

By: Representatives Fredericks, Barnett
(116th), Guice, Ishee, Janus, Peranich

To: Ways and Means

HOUSE BILL NO. 1682

1 AN ACT TO AUTHORIZE THE DEPARTMENT OF ECONOMIC AND COMMUNITY
2 DEVELOPMENT (DECD) TO ACT ON BEHALF OF THE STATE AND TO TAKE ALL
3 STEPS APPROPRIATE OR NECESSARY TO EFFECT THE SITING, DEVELOPMENT
4 AND OPERATION OF MASTER PLANNED COMMUNITIES IN THE STATE; TO GRANT
5 DECD CERTAIN ADDITIONAL POWERS WITH REGARD TO SUCH AUTHORITY; TO
6 AUTHORIZE THE ISSUANCE OF \$40,000,000.00 IN STATE GENERAL
7 OBLIGATION BONDS UPON THE SELECTION OF THE STATE AS THE SITE OF A
8 MASTER PLANNED COMMUNITY; TO PROVIDE THAT NOT MORE THAN 50% OF THE
9 BONDS ISSUED PURSUANT TO THIS ACT MAY BE UTILIZED BY DECD FOR
10 GRANTS TO AFFECTED PUBLIC ENTITIES TO DEFRAY THE COST OF
11 FACILITIES RELATED TO THE PROJECT; TO PROVIDE THAT NOT LESS THAN
12 50% OF THE BONDS ISSUED PURSUANT TO THIS ACT SHALL BE UTILIZED BY
13 DECD AS LOANS TO AFFECTED COUNTIES AND MUNICIPALITIES; TO CREATE
14 THE MASTER PLANNED COMMUNITY CAPITAL IMPROVEMENTS LOAN FUND FOR
15 THE PURPOSE OF MAKING LOANS TO COUNTIES AND MUNICIPALITIES THAT
16 MAY BE UTILIZED BY THEM FOR THE CONSTRUCTION AND ACQUISITION OF
17 ANY FACILITY RELATED TO THE PROJECT OR TO MAKE LOANS TO THE OWNER
18 OR DEVELOPER OF THE PROJECT FOR SUCH PURPOSES; TO REQUIRE COUNTIES
19 TO PLEDGE A PORTION OF THEIR HOMESTEAD EXEMPTION REIMBURSEMENT AS
20 SECURITY FOR LOANS ISSUED TO THEM UNDER THIS ACT; TO REQUIRE
21 MUNICIPALITIES TO PLEDGE A PORTION OF THE SALES TAX REVENUE TO
22 WHICH THEY ARE ENTITLED AS SECURITY FOR LOANS ISSUED TO THEM UNDER
23 THIS ACT; TO GRANT PUBLIC AGENCIES CERTAIN ADDITIONAL POWERS WITH
24 REGARD TO SUCH PROJECTS; TO AMEND SECTIONS 19-9-5, 21-33-303,
25 27-33-77 AND 27-65-75, MISSISSIPPI CODE OF 1972, IN CONFORMITY
26 THERETO; AND FOR RELATED PURPOSES.

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

28 SECTION 1. As used in Sections 1 through 10 of this act, the
29 words and phrases used herein shall have meanings as follows,
30 unless the context clearly indicates a different meaning:

31 (a) "Affected public agency" means a public agency
32 directly affected by the construction of a project or any facility
33 related to the project, and within the legal boundaries of which
34 all or a portion of the project or any facility related to the
35 project is physically located.

36 (b) "Bonds" means general obligation bonds, interim
37 notes, and other evidences of debt of the State of Mississippi
38 issued pursuant to this act.

39 (c) "DECD" means the Department of Economic and
40 Community Development.

41 (d) "Facility related to the project" means and
42 includes any facility owned or developed by any of the following,
43 as the same may pertain to the project within the project area:

44 (i) Facilities to provide potable and water supply
45 systems, sewage and waste disposal systems and water, natural gas
46 and electric transmission systems, telecommunications and cable
47 television to the site of the project;

48 (ii) Airports, airfields and air terminals;

49 (iii) Rail lines;

50 (iv) Highways, streets and other roadways;

51 (v) Public school buildings, classrooms and
52 instructional facilities, including any functionally related
53 facilities;

54 (vi) Parks, outdoor recreation facilities and
55 athletic facilities;

56 (vii) Auditoriums, pavilions, campgrounds, art
57 centers, cultural centers, folklore centers and other public
58 facilities; and

59 (viii) Health care facilities, public or private.

60 (e) "Person" means any natural person, corporation,
61 association, partnership, receiver, trustee, guardian, executor,
62 administrator, fiduciary, governmental unit, public agency,
63 political subdivision, or any other group acting as a unit, and
64 the plural as well as the singular.

65 (f) "Project" means a master planned community
66 consisting of an integrated commercial, industrial, recreational,
67 educational, health care and residential development and
68 improvements located on a project site of which not less than
69 fifty percent (50%) of the housing units within such residential
70 development is set aside for and devoted to retirees and which
71 development is the product of a long-range, multi-phase

72 development plan combining a complementary mix of land uses
73 representing unifying characteristics and design elements and
74 providing comprehensive planning and logical and staged
75 implementation and development.

76 (g) "Project area" means the project site, together
77 with any area or territory within the state lying within five (5)
78 miles of any portion of the project site.

79 (h) "Project site" means a parcel of land consisting of
80 not less than three thousand five hundred (3,500) acres upon which
81 the project will be located and constructed.

82 (i) "Public agency" means:

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

85 (ii) Any city, town, county or school district;
86 and

87 (iii) Any department, commission, agency or
88 instrumentality of the United States of America.

89 (j) "State" means the State of Mississippi.

90 SECTION 2. DECD is empowered to take all steps appropriate
91 or necessary to effect the siting, development and operation of
92 the project within the state. If the state is selected as the
93 site for the project, DECD is hereby designated and empowered to
94 act on behalf of the state and to represent the state in the
95 planning, financing, development, construction and operation of
96 the project or any facility related to the project. DECD may take
97 affirmative steps to coordinate fully all aspects of the
98 submission of a siting proposal for the project and to coordinate
99 fully the development of the project or any facility related to
100 the project with private business, the United States Government
101 and other public agencies. All public agencies are encouraged to
102 cooperate to the fullest extent possible to effectuate the duties
103 of DECD.

104 SECTION 3. DECD, in addition to any and all powers now or

105 hereafter granted to it, is empowered and shall exercise
106 discretion and the use of these powers and authority set forth
107 below depending on the circumstances of the project:

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

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

115 (c) To apply for, accept and utilize grants, gifts and
116 other funds or aid from any source for any purpose contemplated by
117 this act, and to comply, subject to the provisions of this act,
118 with the terms and conditions thereof.

119 (d) To acquire by purchase or lease any public lands
120 and public property, including sixteenth section lands and lieu
121 lands, within the project area, which are necessary for the
122 project or any facility related to the project. Sixteenth section
123 lands or lieu lands acquired under this act shall be deemed to be
124 acquired for the purposes of development thereon and such
125 acquisition will serve a higher public interest in accordance with
126 the purposes of this act.

127 (e) If DECD identifies any land owned by the state as
128 being necessary for the location or use of the project or any
129 facility related to the project, to recommend to the Legislature
130 the conveyance of such land or any interest therein, as the
131 Legislature deems appropriate.

132 (f) To make or cause to be made such examinations and
133 surveys as may be necessary to the planning, design, construction
134 and operation of the project or any facility related to the
135 project.

136 (g) To negotiate the construction or reconstruction of
137 and necessary relocation or rerouting of roads and highways and

138 interchanges, railroads, telephone and telegraph lines and
139 properties, electric power lines, pipelines and related
140 facilities, or to require the anchoring or other protection of any
141 of these, provided due compensation is paid to the owners thereof
142 or agreement is had with such owners regarding the payment of the
143 cost of such relocation, and to acquire by condemnation or
144 otherwise easements or rights-of-way for such relocation or
145 rerouting and to convey the same to the owners of the facilities
146 being relocated or rerouted in connection with the purposes of
147 this act.

148 (h) To negotiate the necessary relocation of cemeteries
149 and to pay all reasonable costs thereof.

150 (i) To perform or have performed any and all acts and
151 make all payments necessary to comply with all applicable federal
152 laws, rules or regulations including, but not limited to, the
153 Uniform Relocation Assistance and Real Property Acquisition
154 Policies Act of 1970 (42 USCS 4601, 4602, 4621 through 4638 and
155 4651 through 4655) and relocation rules and regulations
156 promulgated by any agency or department of the federal government.

157 (j) To construct, extend, improve, maintain and
158 reconstruct, or to cause through the owner or developer of the
159 project, to be constructed, extended, improved, maintained and
160 reconstructed, and to use and operate or convey to the owner or
161 developer of the project any and all components of any facility
162 related to the project, within the project area, necessary to the
163 project and to the exercise of such powers, rights and privileges
164 granted DECD.

