-1-359. DECD shall utilize not more than the amount of the
277 proceeds of the bonds authorized to be issued under Section
278 6(3)(b) of this act [Laws, 1998, Ch. 301], for the purpose of
279 making interest-bearing loans to counties or municipalities in

280 order for such counties or municipalities to lend to the private
281 company that falls under the definition of the term "project," the
282 proceeds of the loan from DECD to any such county or municipality.

283 SECTION 6. Section 57-1-363, Mississippi Code of 1972, is
284 reenacted as follows:

285 57-1-363. For the purpose of aiding in the planning, design,
286 undertaking and carrying out of the project or any facility
287 related to the project, any public agency is authorized and
288 empowered upon such terms, with or without consideration, as it
289 may determine:

290 (a) To enter into agreements, which may extend over any
291 period, with DECD respecting action to be taken by such public
292 agency with respect to the acquisition, planning, construction,
293 improvement, operation, maintenance or funding of the project or
294 any such facility, and which agreements may include (i) the
295 appropriation or payment of funds to DECD or to a trustee in
296 amounts which shall be sufficient to enable DECD to defray any
297 designated portion or percentage of the expenses of administering,
298 planning, designing, constructing, acquiring, improving,
299 operating, and maintaining the project or any facility related to
300 the project, (ii) the appropriation or payment of funds to DECD or
301 to a trustee to pay interest and principal (whether at maturity or
302 upon sinking fund redemption) on bonds issued pursuant to Section
303 57-1-351 through 57-1-369 and to fund reserves for debt service,
304 for operation and maintenance and for renewals and replacements,
305 and to fulfill requirements of any covenant with respect to debt
306 service contained in any resolution, trust indenture or other
307 security agreement relating to the bonds issued pursuant to
308 Sections 57-1-351 through 57-1-369, and (iii) the furnishing of
309 other assistance in connection with the project or facility
310 related to the project;

311 (b) To dedicate, sell, donate, convey or lease any
312 property or interest in property to DECD or grant easements,
313 licenses or other rights or privileges therein to DECD;

314 (c) To incur the expense of any public improvements
315 made or to be made by such public agency in exercising the powers
316 granted in this section;

317 (d) To lend, grant or contribute funds to DECD;

318 (e) To cause public buildings and public facilities,
319 including parks, playgrounds, recreational areas, community
320 meeting facilities, water, sewer or drainage facilities, or any
321 other works which it is otherwise empowered to undertake, to be
322 furnished to or with respect to the project or any such facility;

323 (f) To furnish, dedicate, close, vacate, pave, install,
324 upgrade or improve highways, streets, roads, sidewalks, airports,
325 railroads, or ports;

326 (g) To plan or replan, zone or rezone any parcel of
327 land within the public agency or make exceptions from land use,
328 building and zoning regulations; and

329 (h) To cause administrative and other services to be
330 furnished to DECD, including services pertaining to the
331 acquisition of real property and the furnishing of relocation
332 assistance.

333 Any contract between a public agency entered into with DECD
334 pursuant to any of the powers granted by Sections 57-1-351 through
335 57-1-369 shall be binding upon the public agency according to its
336 terms, and such public agency shall have the power to enter into
337 such contracts as in the discretion of the governing authorities
338 thereof would be to the best interest of the people of such public
339 agency. Such contracts may include within the discretion of such
340 governing authorities of public agencies defined under Section
341 57-1-351(g)(ii) a pledge of the full faith and credit of such
342 public agency for the performance thereof. If at any time title
343 to or possession of the project or any such facility is held by
344 any public body or governmental agency other than DECD, including
345 any agency or instrumentality of the United States of America, the
346 agreements referred to in this section shall inure to the benefit
347 of and may be enforced by such public body or governmental agency.

