

By: Senator(s) Minor

To: Finance

SENATE BILL NO. 2662
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 57-10-511, MISSISSIPPI CODE OF 1972,
2 TO INCREASE THE PERCENTAGE OF LOSSES IN GRANT FUNDS THAT A
3 PLANNING AND DEVELOPMENT DISTRICT OR QUALIFIED ENTITY MUST
4 EXPERIENCE UNDER THE MISSISSIPPI SMALL BUSINESS ASSISTANCE ACT
5 BEFORE IT IS REQUIRED TO REPAY THE AMOUNT OF SUCH LOSSES; TO
6 PROVIDE THAT IF THE MISSISSIPPI DEVELOPMENT AUTHORITY (MDA) FINDS
7 THAT A PLANNING AND DEVELOPMENT DISTRICT OR A QUALIFIED ENTITY
8 ADMINISTERING A REVOLVING LOAN PROGRAM UNDER THE MISSISSIPPI SMALL
9 BUSINESS ASSISTANCE ACT IS NOT ACTIVELY ENGAGED IN LENDING, SUCH
10 DISTRICT OR ENTITY MAY BE FOUND TO BE IN DEFAULT AND BE REQUIRED
11 TO CEASE PROVIDING ASSISTANCE, REFUND ALL FUNDS HELD IN ITS
12 REVOLVING ASSISTANCE FUND AND, IF REQUIRED BY MDA, CONVEY TO MDA
13 ALL ADMINISTRATIVE AND MANAGEMENT CONTROL OF ASSISTANCE UNDER THE
14 PROGRAM; TO PROVIDE THAT IF FEDERAL FUNDS ARE NOT AVAILABLE FOR
15 COMMITMENTS MADE BY A PLANNING AND DEVELOPMENT DISTRICT TO PROVIDE
16 ASSISTANCE UNDER ANY FEDERAL LOAN PROGRAM ADMINISTERED BY THE
17 PLANNING AND DEVELOPMENT DISTRICT IN COORDINATION WITH THE
18 APPALACHIAN REGIONAL COMMISSION OR ECONOMIC DEVELOPMENT
19 ADMINISTRATION, OR BOTH, A PLANNING AND DEVELOPMENT DISTRICT MAY
20 USE UNCOMMITTED FUNDS IN ITS SMALL BUSINESS ASSISTANCE REVOLVING
21 ASSISTANCE FUND FOR THE PURPOSE OF PROVIDING TEMPORARY FUNDING FOR
22 SUCH COMMITMENTS; TO PROVIDE THAT IF A PLANNING AND DEVELOPMENT
23 DISTRICT USES UNCOMMITTED FUNDS IN ITS REVOLVING ASSISTANCE FUND
24 TO PROVIDE SUCH TEMPORARY FUNDING, THE DISTRICT SHALL USE FUNDS
25 REPAID TO THE DISTRICT UNDER THE TEMPORARILY FUNDED FEDERAL LOAN
26 PROGRAM TO REPLENISH THE FUNDS USED TO PROVIDE THE TEMPORARY
27 FUNDING; TO LIMIT THE NUMBER OF TIMES A PLANNING AND DEVELOPMENT
28 DISTRICT MAY USE UNCOMMITTED FUNDS IN ITS REVOLVING ASSISTANCE
29 FUND TO PROVIDE SUCH TEMPORARY FUNDING AND THE AMOUNT OF SUCH
30 FUNDS THAT MAY BE USED FOR SUCH PURPOSES DURING A CALENDAR YEAR;
31 TO AMEND SECTION 57-10-505, MISSISSIPPI CODE OF 1972, TO REFLECT
32 THE CHANGE OF THE NAME OF THE DEPARTMENT OF ECONOMIC AND COMMUNITY
33 DEVELOPMENT TO THE MISSISSIPPI DEVELOPMENT AUTHORITY; AND FOR
34 RELATED PURPOSES.

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

36 SECTION 1. Section 57-10-511, Mississippi Code of 1972, is
37 amended as follows:

38 [Through June 30, 2001, this section shall read as follows:]

39 57-10-511. MDA shall grant funds under this article to a
40 planning and development district or qualified entity in
41 accordance with the following terms and conditions:

42 (a) Grant funds received by a planning and development
43 district or qualified entity in accordance with this article shall
44 be used by the planning and development district or qualified
45 entity to establish a revolving assistance fund for the purpose of
46 providing assistance to small businesses in accordance with this
47 article. Except as otherwise allowed in this article, all
48 principal and interest payments by small businesses in repayment
49 of such assistance shall be eligible for and used by the planning
50 and development district or qualified entity for additional
51 assistance to small businesses in accordance with this article.