165 (k) To incur or defray all or any designated portion of
166 the cost of any component of the project or any facility related
167 to the project acquired or constructed by any public agency.

168 (l) To acquire, purchase, lease, sell or convey any or
169 all property or any facility related to the project acquired and
170 constructed pursuant to this act upon such terms and conditions as

171 DECD, the affected public agency and the owner or developer of the
172 project may agree and to pay the costs of title search, perfection
173 of title, title insurance and recording fees as may be required.
174 DECD may provide in the instrument conveying such property a
175 provision that such property shall revert to DECD if, as and when
176 the property is declared by the owner or developer as the project
177 to be no longer included.

178 (m) To enter into contracts with any person or public
179 agency including, but not limited to, contracts authorized by this
180 act, in furtherance of any of the purposes authorized by this act
181 upon such consideration as DECD and such person or public agency
182 may agree. Any such contract may extend over any period of time,
183 notwithstanding any rule of law to the contrary, may be upon such
184 terms as the parties thereto shall agree, and may provide that it
185 shall continue in effect until bonds specified therein, refunding
186 bonds issued in lieu of such bonds, and all other obligations
187 specified therein are paid or terminated. Any such contract shall
188 be binding upon the parties thereto according to its terms. Such
189 contracts may include an agreement to reimburse the owner or
190 developer of the project, its successors and assigns for any
191 assistance provided by the owner or developer of the project in
192 the acquisition of real property for the project or the
193 acquisition and construction of any facility related to the
194 project.

195 (n) In its discretion to establish and maintain
196 reasonable rates and charges for the use of any facility within
197 the project area owned or operated by DECD, if any, and from time
198 to time to adjust such rates and to impose penalties for failure
199 to pay such rates and charges when due.

200 (o) To adopt and enforce with the concurrence of the
201 affected public agency all necessary and reasonable rules and
202 regulations to carry out and effectuate the implementation of the
203 project or any facility related to the project and any land use

204 plan or zoning classification adopted for the project area
205 including, but not limited to, rules, regulations and restrictions
206 concerning mining, construction, excavation or any other activity
207 the occurrence of which may endanger the structure or operation of
208 the project or any facility related to the project. Such rules
209 may be enforced within the project area and without the project
210 area as necessary to protect the structure and operation of the
211 project or any facility related to the project. DECD, acting
212 jointly with the affected public agency, is authorized to plan or
213 replan, zone or rezone, and make exceptions to any regulations,
214 whether local or state, which are inconsistent with the design,
215 planning, construction or operation of the project or any facility
216 related to the project.

217 (p) To plan, design, coordinate and implement measures
218 and programs to mitigate impacts on the natural environment caused
219 by the project or any facility related to the project.

220 (q) To develop plans for technology transfer activities
221 to ensure private sector conduits for exchange of information,
222 technology and expertise related to the project to generate
223 opportunities for commercial development within the state.

224 (r) To consult with the State Department of Education
225 and other public agencies for the purpose of improving public
226 schools and curricula within the project area.

227 (s) To consult with the State Board of Health and other
228 public agencies for the purpose of constructing and improving
229 medical centers, hospitals and public health centers in order to
230 provide appropriate health care facilities within the project
231 area.

232 (t) To consult with the Office of Minority Business
233 Enterprise Development and other public agencies for the purpose
234 of developing plans for technical assistance and loan programs to
235 maximize the economic impact related to the project for minority
236 business enterprises within the State of Mississippi.

237 (u) To promulgate rules and regulations necessary to
238 effectuate the purposes of this act.

239 SECTION 4. (1) Upon notification to DECD by the owner and
240 developer of the project that the state has been selected as the
241 site for the project, the owner or developer of the project has
242 acquired the project site and has delivered a master plan,
243 business plan, feasibility study and such other information and
244 material as may be required by DECD, the State Bond Commission
245 shall have the power and is hereby authorized and directed, upon
246 receipt of a declaration from DECD as hereinafter provided, to
247 borrow money and issue general obligation bonds of the state in
248 one or more series for the purposes herein set out. Upon such
249 notification, DECD may thereafter from time to time declare the
250 necessity for the issuance of general obligation bonds as
251 authorized by this section and forward such declaration to the
252 State Bond Commission, provided that before such notification,
253 DECD may enter into agreements with the United States Government,
254 private companies and others that will commit DECD to direct the
255 State Bond Commission to issue bonds for eligible undertakings set
256 out in subsection (4) of this section. The declaration required
257 by this section shall include findings on the part of DECD to the
258 effect that, based upon the investigation of DECD into the merits
259 of and feasibility of the project, the project is feasible and
260 construction of the project is in the public interest.

261 (2) Upon receipt of any such declaration from DECD, the
262 State Bond Commission shall verify that the state has been
263 selected as the site of the project and that the owner or
264 developer has acquired the project site and shall act as the
265 issuing agent for the series of bonds directed to be issued in
266 such declaration pursuant to authority granted in this section.

267 (3) Bonds issued under the authority of this section shall
268 not in the aggregate exceed Forty Million Dollars (\$40,000,000.00)
269 of which not more than fifty percent (50%) may be used as grants

270 to the affected public agency to defray the cost of facilities
271 related to the project and not less than fifty percent (50%) shall
272 be used as loans pursuant to Section 5 of this act. No bonds may
273 be issued under this section after July 1, 2005.

274 All loans made by DECD pursuant to the act shall be made in
275 compliance with Section 5 of this act.

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

278 (a) Making grants or loans to defray all or any
279 designated portion of the costs incurred with respect to
280 acquisition, planning, design, construction, installation,
281 rehabilitation, improvement and relocation of any facility related
282 to the project and with respect to state- and/or public
283 agency-owned property, operation and maintenance of the project
284 and any facility related to the project located within the project
285 area, including costs of design and engineering, all costs
286 incurred to provide land, easements and rights-of-way, relocation
287 costs with respect to the project or any facility related to the
288 project located within the project area, and costs associated with
289 mitigation of environmental impacts;

290 (b) Providing for the payment of interest on the bonds;

291 (c) Providing debt service reserves; and

292 (d) Paying underwriters' discount, original issue
293 discount, accountants' fees, engineers' fees, attorneys' fees,
294 rating agency fees and other fees and expenses in connection with
295 the issuance of the bonds.

296 Such bonds shall be issued from time to time and in such
297 principal amounts as shall be designated by DECD, not to exceed in
298 the aggregate principal amounts the amount authorized in
299 subsection (3) of this section. Proceeds from the sale of the
300 bonds issued under this section may be invested, subject to
301 federal limitations, pending their use, in such securities as may
302 be specified in the resolution authorizing the issuance of the

303 bonds or the trust indenture securing them, and the earning on
304 such investment applied as provided in such resolution or trust
305 indenture.

306 (5) The principal of and the interest on the bonds shall be
307 payable in the manner hereinafter set forth. The bonds shall bear
308 such date or dates; be in such denomination or denominations; bear
309 interest at such rate or rates; be payable at such place or places
310 within or without the state; mature at such time or times; be
311 issued as taxable or tax-exempt obligations; be redeemable before
312 maturity at such time or times and upon such terms, with or
313 without premium; bear such registration privileges; and be
314 substantially in such form; all as shall be determined by
315 resolution of the State Bond Commission except that such bonds
316 shall mature or otherwise be retired in annual installments
317 beginning not more than five (5) years from the date thereof and
318 extending not more than twenty-five (25) years from the date
319 thereof. The bonds shall be signed by the Chairman of the State
320 Bond Commission, or by his facsimile signature, and the official
321 seal of the State Bond Commission shall be imprinted on or affixed
322 thereto, attested by the manual or facsimile signature of the
323 Secretary of the State Bond Commission. Whenever any such bonds
324 have been signed by the officials herein designated to sign the
325 bonds, who were in office at the time of such signing but who may
326 have ceased to be such officers before the sale and delivery of
327 such bonds, or who may not have been in office on the date such
328 bonds may bear, the signatures of such officers upon such bonds
329 shall nevertheless be valid and sufficient for all purposes and
330 have the same effect as if the person so officially signing such
331 bonds had remained in office until the delivery of the same to the
332 purchaser, or had been in office on the date such bonds may bear.

333 (6) All bonds issued under the provisions of this section
334 shall be and are hereby declared to have all the qualities and
335 incidents of negotiable instruments under the provisions of the

336 Uniform Commercial Code and in exercising the powers granted by
337 this act, the State Bond Commission shall not be required to and
338 need not comply with the provisions of the Uniform Commercial
339 Code.