348 Notwithstanding any provisions of Sections 57-1-351 through
349 57-1-369 to the contrary, any contract entered into between DECD
350 and any public agency for the appropriation or payment of funds to
351 DECD under paragraph (a)(ii) of this section shall contain a
352 provision therein requiring monthly payments by the public agency
353 to pay its indebtedness and, if the public agency is not a county
354 or municipality, such contract shall include as an additional
355 party to the contract the county or municipality (referred to in
356 this paragraph as "levying authority") that levies and collects
357 taxes for the contracting public agency. If the public agency
358 fails to pay its indebtedness for any month, DECD shall certify to
359 the State Tax Commission, or other appropriate agency, the amount
360 of the delinquency, and the State Tax Commission shall deduct such
361 amount from the public agency's or levying authority's, as the
362 case may be, next allocation of sales taxes, petroleum taxes,
363 highway privilege taxes, severance taxes, Tennessee Valley
364 Authority payments in lieu of taxes and homestead exemption
365 reimbursements in that order of priority. The State Tax
366 Commission, or other appropriate agency, shall pay the sums so
367 deducted to DECD to be applied to the discharge of the contractual
368 obligation.

369 SECTION 7. Section 57-1-365, Mississippi Code of 1972, is
370 reenacted as follows:

371 57-1-365. DECD shall not undertake to develop any project or
372 facility related to the project within a county, municipality
373 and/or school district without the concurrence of the affected
374 county, municipality and/or school district.

375 SECTION 8. Section 57-1-367, Mississippi Code of 1972, is
376 reenacted as follows:

377 57-1-367. (1) (a) DECD shall set a goal to expend not less
378 than ten percent (10%) of the total amounts expended by DECD on
379 planning, construction, training, research, development, testing,
380 evaluation, personal services, procurement, and for the operation
381 and maintenance of any facilities or activities controlled by

382 DECD, with minority small business concerns owned and controlled
383 by socially and economically disadvantaged individuals. For the
384 purpose of determining the total amounts expended with such
385 minority small business concerns, credit shall be given for that
386 portion of any prime contract entered into with DECD which inures
387 to the benefit of such minority small business concern as a
388 subcontractor thereunder.

389 (b) For the purposes of this section, the term
390 "socially and economically disadvantaged individuals" shall have
391 the meaning ascribed to such term under Section 8(d) of the Small
392 Business Act (15 USCS, Section 637(d)) and relevant subcontracting
393 regulations promulgated pursuant thereto.

394 (c) For the purposes of this section, the term
395 "minority small business concern" means any small business
396 concern:

397 (i) Which is at least fifty-one percent (51%)
398 owned by one or more socially and economically disadvantaged
399 individuals; or, in the case of any publicly owned businesses, at
400 least fifty-one percent (51%) of the stock of which is owned by
401 one or more socially and economically disadvantaged individuals;
402 and

403 (ii) Whose management and daily business
404 operations are controlled by one or more of such individuals.

405 (d) For the purpose of this section, the term "small
406 business concern" shall mean "small business" as the latter term
407 is defined in Section 57-10-155, Mississippi Code of 1972.

408 (2) In order to comply in a timely manner with its minority
409 small business participation mandate, DECD shall set an annual
410 goal to expend not less than ten percent (10%) of its aggregate
411 yearly expenditures with minority small business concerns.

412 (3) DECD shall:

413 (a) Monitor the minority small business concerns
414 assistance programs prescribed in this section.

415 (b) Review and determine the business capabilities of

416 minority small business concerns.

417 (c) Establish standards for a certification procedure
418 for minority small business concerns seeking to do business with
419 DECD.

420 (d) Provide technical assistance services to minority
421 small business concerns. Such technical assistance shall include
422 but not be limited to:

423 (i) Research;

424 (ii) Assistance in obtaining bonds;

425 (iii) Bid preparation;

426 (iv) Certification of business concerns;

427 (v) Marketing assistance; and

428 (vi) Joint venture and capital development.

429 (e) Develop alternative bidding and contracting
430 procedures for minority small business concerns in conjunction
431 with the Department of Finance and Administration.

432 (f) Utilize such alternative bidding and contracting
433 procedures in lieu of those prescribed in Title 31, Chapters 5 and
434 7, Mississippi Code of 1972, when contracting with minority small
435 business concerns that have qualified to bid for contracts and
436 have satisfied any other disclosure provisions required by DECD.