52 (b) Each planning and development district meeting the
53 criteria set forth in this article shall receive an initial grant
54 of not to exceed One Million Dollars (\$1,000,000.00) for the
55 purpose of establishing the program within its area in accordance
56 with this article. Each qualified entity meeting the criteria set
57 forth in this article shall be eligible to receive an initial
58 grant of Five Hundred Thousand Dollars (\$500,000.00) for the
59 purpose of establishing the program within the area it serves in
60 accordance with this article. The total amount of initial grants
61 to planning and development districts shall not exceed Ten Million
62 Dollars (\$10,000,000.00) and the total amount of initial grants
63 for qualified entities shall not exceed Two Million Dollars
64 (\$2,000,000.00). Each planning and development district or
65 qualified entity receiving an initial grant shall have twelve (12)
66 months in which to make binding commitments to provide assistance
67 to small businesses in the principal amount of the initial grant
68 in accordance with this article. Grant funds not committed to
69 provide assistance to small businesses at the end of twelve (12)
70 months after receipt thereof by the planning and development
71 district or qualified entity shall be returned to MDA for

72 placement in a pool to be redistributed by MDA to planning and
73 development districts or qualified entities which have binding
74 commitments to distribute as assistance all their initial grant
75 funds and have pending applications for additional assistance in
76 accordance with this article. Any planning and development
77 district or qualified entity returning any such grant funds to MDA
78 shall be required at the time such initial grant funds are
79 returned to deliver to the State Treasury, for deposit in the
80 General Fund, interest on the amount of such returned funds at the
81 same rate as any bonds or notes of the State of Mississippi issued
82 pursuant to this article to provide such grant funds.

83 (c) After all of the initial grant funds have been
84 provided as assistance to small businesses in accordance with this
85 article, MDA shall distribute additional grant funds to each
86 planning and development district or qualified entity qualified
87 under this article to receive and requesting such funds in
88 whatever amounts MDA deems appropriate and when needed by such
89 planning and development districts or qualified entities to
90 provide additional assistance to small businesses in accordance
91 with this article. The schedule for distributing such funds shall
92 be determined by MDA. Funds distributed to planning and
93 development districts and qualified entities pursuant to this
94 paragraph shall be in addition to funds distributed to planning
95 and development districts and qualified entities pursuant to
96 paragraph (b) of this section. The total amount of grants issued
97 pursuant to this paragraph shall not exceed Twenty Million Dollars
98 (\$20,000,000.00) for planning and development districts or
99 qualified entities. Grant funds not committed to provide
100 assistance to small businesses at the end of twelve (12) months
101 after receipt thereof by the planning and development district or
102 qualified entity shall be returned to MDA for placement in a pool
103 to be redistributed by MDA to planning and development districts
104 or qualified entities which have binding commitments to distribute

105 as assistance all their initial grant funds and have pending
106 applications for additional assistance in accordance with this
107 article. Any planning and development district or qualified
108 entity returning any such grant funds to MDA shall be required at
109 the time such grant funds are returned to deliver to the State
110 Treasury, for deposit in the General Fund, interest on the amount
111 of such returned funds at the same rate as any bonds or notes of
112 the State of Mississippi issued pursuant to this article to
113 provide such grant funds.

114 (d) A planning and development district or qualified
115 entity participating in the program may utilize not more than
116 fifty percent (50%) of interest earned on assistance provided to
117 small businesses in accordance with this article for
118 administration and management of the program, unless specifically
119 authorized to utilize more by MDA; provided, however, any interest
120 earned on grant funds held by a planning and development district
121 or qualified entity prior to the utilization of such grant funds
122 to provide assistance to small businesses shall be placed in the
123 revolving assistance fund of the planning and development district
124 or qualified entity and shall not be expended for administration
125 or management costs. Planning and development districts and
126 qualified entities may retain fifty percent (50%) of the interest
127 earned on repayment funds that are being held on deposit in
128 anticipation of relending to aid in the administration and
129 management of the program. Each planning and development district
130 and qualified entity shall file annually with the Secretary of the
131 Senate and the Clerk of the House of Representatives not later
132 than the first day of each regular legislative session a report
133 which details any interest retained or utilized by the planning
134 and development district or qualified entity pursuant to this
135 paragraph (d).

136 (e) If a planning and development district or qualified
137 entity participating in the program experiences losses from

138 assistance provided pursuant to the program in excess of fifty
139 percent (50%) of the amount of grant funds received by the
140 planning and development district or qualified entity, the
141 planning and development district or qualified entity shall repay
142 the State of Mississippi the amount of such losses in excess of
143 fifty percent (50%) by delivering that amount to the State
144 Treasury for deposit in the General Fund.