340 (7) The State Bond Commission shall sell the bonds on sealed
341 bids at public sale, and for such price as it may determine to be
342 for the best interest of the State of Mississippi, but no such
343 sale shall be made at a price less than par plus accrued interest
344 to the date of delivery of the bonds to the purchaser. The bonds
345 shall bear interest at such rate or rates not exceeding the limits
346 set forth in Section 75-17-101 as shall be fixed by the State Bond
347 Commission. All interest accruing on such bonds so issued shall
348 be payable semiannually or annually; provided that the first
349 interest payment may be for any period of not more than one (1)
350 year.

351 Notice of the sale of any bonds shall be published at least
352 one (1) time, the first of which shall be made not less than ten
353 (10) days prior to the date of sale, and shall be so published in
354 one or more newspapers having a general circulation in the City of
355 Jackson, Mississippi, and in one or more other newspapers or
356 financial journals with a large national circulation, to be
357 selected by the State Bond Commission.

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

363 (8) State bonds issued under the provisions of this section
364 shall be the general obligations of the state and backed by the
365 full faith and credit of the state. The Legislature shall
366 appropriate annually an amount sufficient to pay the principal of
367 and the interest on such bonds as they become due. All bonds
368 shall contain recitals on their faces substantially covering the

369 foregoing provisions of this section.

370 (9) The State Treasurer is authorized to certify to the
371 Department of Finance and Administration the necessity for
372 warrants, and the Department of Finance and Administration is
373 authorized and directed to issue such warrants payable out of any
374 funds appropriated by the Legislature under this section for such
375 purpose, in such amounts as may be necessary to pay when due the
376 principal of and interest on all bonds issued under the provisions
377 of this section. The State Treasurer shall forward the necessary
378 amount to the designated place or places of payment of such bonds
379 in ample time to discharge such bonds, or the interest thereon, on
380 the due dates thereof.

381 (10) The bonds may be issued without any other proceedings
382 or the happening of any other conditions or things other than
383 those proceedings, conditions and things which are specified or
384 required by this act. Any resolution providing for the issuance
385 of general obligation bonds under the provisions of this section
386 shall become effective immediately upon its adoption by the State
387 Bond Commission, and any such resolution may be adopted at any
388 regular or special meeting of the State Bond Commission by a
389 majority of its members.

390 (11) In anticipation of the issuance of bonds hereunder, the
391 State Bond Commission is authorized to negotiate and enter into
392 any purchase, loan, credit or other agreement with any bank, trust
393 company or other lending institution or to issue and sell interim
394 notes for the purpose of making any payments authorized under this
395 section. All borrowings made under this provision shall be
396 evidenced by notes of the state which shall be issued from time to
397 time, for such amounts not exceeding the amount of bonds
398 authorized herein, in such form and in such denomination and
399 subject to such terms and conditions of sale and issuance,
400 prepayment or redemption and maturity, rate or rates of interest
401 not to exceed the maximum rate authorized herein for bonds, and

402 time of payment of interest as the State Bond Commission shall
403 agree to in such agreement. Such notes shall constitute general
404 obligations of the state and shall be backed by the full faith and
405 credit of the state. Such notes may also be issued for the
406 purpose of refunding previously issued notes; except that no notes
407 shall mature more than three (3) years following the date of
408 issuance of the first note hereunder and, provided further, that
409 all outstanding notes shall be retired from the proceeds of the
410 first issuance of bonds hereunder. The State Bond Commission is
411 authorized to provide for the compensation of any purchaser of the
412 notes by payment of a fixed fee or commission and for all other
413 costs and expenses of issuance and service, including paying agent
414 costs. Such costs and expenses may be paid from the proceeds of
415 the notes.

416 (12) The bonds and interim notes authorized under the
417 authority of this section may be validated in the First Judicial
418 District of the Chancery Court of Hinds County, Mississippi, in
419 the manner and with the force and effect provided now or hereafter
420 by Chapter 13, Title 31, Mississippi Code of 1972, for the
421 validation of county, municipal, school district and other bonds.

422 The necessary papers for such validation proceedings shall be
423 transmitted to the State Bond Attorney, and the required notice
424 shall be published in a newspaper published in the City of
425 Jackson, Mississippi.

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

432 (14) All bonds issued under this act shall be legal
433 investments for trustees, other fiduciaries, savings banks, trust
434 companies and insurance companies organized under the laws of the

435 State of Mississippi; and such bonds shall be legal securities
436 which may be deposited with and shall be received by all public
437 officers and bodies of the state and all municipalities and other
438 political subdivisions thereof for the purpose of securing the
439 deposit of public funds.

440 (15) The Attorney General of the State of Mississippi shall
441 represent the State Bond Commission in issuing, selling and
442 validating bonds herein provided for, and the Bond Commission is
443 hereby authorized and empowered to expend from the proceeds
444 derived from the sale of the bonds authorized hereunder all
445 necessary administrative, legal and other expenses incidental and
446 related to the issuance of bonds authorized under this act.

447 (16) There is hereby created a special fund in the State
448 Treasury to be known as the Mississippi Master Planned Community
449 Fund wherein shall be deposited the proceeds of the bonds issued
450 under this section and all monies received by DECD to carry out
451 the purposes of this act. Expenditures authorized herein shall be
452 paid by the State Treasurer upon warrants drawn from the fund, and
453 the Department of Finance and Administration shall issue warrants
454 upon requisitions signed by the Director of DECD.

455 (17) (a) There is hereby created the Mississippi Master
456 Planned Community Sinking Fund from which the principal of and
457 interest on such bonds shall be paid by appropriation and from the
458 repayment of loans authorized by Section 5(4) of this act. All
459 monies paid into the sinking fund not used to pay accruing bonds
460 and interest shall be invested by the State Treasurer in such
461 securities as are provided by law for the investment of the
462 sinking funds of the state.

463 (b) In the event that all or any part of the bonds and
464 notes are purchased, they shall be canceled and returned to the
465 loan and transfer agent as canceled and paid bonds and notes and
466 thereafter all payments of interest thereon shall cease and the
467 canceled bonds, notes and coupons, together with any other

468 canceled bonds, notes and coupons, shall be destroyed as promptly
469 as possible after cancellation but not later than two (2) years
470 after cancellation. A certificate evidencing the destruction of
471 the canceled bonds, notes and coupons shall be provided by the
472 loan and transfer agent to the seller.

473 (c) The State Treasurer shall determine and report to
474 the Department of Finance and Administration and Legislative
475 Budget Office by September 1 of each year the amount of money
476 necessary for the payment of the principal of and interest on
477 outstanding obligations for the following fiscal year and the
478 times and amounts of the payments. It shall be the duty of the
479 Governor to include in every executive budget submitted to the
480 Legislature full information relating to the issuance of bonds and
481 notes under the provisions of this act and the status of the
482 sinking fund for the payment of the principal of and interest on
483 the bonds and notes.

484 SECTION 5. (1) DECD shall utilize money in the Mississippi
485 Master Planned Community Fund created in Section 4 of this act
486 that is not utilized for grants for the purpose of making loans to
487 counties and municipalities that may be utilized by such counties
488 and municipalities for the construction and acquisition of any
489 facility related to the project or to make loans to the owner or
490 developer of the project for such purposes.

491 (2) (a) There is created a special fund in the State
492 Treasury to be designated as the Master Planned Community Capital
493 Improvements Loan Fund, into which DECD shall deposit money from
494 the Master Planned Community Fund that is not utilized, or
495 intended to be utilized, for grants pursuant to this act. The
496 fund shall be maintained for the purpose of making loans to
497 affected counties or municipalities to defray the cost of
498 facilities related to the project or to make loans to owners and
499 developers of the project to assist them in defraying the cost of
500 facilities related to the project. Unexpended amounts remaining

501 in the fund at the end of a fiscal year shall not lapse into the
502 State General Fund, and any interest earned on amounts in the fund
503 shall be deposited to the credit of the fund. Monies in the fund
504 may not be used or expended for any purpose except as authorized
505 by this act.

506 (b) The Master Planned Community Capital Improvements
507 Loan Fund shall be divided into the Taxable Capital Improvements
508 Loan Subaccount and the Nontaxable Capital Improvements Loan
509 Subaccount. Funds allocated to the Nontaxable Capital
510 Improvements Loan Subaccount shall be utilized to provide loans
511 for facilities related to the project that would qualify for the
512 issuance of bonds whose interest is exempt from income taxation
513 under the provisions of the Internal Revenue Code of 1986. Funds
514 allocated to the Taxable Capital Improvements Loan Subaccount
515 shall be utilized to provide loans for any eligible facilities
516 related to the project that would not qualify for the issuance of
517 bonds whose interest is exempt from income taxation under the
518 provisions of the Internal Revenue Code of 1986.

519 (3) Any affected county or municipality may apply to DECD
520 for a loan under the capital improvements loan program established
521 under this section.