437 (g) Be authorized to accept in lieu of any bond
438 otherwise required from minority small business concerns or small
439 business concerns contracting with DECD, in an amount equal to one
440 hundred percent (100%) of the total cost of the contracted
441 project, any combination of the following:

442 (i) Cash;

443 (ii) Certificates of deposit from any bank or
444 banking corporation insured by the Federal Deposit Insurance
445 Corporation or the Federal Savings and Loan Insurance Corporation;

446 (iii) Federal treasury bills;

447 (iv) Letters of credit issued by a bank as that
448 term is defined in Section 81-3-1, Mississippi Code of 1972; or

449 (v) Surety bonds issued by an insurance company

450 licensed and qualified to do business in the State of Mississippi.

451 (h) Be authorized, in its discretion, to waive any bond
452 required on any project which does not exceed a total dollar value
453 of One Hundred Thousand Dollars (\$100,000.00). A retainage shall
454 be held by the authority in an amount not to exceed fifteen
455 percent (15%) from each draw according to American Institute of
456 Architects (AIA) standards. Upon satisfactory completion of such
457 project, ten percent (10%) of the total cost of the contract shall
458 be held in an interest-bearing escrow account for one (1) year.
459 Funds deposited in such escrow account shall stand as a surety for
460 any defects in workmanship or materials detected within twelve
461 (12) months of completion. The balance of all monies so escrowed
462 including accrued interest shall be paid to the contractor at the
463 end of such twelve-month period.

464 (i) Be empowered to provide an incentive of bimonthly
465 payments to any prime contractors utilizing minority small
466 business concerns as subcontractors on twenty-five percent (25%)
467 or more of the total dollar value of any single project or
468 contract.

469 (j) Submit an annual report on its progress concerning
470 minority small business contracts to the Legislature by January 30
471 of each year.

472 (k) Take all steps necessary to implement the
473 provisions of this section.

474 SECTION 9. Section 57-1-369, Mississippi Code of 1972, is
475 reenacted as follows:

476 57-1-369. The provisions of Sections 57-1-351 through
477 57-1-369 are cumulative of other statutes now or hereafter enacted
478 relating to DECD, and DECD may exercise all presently held powers
479 in the furtherance of Sections 57-1-351 through 57-1-369. If any
480 section, paragraph, sentence, clause, phrase or any part of
481 Sections 57-1-351 through 57-1-369 is declared to be
482 unconstitutional or void, or for any reason is declared to be
483 invalid or of no effect, the remaining sections, paragraphs,

484 sentences, clauses and phrases shall in no manner be affected
485 thereby but shall remain in full force and effect.

486 SECTION 10. Section 6, Chapter 301, Laws of 1998, is
487 reenacted as follows:

488 Section 6. (1) Upon notification to DECD by the enterprise
489 that the state has been finally selected as the site for the
490 project, the State Bond Commission shall have the power and is
491 hereby authorized and directed, upon receipt of a declaration from
492 DECD as hereinafter provided, to borrow money and issue general
493 obligation bonds of the state in one or more series for the
494 purposes herein set out. Upon such notification, DECD may
495 thereafter from time to time declare the necessity for the
496 issuance of general obligation bonds as authorized by this section
497 and forward such declaration to the State Bond Commission,
498 provided that before such notification, DECD may enter into
499 agreements with the United States Government, private companies
500 and others that will commit DECD to direct the State Bond
501 Commission to issue bonds for eligible undertakings set out in
502 subsection (4) of this section, conditioned on the siting of the
503 project in the state.

504 (2) Upon receipt of any such declaration from DECD, the
505 State Bond Commission shall verify that the state has been
506 selected as the site of the project and shall act as the issuing
507 agent for the series of bonds directed to be issued in such
508 declaration pursuant to authority granted in this section.

509 (3) (a) Bonds issued under the authority of this section
510 for the project shall not exceed Twenty-five Million Dollars
511 (\$25,000,000.00).