522 (4) (a) DECD shall establish a loan program by which loans,
523 at the rate of interest provided for in paragraph (b) of this
524 subsection, may be made available to affected counties or
525 municipalities to assist owners or developers of a project to
526 defray the cost of facilities related to the project. Loans may
527 be made to counties or municipalities as set forth in a loan
528 agreement in amounts not to exceed one hundred percent (100%) of
529 eligible project costs of facilities related to the project as
530 established by DECD. DECD may require county or municipal
531 participation or funding from other sources, or otherwise limit
532 the percentage of costs covered by loans from the fund. DECD may
533 establish a maximum amount for any loan in order to provide for

534 broad and equitable participation in the program.

535 (b) The rate of interest on loans made from the Master
536 Planned Community Capital Improvements Loan Fund for construction
537 of facilities related to the project shall be made at such rates
538 of interest as shall be determined by DECD but in no event less
539 than three percent (3%) per annum.

540 (5) A county that receives a loan from the fund shall pledge
541 for repayment of the loan any part of the homestead exemption
542 annual tax loss reimbursement to which it may be entitled under
543 Section 27-33-77. An incorporated municipality that receives a
544 loan from the revolving fund shall pledge for repayment of the
545 loan any part of the sales tax revenue distribution to which it
546 may be entitled under Section 27-65-75. Additionally, all loans
547 shall be secured by a letter of credit, other credit enhancement
548 facility, guaranty, lien and/or mortgage as may be determined by
549 and acceptable to DECD. Each loan agreement shall provide for
550 approximately equal annual payments of principal and interest over
551 the term of the loan. The loan agreement shall provide for the
552 repayment of all funds received within not more than twenty (20)
553 years from the date of project completion.

554 (6) Evidences of indebtedness and loans which are issued or
555 made pursuant to this section shall not be deemed indebtedness
556 within the meaning specified in Section 21-33-303 with regard to
557 cities or incorporated towns, and in Section 19-9-5 with regard to
558 counties.

559 SECTION 6. (1) Any owner or developer of a project desiring
560 assistance from DECD under this act shall submit to DECD and the
561 public agency a letter of intent to locate a project in the state.
562 The letter of intent shall, at a minimum, include or have as an
563 attachment:

564 (a) A summary of the economic impact of the project on
565 the state and the public agency.

566 (b) A detailed itemization of facilities related to the

567 project required to be constructed, along with the estimated cost
568 of each.

569 (c) A statement that construction of identified
570 facilities related to the project are necessary for the efficient
571 and cost-effective operation of the project, together with
572 supporting financial and engineering documentation.

573 (d) A master plan, business plan and feasibility study
574 in form and content acceptable to DECD.

575 (e) Demonstration that the owner or developer of a
576 project is financially sound and capable of fulfilling its
577 commitments made in connection with the project.

578 (f) Any commitment to pay rental on, or to make loan
579 repayments related to the facilities related to the project
580 constructed with funds loaned to a county or municipality under
581 this act along with a description of the proposed security for
582 such loans.

583 (g) Such other information as may be required by DECD.

584 (2) Upon receipt of the letter of intent from an owner or
585 developer of a project, an affected public agency may apply to
586 DECD for a grant or an affected county or municipality may apply
587 to DECD for a loan. The application from the affected public
588 agency shall include but not be limited to:

589 (a) A statement of the purpose of the proposed loan or
590 grant, including a list of eligible improvements and the cost of
591 each.

592 (b) A statement showing the sources of funding for the
593 project, including the owner or developer of the project or
594 governmental unit's investment in the project and any public and
595 other private sources of funding.

596 (c) A certified copy of the signed commitment from the
597 owner or developer of a project that it has acquired a qualified
598 project site and that it will construct the project.

599 (d) Evidence that the project will be expeditiously

600 carried out and completed as planned.

601 (e) A demonstration that insufficient local capital
602 improvement funds at reasonable rates and terms are available
603 within the necessary time to provide the needed improvement. This
604 includes local funds available through issuance of bonds or other
605 means, state funds available through existing programs, and
606 available federal program funds such as community development
607 block grant funds, urban development action grant funds, and
608 economic development administration funds.

609 (f) A demonstration that insufficient private funds are
610 available at reasonable rates and terms within the necessary time
611 to fund eligible improvements on property owned by the owner or
612 developer of the project.

613 (3) In considering grant and loan applications DECD shall
614 take into consideration the number of net new full-time equivalent
615 jobs that will be provided and the amount of additional state and
616 local tax revenue to be directly generated by the construction and
617 development of the project.

618 (4) A public agency may apply to DECD for a grant under the
619 terms and provisions of this act, and DECD may award grants to a
620 public agency subject to limitations contained in this act.

621 (5) (a) A public agency is authorized to negotiate a
622 contract for the acquisition, construction and erection of a
623 facility related to the project where a public agency finds that,
624 because of the particular nature of a project or any portion
625 thereof, it would be in the best public interest of the public
626 agency to negotiate and DECD approves such finding in writing.

627 (b) Contracts by an owner or developer of a project for
628 the acquisition, construction or erection of a facility related to
629 the project which receives assistance under this act shall be
630 effected in the manner prescribed by law for public contracts,
631 unless DECD makes a written finding that, because of special
632 circumstances with respect to the facility related to the project

633 or any portion thereof, it would better serve the public interest
634 or more effectively achieve the purposes of this act to enter into
635 such contracts based on negotiation.

636 (6) A public agency is authorized upon such terms and
637 conditions as the public agency may deem advisable, provided such
638 terms and conditions shall not be in conflict with the provisions
639 of this act, to:

640 (a) Acquire, whether by construction, purchase, gift or
641 lease, all or any portion of a facility related to a project
642 hereunder;

643 (b) Lease or sell to any person all or any portion of a
644 facility related to a project hereunder; and

645 (c) Lend to the owner or developer of a project the
646 proceeds of the loan from DECD to such public agency.

647 (7) All agreements between a public agency and an owner or
648 developer of a project related directly or indirectly to all or
649 any portion of a facility related to the project to be funded in
650 whole or in part under this act are subject to approval by DECD.

651 SECTION 7. For the purpose of aiding in the planning,
652 design, undertaking and carrying out of the project or any
653 facility related to the project, any public agency is authorized
654 and empowered upon such terms, with or without consideration, as
655 it may determine:

656 (a) To enter into agreements, which may extend over any
657 period of time, with DECD and/or the owner or developer of the
658 project respecting action to be taken by such public agency with
659 respect to the acquisition, planning, construction, improvement,
660 operation, maintenance or funding of the project or any facility
661 related to the project, and which agreements may include:

662 (i) The appropriation or payment of funds to DECD
663 or to a trustee in amounts which shall be sufficient to enable
664 DECD to defray any designated portion or percentage of the
665 expenses of administering, planning, designing, constructing,

666 acquiring, improving, operating and maintaining the project or any
667 facility related to the project;

668 (ii) The appropriation or payment of funds to DECD
669 or to a trustee to pay interest and principal (whether at maturity
670 or upon sinking fund redemption) on bonds issued pursuant to this
671 act and to fund reserves for debt service, for operation and
672 maintenance and for renewals and replacements, and to fulfill
673 requirements of any covenant with respect to debt service
674 contained in any resolution, trust indenture or other security
675 agreement relating to the bonds issued pursuant to this act; and

676 (iii) The furnishing of other assistance in
677 connection with the project or facility related to the project;

678 (b) To dedicate, sell, donate, convey or lease any
679 property or interest in property to DECD or the owner or developer
680 of the project or grant easements, licenses or other rights or
681 privileges therein to DECD or the owner or developer of the
682 project;

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

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

687 (e) To cause public buildings and public facilities,
688 including roadways and the rights-of-way and easements therefor,
689 parks, playgrounds, recreational areas, community meeting
690 facilities, water, sewer or drainage facilities, or any other
691 works which it is otherwise empowered to undertake, to be
692 furnished to or with respect to the project or any facility
693 related to the project;

694 (f) To furnish, dedicate, close, vacate, pave, install,
695 upgrade or improve highways, streets, roads, sidewalks, airports,
696 railroads or ports;

697 (g) To plan or replan, zone or rezone any parcel of
698 land within the public agency or make exceptions from land use,

699 building and zoning regulations; and

700 (h) To cause administrative and other services to be
701 furnished to DECD and/or the owner or developer of the project,
702 including services pertaining to the acquisition of real property
703 and the furnishing of relocation assistance.

704 Any contract between a public agency entered into with DECD
705 and/or the owner or developer of the project pursuant to any of
706 the powers granted by this act shall be binding upon the public
707 agency according to its terms, and such public agency shall have
708 the power to enter into such contracts as in the discretion of the
709 governing authorities thereof would be to the best interest of the
710 people of such public agency. Such contracts may include, within
711 the discretion of such governing authorities, a pledge of the full
712 faith and credit of such public agency for the performance
713 thereof. If at any time title to or possession of the project or
714 any such facility related to the project is held by any public
715 body or governmental agency other than DECD, including any agency
716 or instrumentality of the United States of America, the agreements
717 referred to in this section shall inure to the benefit of and may
718 be enforced by such public body or governmental agency.

719 SECTION 8. DECD shall not undertake to develop any project
720 or facility related to the project within a county, municipality
721 and/or school district without the concurrence of the affected
722 county, municipality and/or school district.

723 SECTION 9. (1) (a) DECD shall set a goal to expend not
724 less than ten percent (10%) of the total amounts expended by DECD
725 on planning, construction, training, research, development,
726 testing, evaluation, personal services, procurement, and for the
727 operation and maintenance of any facilities or activities
728 controlled by DECD, with minority small business concerns owned
729 and controlled by socially and economically disadvantaged
730 individuals. For the purpose of determining the total amounts
731 expended with such minority small business concerns, credit shall

732 be given for that portion of any prime contract entered into with
733 DECD which inures to the benefit of such minority small business
734 concern as a subcontractor thereunder.

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

740 (c) For the purposes of this section, the term
741 "minority small business concern" means any small business
742 concern:

743 (i) Which is at least fifty-one percent (51%)
744 owned by one or more socially and economically disadvantaged
745 individuals; or, in the case of any publicly owned businesses, at
746 least fifty-one percent (51%) of the stock of which is owned by
747 one or more socially and economically disadvantaged individuals;
748 and

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

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

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

758 (3) DECD shall:

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

761 (b) Review and determine the business capabilities of
762 minority small business concerns.

763 (c) Establish standards for a certification procedure
764 for minority small business concerns seeking to do business with

765 DECD.

766 (d) Provide technical assistance services to minority
767 small business concerns. Such technical assistance shall include,
768 but not be limited to:

- 769 (i) Research;
- 770 (ii) Assistance in obtaining bonds;
- 771 (iii) Bid preparation;
- 772 (iv) Certification of business concerns;
- 773 (v) Marketing assistance; and
- 774 (vi) Joint venture and capital development.

775 (e) Develop alternative bidding and contracting
776 procedures for minority small business concerns in conjunction
777 with the Department of Finance and Administration.

778 (f) Utilize such alternative bidding and contracting
779 procedures in lieu of those prescribed in Title 31, Chapters 5 and
780 7, Mississippi Code of 1972, when contracting with minority small
781 business concerns that have qualified to bid for contracts and
782 have satisfied any other disclosure provisions required by DECD.

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

- 788 (i) Cash;
- 789 (ii) Certificates of deposit from any bank or
790 banking corporation insured by the Federal Deposit Insurance
791 Corporation or the Federal Savings and Loan Insurance Corporation;
- 792 (iii) Federal treasury bills;
- 793 (iv) Letters of credit issued by a bank as that
794 term is defined in Section 81-3-1, Mississippi Code of 1972; or
- 795 (v) Surety bonds issued by an insurance company
796 licensed and qualified to do business in the State of Mississippi.

797 (h) Be authorized, in its discretion, to waive any bond

798 required on any project which does not exceed a total dollar value
799 of One Hundred Thousand Dollars (\$100,000.00). A retainage shall
800 be held by DECD in an amount not to exceed fifteen percent (15%)
801 from each draw according to American Institute of Architects (AIA)
802 standards. Upon satisfactory completion of such project, ten
803 percent (10%) of the total cost of the contract shall be held in
804 an interest-bearing escrow account for one (1) year. Funds
805 deposited in such escrow account shall stand as a surety for any
806 defects in workmanship or materials detected within twelve (12)
807 months of completion. The balance of all monies so escrowed
808 including accrued interest shall be paid to the contractor at the
809 end of such twelve-month period.

810 (i) Be empowered to approve an incentive of bimonthly
811 payments to any prime contractors utilizing minority small
812 business concerns as subcontractors on twenty-five percent (25%)
813 or more of the total dollar value of any single project or
814 contract.

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

818 (k) Take all steps necessary to implement the
819 provisions of this section.

820 SECTION 10. The provisions of this act are cumulative of
821 other statutes now or hereafter enacted relating to DECD and DECD
822 may exercise all presently held powers in the furtherance of this
823 act. If any section, paragraph, sentence, clause, phrase or any
824 part of the provisions of this act is declared to be
825 unconstitutional or void, or for any reason is declared to be
826 invalid or of no effect, the remaining sections, paragraphs,
827 sentences, clauses and phrases shall in no manner be affected
828 thereby but shall remain in full force and effect.

829 SECTION 11. Section 19-9-5, Mississippi Code of 1972, is
830 amended as follows:

831 19-9-5. No county shall hereafter issue bonds secured by a
832 pledge of its full faith and credit for the purposes authorized by
833 law in an amount which, when added to the then outstanding bonds
834 of such county, shall exceed either (a) fifteen percent (15%) of
835 the assessed value of the taxable property within such county
836 according to the last completed assessment for taxation, or (b)
837 fifteen percent (15%) of the assessment upon which taxes were
838 levied for its fiscal year ending September 30, 1984, whichever is
839 greater.

840 However, any county in the state which shall have experienced
841 washed-out or collapsed bridges on the public roads of the county
842 for any cause or reason may hereafter issue bonds for bridge
843 purposes as now authorized by law in an amount which, when added
844 to the then outstanding general obligation bonds of such county,
845 shall not exceed either (a) twenty percent (20%) of the assessed
846 value of the taxable property within such county according to the
847 last completed assessment for taxation, or (b) fifteen percent
848 (15%) of the assessment upon which taxes were levied for its
849 fiscal year ending September 30, 1984, whichever is greater.

850 Provided further, in computing such indebtedness, there may
851 be deducted all bonds or other evidences of indebtedness
852 heretofore or hereafter issued, for the construction of hospitals,
853 ports or other capital improvements which are payable primarily
854 from the net revenue to be generated from such hospital, port or
855 other capital improvement, which revenue shall be pledged to the
856 retirement of such bonds or other evidences of indebtedness,
857 together with the full faith and credit of the county. However,
858 in no case shall any county contract any indebtedness payable in
859 whole or in part from proceeds of ad valorem taxes which, when
860 added to all of the outstanding general obligation indebtedness,
861 both bonded and floating, shall exceed either (a) twenty percent
862 (20%) of the assessed value of all taxable property within such
863 county according to the last completed assessment for taxation, or

864 (b) fifteen percent (15%) of the assessment upon which taxes were
865 levied for its fiscal year ending September 30, 1984, whichever is
866 greater. Nothing herein contained shall be construed to apply to
867 contract obligations in any form heretofore or hereafter incurred
868 by any county which are subject to annual appropriations
869 therefor, * * * to bonds heretofore or hereafter issued by any
870 county for school purposes, or to bonds issued by any county under
871 the provisions of Sections 57-1-1 through 57-1-51, or to any
872 indebtedness incurred pursuant to Section 5 of House Bill No.
873 _____ , 1999 Regular Session.

874 SECTION 12. Section 21-33-303, Mississippi Code of 1972, is
875 amended as follows:

876 21-33-303. No municipality shall hereafter issue bonds
877 secured by a pledge of its full faith and credit for the purposes
878 authorized by law in an amount which, when added to the then
879 outstanding bonded indebtedness of such municipality, shall exceed
880 either (a) fifteen percent (15%) of the assessed value of the
881 taxable property within such municipality, according to the last
882 completed assessment for taxation, or (b) ten percent (10%) of the
883 assessment upon which taxes were levied for its fiscal year ending
884 September 30, 1984, whichever is greater. In computing such
885 indebtedness, there may be deducted all bonds or other evidences
886 of indebtedness, heretofore or hereafter issued, for school,
887 water, sewerage systems, gas, and light and power purposes and for
888 the construction of special improvements primarily chargeable to
889 the property benefited, or for the purpose of paying the
890 municipality's proportion of any betterment program, a portion of
891 which is primarily chargeable to the property benefited. However,
892 in no case shall any municipality contract any indebtedness which,
893 when added to all of the outstanding general obligation
894 indebtedness, both bonded and floating, shall exceed either (a)
895 twenty percent (20%) of the assessed value of all taxable property
896 within such municipality according to the last completed

897 assessment for taxation or (b) fifteen percent (15%) of the
898 assessment upon which taxes were levied for its fiscal year ending
899 September 30, 1984, whichever is greater. Nothing herein
900 contained shall be construed to apply to contract obligations in
901 any form heretofore or hereafter incurred by any municipality
902 which are subject to annual appropriations therefor, or to bonds
903 heretofore issued by any municipality for school purposes, or to
904 contract obligations in any form heretofore or hereafter incurred
905 by any municipality which are payable exclusively from the
906 revenues of any municipally-owned utility, or to bonds issued by
907 any municipality under the provisions of Sections 57-1-1 through
908 57-1-51, or to any special assessment improvement bonds issued by
909 any municipality under the provisions of Sections 21-41-1 through
910 21-41-53, or to any indebtedness incurred pursuant to Section 5 of
911 House Bill No. _____, 1999 Regular Session.