512 (b) Bonds issued under the authority of this section
513 for the purposes of Section 5 of this act shall not exceed
514 Twenty-five Million Dollars (\$25,000,000.00).

515 (4) The proceeds from the sale of the bonds issued under
516 this section may be applied for the purposes of:

517 (a) Defraying all or any designated portion of the

518 costs incurred with respect to acquisition, planning, design,
519 construction, installation, rehabilitation, improvement,
520 relocation and with respect to state-owned property, operation and
521 maintenance of the project and any facility related to the project
522 located within the project area, including costs of design and
523 engineering, all costs incurred to provide land, easements and
524 rights-of-way, relocation costs with respect to the project and
525 with respect to any facility related to the project located within
526 the project area, and costs associated with mitigation of
527 environmental impacts;

528 (b) Defraying the cost of providing for the training or
529 retraining of employees of the project;

530 (c) Providing funds for the loans authorized in Section
531 5 of this act;

532 (d) Providing for the payment of interest on the bonds;

533 (e) Providing debt service reserves; and

534 (f) Paying underwriters' discount, original issue
535 discount, accountants' fees, engineers' fees, attorneys' fees,
536 rating agency fees and other fees and expenses in connection with
537 the issuance of the bonds.

538 Such bonds shall be issued from time to time and in such
539 principal amounts as shall be designated by DECD, not to exceed in
540 aggregate principal amounts the amount authorized in subsection
541 (3) of this section. Proceeds from the sale of the bonds issued
542 under this section may be invested, subject to federal
543 limitations, pending their use, in such securities as may be
544 specified in the resolution authorizing the issuance of the bonds
545 or the trust indenture securing them, and the earning on such
546 investment applied as provided in such resolution or trust
547 indenture.

548 (5) The principal of and the interest on the bonds shall be
549 payable in the manner hereinafter set forth. The bonds shall bear
550 date or dates; be in such denomination or denominations; bear
551 interest at such rate or rates; be payable at such place or places

552 within or without the state; mature absolutely at such time or
553 times; be redeemable before maturity at such time or times and
554 upon such terms, with or without premium; bear such registration
555 privileges; and be substantially in such form; all as shall be
556 determined by resolution of the State Bond Commission except that
557 such bonds shall mature or otherwise be retired in annual
558 installments beginning not more than five (5) years from the date
559 thereof and extending not more than twenty-five (25) years from
560 the date thereof. The bonds shall be signed by the Chairman of
561 the State Bond Commission, or by his facsimile signature, and the
562 official seal of the State Bond Commission shall be imprinted on
563 or affixed thereto, attested by the manual or facsimile signature
564 of the Secretary of the State Bond Commission. Whenever any such
565 bonds have been signed by the officials herein designated to sign
566 the bonds, who were in office at the time of such signing but who
567 may have ceased to be such officers before the sale and delivery
568 of such bonds, or who may not have been in office on the date such
569 bonds may bear, the signatures of such officers upon such bonds
570 shall nevertheless be valid and sufficient for all purposes and
571 have the same effect as if the person so officially signing such
572 bonds had remained in office until the delivery of the same to the
573 purchaser, or had been in office on the date such bonds may bear.

574 (6) All bonds issued under the provisions of this section
575 shall be and are hereby declared to have all the qualities and
576 incidents of negotiable instruments under the provisions of the
577 Uniform Commercial Code and in exercising the powers granted by
578 this act, the State Bond Commission shall not be required to and
579 need not comply with the provisions of the Uniform Commercial
580 Code.

581 (7) The State Bond Commission shall sell the bonds on sealed
582 bids at public sale, and for such price as it may determine to be
583 for the best interest of the State of Mississippi, but no such
584 sale shall be made at a price less than par plus accrued interest
585 to date of delivery of the bonds to the purchaser. The bonds

586 shall bear interest at such rate or rates not exceeding the limits
587 set forth in Section 75-17-101 as shall be fixed by the State Bond
588 Commission. All interest accruing on such bonds so issued shall
589 be payable semiannually or annually; provided that the first
590 interest payment may be for any period of not more than one (1)
591 year.

592 Notice of the sale of any bonds shall be published at least
593 one (1) time, the first of which shall be made not less than ten
594 (10) days prior to the date of sale, and shall be so published in
595 one or more newspapers having a general circulation in the City of
596 Jackson and in one or more other newspapers or financial journals
597 with a large national circulation, to be selected by the State
598 Bond Commission.

599 The State Bond Commission, when issuing any bonds under the
600 authority of this section, may provide that the bonds, at the
601 option of the state, may be called in for payment and redemption
602 at the call price named therein and accrued interest on such date
603 or dates named therein.

604 (8) State bonds issued under the provisions of this section
605 shall be the general obligations of the state and backed by the
606 full faith and credit of the state. The Legislature shall
607 appropriate annually an amount sufficient to pay the principal of
608 and the interest on such bonds as they become due. All bonds
609 shall contain recitals on their faces substantially covering the
610 foregoing provisions of this section.

611 (9) The State Treasurer is authorized to certify to the
612 Department of Finance and Administration the necessity for
613 warrants, and the Department of Finance and Administration is
614 authorized and directed to issue such warrants payable out of any
615 funds appropriated by the Legislature under this section for such
616 purpose, in such amounts as may be necessary to pay when due the
617 principal of and interest on all bonds issued under the provisions
618 of this section. The State Treasurer shall forward the necessary
619 amount to the designated place or places of payment of such bonds

620 in ample time to discharge such bonds, or the interest thereon, on
621 the due dates thereof.

622 (10) The bonds may be issued without any other proceedings
623 or the happening of any other conditions or things other than
624 those proceedings, conditions and things which are specified or
625 required by this act. Any resolution providing for the issuance
626 of general obligation bonds under the provisions of this section
627 shall become effective immediately upon its adoption by the State
628 Bond Commission, and any such resolution may be adopted at any
629 regular or special meeting of the State Bond Commission by a
630 majority of its members.

631 (11) In anticipation of the issuance of bonds hereunder, the
632 State Bond Commission is authorized to negotiate and enter into
633 any purchase, loan, credit or other agreement with any bank, trust
634 company or other lending institution or to issue and sell interim
635 notes for the purpose of making any payments authorized under this
636 section. All borrowings made under this provision shall be
637 evidenced by notes of the state which shall be issued from time to
638 time, for such amounts not exceeding the amount of bonds
639 authorized herein, in such form and in such denomination and
640 subject to such terms and conditions of sale and issuance,
641 prepayment or redemption and maturity, rate or rates of interest
642 not to exceed the maximum rate authorized herein for bonds, and
643 time of payment of interest as the State Bond Commission shall
644 agree to in such agreement. Such notes shall constitute general
645 obligations of the state and shall be backed by the full faith and
646 credit of the state. Such notes may also be issued for the
647 purpose of refunding previously issued notes; except that no notes
648 shall mature more than three (3) years following the date of
649 issuance of the first note hereunder and provided further, that
650 all outstanding notes shall be retired from the proceeds of the
651 first issuance of bonds hereunder. The State Bond Commission is
652 authorized to provide for the compensation of any purchaser of the
653 notes by payment of a fixed fee or commission and for all other

654 costs and expenses of issuance and service, including paying agent
655 costs. Such costs and expenses may be paid from the proceeds of
656 the notes.

657 (12) The bonds and interim notes authorized under the
658 authority of this section may be validated in the First Judicial
659 District of the Chancery Court of Hinds County, Mississippi, in
660 the manner and with the force and effect provided now or hereafter
661 by Chapter 13, Title 31, Mississippi Code of 1972, for the
662 validation of county, municipal, school district and other bonds.
663 The necessary papers for such validation proceedings shall be
664 transmitted to the state bond attorney, and the required notice
665 shall be published in a newspaper published in the City of
666 Jackson, Mississippi.