912 All bonds issued prior to July 1, 1990, pursuant to this
913 chapter by any municipality for the purpose of the constructing,
914 replacing, renovating or improving wastewater collection and
915 treatment facilities in order to comply with an administrative
916 order of the Mississippi Department of Natural Resources issued
917 pursuant to the Federal Water Pollution Control Act and amendments
918 thereto, are hereby exempt from the limitation imposed by this
919 section if the governing body of the municipality adopts an order,
920 resolution or ordinance to the effect that the rates paid by the
921 users of such facilities shall be increased to the extent
922 necessary to provide sufficient funds for the payment of the
923 principal of and interest on such bonds as each respectively
924 becomes due and payable as well as the necessary expenses in
925 connection with the operation and maintenance of such facilities.

926 SECTION 13. Section 27-33-77, Mississippi Code of 1972, is
927 amended as follows:

928 27-33-77. Beginning with the 1985 supplemental roll, and for
929 each succeeding year's roll thereafter, the amount of tax loss to

930 be reimbursed because of exemptions provided for in this article
931 shall be Fifty Dollars (\$50.00) each for county taxes exempted and
932 school taxes exempted for a total of One Hundred Dollars (\$100.00)
933 per applicant qualifying for homestead exemption under this
934 article.

935 The reimbursement received by the county shall be distributed
936 by the county treasurer to the general fund. Such reimbursement
937 may be pledged as security for any loan received by the county
938 under Section 5 of House Bill No. _____, 1999 Regular Session, or
939 received by the county for the purpose of capital improvements as
940 authorized under Section 57-1-303, or for the purpose of loans as
941 authorized under Section 17-24-7, or for the purpose of water
942 systems improvements as authorized under Section 41-3-16.

943 Provided further, that tax losses sustained by municipalities
944 because of exemptions granted to homeowners described in
945 subsection (2) of Section 27-33-67 shall be reimbursed up to the
946 amount of the actual exemption allowed, not to exceed Two Hundred
947 Dollars (\$200.00) per qualified applicant.

948 SECTION 14. Section 27-65-75, Mississippi Code of 1972, is
949 amended as follows:

950 **[Until July 1, 2002, this section reads as follows:]**

951 27-65-75. On or before the fifteenth day of each month, the
952 revenue collected under the provisions of this chapter during the
953 preceding month shall be paid and distributed as follows:

954 (1) On or before August 15, 1992, and each succeeding month
955 thereafter through July 15, 1993, eighteen percent (18%) of the
956 total sales tax revenue collected during the preceding month under
957 the provisions of this chapter, except that collected under the
958 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
959 business activities within a municipal corporation shall be
960 allocated for distribution to such municipality and paid to such
961 municipal corporation. On or before August 15, 1993, and each
962 succeeding month thereafter, eighteen and one-half percent

963 (18-1/2%) of the total sales tax revenue collected during the
964 preceding month under the provisions of this chapter, except that
965 collected under the provisions of Sections 27-65-15, 27-65-19(3)
966 and 27-65-21, on business activities within a municipal
967 corporation shall be allocated for distribution to such
968 municipality and paid to such municipal corporation.

969 A municipal corporation, for the purpose of distributing the
970 tax under this subsection, shall mean and include all incorporated
971 cities, towns and villages.

972 Monies allocated for distribution and credited to a municipal
973 corporation under this subsection may be pledged as security for
974 any loan received by the municipal corporation for the purpose of
975 capital improvements as authorized under Section 57-1-303, or
976 loans as authorized under Section 57-44-7, or water systems
977 improvements as authorized under Section 41-3-16, or loans as
978 authorized under Section 5 of House Bill No. _____, 1999 Regular
979 Session.

980 In any county having a county seat which is not an
981 incorporated municipality, the distribution provided hereunder
982 shall be made as though the county seat was an incorporated
983 municipality; however, the distribution to such municipality shall
984 be paid to the county treasury wherein the municipality is located
985 and such funds shall be used for road, bridge and street
986 construction or maintenance therein.

987 (2) On or before September 15, 1987, and each succeeding
988 month thereafter, from the revenue collected under this chapter
989 during the preceding month One Million One Hundred Twenty-five
990 Thousand Dollars (\$1,125,000.00) shall be allocated for
991 distribution to municipal corporations as defined under subsection
992 (1) of this section in the proportion that the number of gallons
993 of gasoline and diesel fuel sold by distributors to consumers and
994 retailers in each such municipality during the preceding fiscal
995 year bears to the total gallons of gasoline and diesel fuel sold

996 by distributors to consumers and retailers in municipalities
997 statewide during the preceding fiscal year. The State Tax
998 Commission shall require all distributors of gasoline and diesel
999 fuel to report to the commission monthly the total number of
1000 gallons of gasoline and diesel fuel sold by them to consumers and
1001 retailers in each municipality during the preceding month. The
1002 State Tax Commission shall have the authority to promulgate such
1003 rules and regulations as is necessary to determine the number of
1004 gallons of gasoline and diesel fuel sold by distributors to
1005 consumers and retailers in each municipality. In determining the
1006 percentage allocation of funds under this subsection for the
1007 fiscal year beginning July 1, 1987, and ending June 30, 1988, the
1008 State Tax Commission may consider gallons of gasoline and diesel
1009 fuel sold for a period of less than one (1) fiscal year. For the
1010 purposes of this subsection, the term "fiscal year" means the
1011 fiscal year beginning July 1 of a year.

1012 (3) On or before September 15, 1987, and on or before the
1013 fifteenth day of each succeeding month, until the date specified
1014 in Section 65-39-35, the proceeds derived from contractors' taxes
1015 levied under Section 27-65-21 on contracts for the construction or
1016 reconstruction of highways designated under the Four-Lane Highway
1017 Program created under Section 65-3-97 shall be deposited into the
1018 State Treasury to the credit of the State Highway Fund to be used
1019 to fund such Four-Lane Highway Program. The Mississippi
1020 Department of Transportation shall provide to the State Tax
1021 Commission such information as is necessary to determine the
1022 amount of proceeds to be distributed under this subsection.

1023 (4) On or before August 15, 1994, and on or before the
1024 fifteenth day of each succeeding month, from the proceeds of
1025 gasoline, diesel fuel or kerosene taxes as provided in Section
1026 27-5-101(a)(ii)1, Four Million Dollars (\$4,000,000.00) shall be
1027 deposited in the State Treasury to the credit of a special fund
1028 designated as the "State Aid Road Fund," created by Section

1029 65-9-17. Such funds shall be pledged to pay the principal of and
1030 interest on state aid road bonds heretofore issued under Sections
1031 19-9-51 through 19-9-77, in lieu of and in substitution for the
1032 funds heretofore allocated to counties under this section. Such
1033 funds may not be pledged for the payment of any state aid road
1034 bonds issued after April 1, 1981; however, this prohibition
1035 against the pledging of any such funds for the payment of bonds
1036 shall not apply to any bonds for which intent to issue such bonds
1037 has been published, for the first time, as provided by law prior
1038 to March 29, 1981. From the amount of taxes paid into the special
1039 fund pursuant to this subsection and subsection (9) of this
1040 section, there shall be first deducted and paid the amount
1041 necessary to pay the expenses of the Office of State Aid Road
1042 Construction, as authorized by the Legislature for all other
1043 general and special fund agencies. The remainder of the fund
1044 shall be allocated monthly to the several counties in accordance
1045 with the following formula:

1046 (a) One-third (1/3) shall be allocated to all counties
1047 in equal shares;

1048 (b) One-third (1/3) shall be allocated to counties
1049 based on the proportion that the total number of rural road miles
1050 in a county bears to the total number of rural road miles in all
1051 counties of the state; and

1052 (c) One-third (1/3) shall be allocated to counties
1053 based on the proportion that the rural population of the county
1054 bears to the total rural population in all counties of the state,
1055 according to the latest federal decennial census.

1056 For the purposes of this subsection, the term "gasoline,
1057 diesel fuel or kerosene taxes" means such taxes as defined in
1058 paragraph (f) of Section 27-5-101.