667 (13) Any bonds or interim notes issued under the provisions
668 of this act, a transaction relating to the sale or securing of
669 such bonds or interim notes, their transfer and the income
670 therefrom shall at all times be free from taxation by the state or
671 any local unit or political subdivision or other instrumentality
672 of the state, excepting inheritance and gift taxes.

673 (14) All bonds issued under this act shall be legal
674 investments for trustees, other fiduciaries, savings banks, trust
675 companies and insurance companies organized under the laws of the
676 State of Mississippi; and such bonds shall be legal securities
677 which may be deposited with and shall be received by all public
678 officers and bodies of the state and all municipalities and other
679 political subdivisions thereof for the purpose of securing the
680 deposit of public funds.

681 (15) The Attorney General of the State of Mississippi shall
682 represent the State Bond Commission in issuing, selling and
683 validating bonds herein provided for, and the State Bond
684 Commission is hereby authorized and empowered to expend from the
685 proceeds derived from the sale of the bonds authorized hereunder
686 all necessary administrative, legal and other expenses incidental
687 and related to the issuance of bonds authorized under this act.

688 (16) There is hereby created a special fund in the State
689 Treasury to be known as the Project Cougar Fund wherein shall be
690 deposited the proceeds of the bonds issued under this act and all
691 monies received by DECD to carry out the purposes of this act.
692 Expenditures authorized herein shall be paid by the State
693 Treasurer upon warrants drawn from the fund, and the Department of
694 Finance and Administration shall issue warrants upon requisitions
695 signed by the Executive Director of DECD.

696 (17) (a) There is hereby created the Project Cougar Sinking
697 Fund from which the principal of and interest on such bonds shall
698 be paid by appropriation. All monies paid into the sinking fund
699 not appropriated to pay accruing bonds and interest shall be
700 invested by the State Treasurer in such securities as are provided
701 by law for the investment of the sinking funds of the state.

702 (b) In the event that all or any part of the bonds and
703 notes are purchased, they shall be canceled and returned to the
704 loan and transfer agent as canceled and paid bonds and notes and
705 thereafter all payments of interest thereon shall cease and the
706 canceled bonds, notes and coupons, together with any other
707 canceled bonds, notes and coupons, shall be destroyed as promptly
708 as possible after cancellation but not later than two (2) years
709 after cancellation. A certificate evidencing the destruction of
710 the canceled bonds, notes and coupons shall be provided by the
711 loan and transfer agent to the seller.

712 (c) The State Treasurer shall determine and report to
713 the Department of Finance and Administration and Legislative
714 Budget Office by September 1 of each year the amount of money
715 necessary for the payment of the principal of and interest on
716 outstanding obligations for the following fiscal year and the
717 times and amounts of the payments. It shall be the duty of the
718 Governor to include in every executive budget submitted to the
719 Legislature full information relating to the issuance of bonds
720 and notes under the provisions of this act and the status of the
721 sinking fund for the payment of the principal of and interest on

722 the bonds and notes.

723 SECTION 11. Section 11, Chapter 301, Laws of 1998, is
724 amended as follows:

725 Section 11. This act shall take effect and be in force from
726 and after its passage * * *.

727 SECTION 12. The following shall be codified as Section
728 57-1-371, Mississippi Code of 1972:

729 57-1-371. Sections 57-1-351 through 57-1-369, Mississippi
730 Code of 1972, and Section 6, Chapter 301, Laws of 1998, shall
731 stand repealed on July 1, 2001, unless before such date the
732 Executive Director of the Department of Economic and Community
733 Development files an affidavit with the Secretary of State
734 certifying that the State of Mississippi has been finally selected
735 as the site of the project.

736 SECTION 13. Each section of the Mississippi Code of 1972
737 that is reenacted but not amended by this act, and that appears in
738 the main volume of the Code, shall not be reprinted in the
739 supplement. Instead, an editor's note shall be placed in the
740 supplement following the section to explain that the section was
741 reenacted, and that it has not been reprinted in the supplement
742 because the language of the section in the main volume was
743 unaffected by the legislation.

744 SECTION 14. This act shall take effect and be in force from
745 and after July 1, 1999.