1059 The amount of funds allocated to any county under this
1060 subsection for any fiscal year after fiscal year 1994 shall not be
1061 less than the amount allocated to such county for fiscal year

1062 1994. Monies allocated to a county from the State Aid Road Fund
1063 for fiscal year 1995 or any fiscal year thereafter that exceed the
1064 amount of funds allocated to that county from the State Aid Road
1065 Fund for fiscal year 1994, first must be expended by the county
1066 for replacement or rehabilitation of bridges on the state aid road
1067 system that have a sufficiency rating of less than twenty-five
1068 (25), according to National Bridge Inspection standards before
1069 such monies may be approved for expenditure by the State Aid Road
1070 Engineer on other projects that qualify for the use of state aid
1071 road funds.

1072 Any reference in the general laws of this state or the
1073 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
1074 construed to refer and apply to subsection (4) of Section
1075 27-65-75.

1076 (5) One Million Six Hundred Sixty-six Thousand Six Hundred
1077 Sixty-six Dollars (\$1,666,666.00) each month shall be paid into
1078 the special fund known as the "State Public School Building Fund"
1079 created and existing under the provisions of Sections 37-47-1
1080 through 37-47-67. Such payments into said fund are to be made on
1081 the last day of each succeeding month hereafter.

1082 (6) An amount each month beginning August 15, 1983, through
1083 November 15, 1986, as specified in Section 6 of Chapter 542, Laws
1084 of 1983, shall be paid into the special fund known as the
1085 Correctional Facilities Construction Fund created in Section 6 of
1086 Chapter 542, Laws of 1983.

1087 (7) On or before August 15, 1992, and each succeeding month
1088 thereafter, two and two hundred sixty-six one-thousandths percent
1089 (2.266%) of the total sales tax revenue collected during the
1090 preceding month under the provisions of this chapter, except that
1091 collected under the provisions of Section 27-65-17(2) shall be
1092 deposited by the commission into the School Ad Valorem Tax
1093 Reduction Fund created pursuant to Section 37-61-35.

1094 (8) On or before August 15, 1992, and each succeeding month

1095 thereafter, nine and seventy-three one-thousandths percent
1096 (9.073%) of the total sales tax revenue collected during the
1097 preceding month under the provisions of this chapter, except that
1098 collected under the provisions of Section 27-65-17(2) shall be
1099 deposited into the Education Enhancement Fund created pursuant to
1100 Section 37-61-33.

1101 (9) On or before August 15, 1994, and each succeeding month
1102 thereafter, from the revenue collected under this chapter during
1103 the preceding month, Two Hundred Fifty Thousand Dollars
1104 (\$250,000.00) shall be paid into the State Aid Road Fund.

1105 (10) On or before August 15, 1994, and each succeeding month
1106 thereafter through August 15, 1995, from the revenue collected
1107 under this chapter during the preceding month, Two Million Dollars
1108 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
1109 Valorem Tax Reduction Fund established in Section 27-51-105.

1110 (11) Notwithstanding any other provision of this section to
1111 the contrary, on or before February 15, 1995, and each succeeding
1112 month thereafter, the sales tax revenue collected during the
1113 preceding month under the provisions of Section 27-65-17(2) and
1114 the corresponding levy in Section 27-65-23 on the rental or lease
1115 of private carriers of passengers and light carriers of property
1116 as defined in Section 27-51-101 shall be deposited, without
1117 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund
1118 established in Section 27-51-105.

1119 (12) Notwithstanding any other provision of this section to
1120 the contrary, on or before August 15, 1995, and each succeeding
1121 month thereafter, the sales tax revenue collected during the
1122 preceding month under the provisions of Section 27-65-17(1) on
1123 retail sales of private carriers of passengers and light carriers
1124 of property, as defined in Section 27-51-101 and the corresponding
1125 levy in Section 27-65-23 on the rental or lease of these vehicles,
1126 shall be deposited, after diversion, into the Motor Vehicle Ad
1127 Valorem Tax Reduction Fund established in Section 27-51-105.

1128 (13) On or before July 15, 1994, and on or before the
1129 fifteenth day of each succeeding month thereafter, that portion of
1130 the avails of the tax imposed in Section 27-65-22, which is
1131 derived from activities held on the Mississippi state fairgrounds
1132 complex, shall be paid into a special fund hereby created in the
1133 State Treasury and shall be expended pursuant to legislative
1134 appropriations solely to defray the costs of repairs and
1135 renovation at such Trade Mart and Coliseum.

1136 (14) On or before August 15, 1998, and each succeeding month
1137 thereafter through July 15, 2005, that portion of the avails of
1138 the tax imposed in Section 27-65-23 which is derived from sales by
1139 cotton compresses or cotton warehouses and which would otherwise
1140 be paid into the General Fund, shall be deposited in an amount not
1141 to exceed Two Million Dollars (\$2,000,000.00) into the special
1142 fund created pursuant to Section 69-37-39.

1143 (15) The remainder of the amounts collected under the
1144 provisions of this chapter shall be paid into the State Treasury
1145 to the credit of the General Fund.

1146 (16) It shall be the duty of the municipal officials of any
1147 municipality which expands its limits, or of any community which
1148 incorporates as a municipality, to notify the commissioner of such
1149 action thirty (30) days before the effective date. Failure to so
1150 notify the commissioner shall cause such municipality to forfeit
1151 the revenue which it would have been entitled to receive during
1152 this period of time when the commissioner had no knowledge of the
1153 action. If any funds have been erroneously disbursed to any
1154 municipality or any overpayment of tax is recovered by the
1155 taxpayer, the commissioner may make correction and adjust the
1156 error or overpayment with such municipality by withholding the
1157 necessary funds from any subsequent payment to be made to the
1158 municipality.

1159 **[From and after July 1, 2002, this section reads as follows:]**

1160 27-65-75. On or before the fifteenth day of each month, the

1161 revenue collected under the provisions of this chapter during the
1162 preceding month shall be paid and distributed as follows:

1163 (1) On or before August 15, 1992, and each succeeding month
1164 thereafter through July 15, 1993, eighteen percent (18%) of the
1165 total sales tax revenue collected during the preceding month under
1166 the provisions of this chapter, except that collected under the
1167 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
1168 business activities within a municipal corporation shall be
1169 allocated for distribution to such municipality and paid to such
1170 municipal corporation. On or before August 15, 1993, and each
1171 succeeding month thereafter, eighteen and one-half percent
1172 (18-1/2%) of the total sales tax revenue collected during the
1173 preceding month under the provisions of this chapter, except that
1174 collected under the provisions of Sections 27-65-15, 27-65-19(3)
1175 and 27-65-21, on business activities within a municipal
1176 corporation shall be allocated for distribution to such
1177 municipality and paid to such municipal corporation.

1178 A municipal corporation, for the purpose of distributing the
1179 tax under this subsection, shall mean and include all incorporated
1180 cities, towns and villages.

1181 Monies allocated for distribution and credited to a municipal
1182 corporation under this subsection may be pledged as security for
1183 any loan received by the municipal corporation for the purpose of
1184 capital improvements as authorized under Section 57-1-303, or
1185 loans as authorized under Section 57-44-7, or water systems
1186 improvements as authorized under Section 41-3-16, or loans as
1187 authorized under Section 5 of House Bill No. _____, 1999 Regular
1188 Session.

1189 In any county having a county seat which is not an
1190 incorporated municipality, the distribution provided hereunder
1191 shall be made as though the county seat was an incorporated
1192 municipality; however, the distribution to such municipality shall
1193 be paid to the county treasury wherein the municipality is located

1194 and such funds shall be used for road, bridge and street
1195 construction or maintenance therein.

1196 (2) On or before September 15, 1987, and each succeeding
1197 month thereafter, from the revenue collected under this chapter
1198 during the preceding month One Million One Hundred Twenty-five
1199 Thousand Dollars (\$1,125,000.00) shall be allocated for
1200 distribution to municipal corporations as defined under subsection
1201 (1) of this section in the proportion that the number of gallons
1202 of gasoline and diesel fuel sold by distributors to consumers and
1203 retailers in each such municipality during the preceding fiscal
1204 year bears to the total gallons of gasoline and diesel fuel sold
1205 by distributors to consumers and retailers in municipalities
1206 statewide during the preceding fiscal year. The State Tax
1207 Commission shall require all distributors of gasoline and diesel
1208 fuel to report to the commission monthly the total number of
1209 gallons of gasoline and diesel fuel sold by them to consumers and
1210 retailers in each municipality during the preceding month. The
1211 State Tax Commission shall have the authority to promulgate such
1212 rules and regulations as is necessary to determine the number of
1213 gallons of gasoline and diesel fuel sold by distributors to
1214 consumers and retailers in each municipality. In determining the
1215 percentage allocation of funds under this subsection for the
1216 fiscal year beginning July 1, 1987, and ending June 30, 1988, the
1217 State Tax Commission may consider gallons of gasoline and diesel
1218 fuel sold for a period of less than one (1) fiscal year. For the
1219 purposes of this subsection, the term "fiscal year" means the
1220 fiscal year beginning July 1 of a year.

1221 (3) On or before September 15, 1987, and on or before the
1222 fifteenth day of each succeeding month, until the date specified
1223 in Section 65-39-35, the proceeds derived from contractors' taxes
1224 levied under Section 27-65-21 on contracts for the construction or
1225 reconstruction of highways designated under the Four-Lane Highway
1226 Program created under Section 65-3-97 shall be deposited into the

1227 State Treasury to the credit of the State Highway Fund to be used
1228 to fund such Four-Lane Highway Program. The Mississippi
1229 Department of Transportation shall provide to the State Tax
1230 Commission such information as is necessary to determine the
1231 amount of proceeds to be distributed under this subsection.

1232 (4) On or before August 15, 1994, and on or before the
1233 fifteenth day of each succeeding month, from the proceeds of
1234 gasoline, diesel fuel or kerosene taxes as provided in Section
1235 27-5-101(a)(ii)1, Four Million Dollars (\$4,000,000.00) shall be
1236 deposited in the State Treasury to the credit of a special fund
1237 designated as the "State Aid Road Fund," created by Section
1238 65-9-17. Such funds shall be pledged to pay the principal of and
1239 interest on state aid road bonds heretofore issued under Sections
1240 19-9-51 through 19-9-77, in lieu of and in substitution for the
1241 funds heretofore allocated to counties under this section. Such
1242 funds may not be pledged for the payment of any state aid road
1243 bonds issued after April 1, 1981; however, this prohibition
1244 against the pledging of any such funds for the payment of bonds
1245 shall not apply to any bonds for which intent to issue such bonds
1246 has been published, for the first time, as provided by law prior
1247 to March 29, 1981. From the amount of taxes paid into the special
1248 fund pursuant to this subsection and subsection (9) of this
1249 section, there shall be first deducted and paid the amount
1250 necessary to pay the expenses of the Office of State Aid Road
1251 Construction, as authorized by the Legislature for all other
1252 general and special fund agencies. The remainder of the fund
1253 shall be allocated monthly to the several counties in accordance
1254 with the following formula:

1255 (a) One-third (1/3) shall be allocated to all counties
1256 in equal shares;

1257 (b) One-third (1/3) shall be allocated to counties
1258 based on the proportion that the total number of rural road miles
1259 in a county bears to the total number of rural road miles in all

1260 counties of the state; and

1261 (c) One-third (1/3) shall be allocated to counties
1262 based on the proportion that the rural population of the county
1263 bears to the total rural population in all counties of the state,
1264 according to the latest federal decennial census.

1265 For the purposes of this subsection, the term "gasoline,
1266 diesel fuel or kerosene taxes" means such taxes as defined in
1267 paragraph (f) of Section 27-5-101.

1268 The amount of funds allocated to any county under this
1269 subsection for any fiscal year after fiscal year 1994 shall not be
1270 less than the amount allocated to such county for fiscal year
1271 1994. Monies allocated to a county from the State Aid Road Fund
1272 for fiscal year 1995 or any fiscal year thereafter that exceed the
1273 amount of funds allocated to that county from the State Aid Road
1274 Fund for fiscal year 1994, first must be expended by the county
1275 for replacement or rehabilitation of bridges on the state aid road
1276 system that have a sufficiency rating of less than twenty-five
1277 (25), according to National Bridge Inspection standards before
1278 such monies may be approved for expenditure by the State Aid Road
1279 Engineer on other projects that qualify for the use of state aid
1280 road funds.

1281 Any reference in the general laws of this state or the
1282 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
1283 construed to refer and apply to subsection (4) of Section
1284 27-65-75.

1285 (5) One Million Six Hundred Sixty-six Thousand Six Hundred
1286 Sixty-six Dollars (\$1,666,666.00) each month shall be paid into
1287 the special fund known as the "State Public School Building Fund"
1288 created and existing under the provisions of Sections 37-47-1
1289 through 37-47-67. Such payments into said fund are to be made on
1290 the last day of each succeeding month hereafter.

1291 (6) An amount each month beginning August 15, 1983, through
1292 November 15, 1986, as specified in Section 6 of Chapter 542, Laws

1293 of 1983, shall be paid into the special fund known as the
1294 Correctional Facilities Construction Fund created in Section 6 of
1295 Chapter 542, Laws of 1983.

1296 (7) On or before August 15, 1992, and each succeeding month
1297 thereafter, two and two hundred sixty-six one-thousandths percent
1298 (2.266%) of the total sales tax revenue collected during the
1299 preceding month under the provisions of this chapter, except that
1300 collected under the provisions of Section 27-65-17(2), not to
1301 exceed the fiscal year 1997 appropriated level shall be deposited
1302 by the commission into the School Ad Valorem Tax Reduction Fund
1303 created pursuant to Section 37-61-35, with the balance to be
1304 transferred to the Education Enhancement Fund created under
1305 Section 37-61-33 for appropriation by the Legislature as other
1306 education needs and not subject to the percentage set asides set
1307 forth in Section 37-61-33.

1308 (8) On or before August 15, 1992, and each succeeding month
1309 thereafter, nine and seventy-three one-thousandths percent
1310 (9.073%) of the total sales tax revenue collected during the
1311 preceding month under the provisions of this chapter, except that
1312 collected under the provisions of Section 27-65-17(2) shall be
1313 deposited into the Education Enhancement Fund created pursuant to
1314 Section 37-61-33.

1315 (9) On or before August 15, 1994, and each succeeding month
1316 thereafter, from the revenue collected under this chapter during
1317 the preceding month, Two Hundred Fifty Thousand Dollars
1318 (\$250,000.00) shall be paid into the State Aid Road Fund.

1319 (10) On or before August 15, 1994, and each succeeding month
1320 thereafter through August 15, 1995, from the revenue collected
1321 under this chapter during the preceding month, Two Million Dollars
1322 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
1323 Valorem Tax Reduction Fund established in Section 27-51-105.

1324 (11) Notwithstanding any other provision of this section to
1325 the contrary, on or before February 15, 1995, and each succeeding

1326 month thereafter, the sales tax revenue collected during the
1327 preceding month under the provisions of Section 27-65-17(2) shall
1328 be deposited, without diversion, into the Motor Vehicle Ad Valorem
1329 Tax Reduction Fund established in Section 27-51-105.

1330 (12) Notwithstanding any other provision of this section to
1331 the contrary, on or before August 15, 1995, and each succeeding
1332 month thereafter, the sales tax revenue collected during the
1333 preceding month under the provisions of Section 27-65-17(1) on
1334 retail sales of private carriers of passengers and light carriers
1335 of property, as defined in Section 27-51-101, shall be deposited,
1336 after diversion, into the Motor Vehicle Ad Valorem Tax Reduction
1337 Fund established in Section 27-51-105.

1338 (13) On or before July 15, 1994, and on or before the
1339 fifteenth day of each succeeding month thereafter, that portion of
1340 the avails of the tax imposed in Section 27-65-22, which is
1341 derived from activities held on the Mississippi state fairgrounds
1342 complex, shall be paid into a special fund hereby created in the
1343 State Treasury and shall be expended pursuant to legislative
1344 appropriations solely to defray the costs of repairs and
1345 renovation at such Trade Mart and Coliseum.

1346 (14) On or before August 15, 1998, and each succeeding month
1347 thereafter through July 15, 2005, that portion of the avails of
1348 the tax imposed in Section 27-65-23 which is derived from sales by
1349 cotton compresses or cotton warehouses and which would otherwise
1350 be paid into the General Fund, shall be deposited in an amount not
1351 to exceed Two Million Dollars (\$2,000,000.00) into the special
1352 fund created pursuant to Section 69-37-39.

1353 (15) The remainder of the amounts collected under the
1354 provisions of this chapter shall be paid into the State Treasury
1355 to the credit of the General Fund.

1356 (16) It shall be the duty of the municipal officials of any
1357 municipality which expands its limits, or of any community which
1358 incorporates as a municipality, to notify the commissioner of such

1359 action thirty (30) days before the effective date. Failure to so
1360 notify the commissioner shall cause such municipality to forfeit
1361 the revenue which it would have been entitled to receive during
1362 this period of time when the commissioner had no knowledge of the
1363 action. If any funds have been erroneously disbursed to any
1364 municipality or any overpayment of tax is recovered by the
1365 taxpayer, the commissioner may make correction and adjust the
1366 error or overpayment with such municipality by withholding the
1367 necessary funds from any subsequent payment to be made to the
1368 municipality.

1369 SECTION 15. Sections 1 through 10 of this act shall stand
1370 repealed from and after July 1, 2005, unless before such date the
1371 Executive Director of the Department of Economic and Community
1372 Development files an affidavit with the Secretary of State
1373 certifying that the State of Mississippi has been selected as the
1374 site of a project.

1375 SECTION 16. This act shall take effect and be in force from
1376 and after its passage.