145 (f) MDA shall assist each planning and development
146 district or qualified entity participating in the program in
147 connection with such planning and development district's or
148 qualified entity's compliance with this article.

149 (g) Each planning and development district or qualified
150 entity participating in the program shall submit the following
151 reports to the House Ways and Means Committee, the Senate Economic
152 Development, Tourism and Parks Committee and MDA:

153 (i) An annual audit of grant funds received in
154 connection with the program; and

155 (ii) A semiannual report on July 30 and January 30
156 of each year, describing all assistance provided to small
157 businesses pursuant to the program, such reports to include
158 without limitation the following: a description of each small
159 business receiving assistance; the project to be assisted and
160 purpose of assistance; a description of each loan and equity
161 investment, including the terms and conditions thereof and use of
162 the funds assistance by the small business; history of the
163 assistance pool, including principal amount loaned, interest
164 earned, interest expended for administration and management,
165 principal amount of equity investments, assistance funds
166 available, and losses; and a statement of jobs created or retained
167 as a result of the assistance program.

168 (h) If MDA determines that a district or entity has
169 provided assistance to small businesses in a manner inconsistent
170 with the provisions of this article, then the amount of such

171 assistance so provided shall be withheld by MDA from any
172 additional grant funds to which the district or entity becomes
173 entitled under this article. If MDA determines, after notifying
174 such district or entity twice in writing and providing such
175 district or entity a reasonable opportunity to comply, that a
176 planning and development district or qualified entity has
177 consistently failed to comply with this article in connection with
178 the program, MDA may declare such planning and development
179 district or qualified entity in default under the program and,
180 upon receipt of notice thereof from MDA, such planning and
181 development district or qualified entity shall immediately cease
182 providing assistance under the program, shall refund to MDA for
183 distribution to other planning and development districts or
184 qualified entities all funds held in its revolving assistance fund
185 and, if required by MDA, shall convey to MDA all administrative
186 and management control of assistance provided by it under the
187 program.

188 (i) Notwithstanding any other provision of this article
189 to the contrary, if federal funds are not available for
190 commitments made by a planning and development district to provide
191 assistance under any federal loan program administered by the
192 planning and development district in coordination with the
193 Appalachian Regional Commission or Economic Development
194 Administration, or both, a planning and development district may
195 use funds in its revolving assistance fund, which have not been
196 committed otherwise to provide assistance, for the purpose of
197 providing temporary funding for such commitments. If a planning
198 and development district uses uncommitted funds in its revolving
199 assistance fund to provide such temporary funding, the district
200 shall use funds repaid to the district under the temporarily
201 funded federal loan program to replenish the funds used to provide
202 the temporary funding. Funds used by a planning and development
203 district to provide temporary funding under this paragraph (j)

204 must be repaid to the district's revolving assistance fund no
205 later than twelve (12) months after the date the district provides
206 the temporary funding. A planning and development district may
207 not use uncommitted funds in its revolving assistance fund to
208 provide temporary funding under this paragraph (i) on more than
209 two (2) occasions during a calendar year. A planning and
210 development district may provide temporary funding for multiple
211 commitments on each such occasion. The maximum aggregate amount
212 of uncommitted funds in a revolving assistance fund that may be
213 used for such purposes during a calendar year shall not exceed
214 seventy percent (70%) of the uncommitted funds in the revolving
215 assistance fund on the date the district first provides temporary
216 funding during the calendar year.

217 **[From and after July 1, 2001, this section shall read as**
218 **follows:]**

219 57-10-511. MDA shall grant funds under this article to a
220 planning and development district or qualified entity in
221 accordance with the following terms and conditions:

222 (a) Grant funds received by a planning and development
223 district or qualified entity in accordance with this article shall
224 be used by the planning and development district or qualified
225 entity to establish a revolving assistance fund for the purpose of
226 providing assistance to small businesses in accordance with this
227 article. Except as otherwise allowed in this article, all
228 principal and interest payments by small businesses in repayment
229 of such assistance shall be eligible for and used by the planning
230 and development district or qualified entity for additional
231 assistance to small businesses in accordance with this article.

232 (b) Each planning and development district meeting the
233 criteria set forth in this article shall receive an initial grant
234 of not to exceed One Million Dollars (\$1,000,000.00) for the
235 purpose of establishing the program within its area in accordance
236 with this article. Each qualified entity meeting the criteria set

237 forth in this article shall be eligible to receive an initial
238 grant of Five Hundred Thousand Dollars (\$500,000.00) for the
239 purpose of establishing the program within the area it serves in
240 accordance with this article. The total amount of initial grants
241 to planning and development districts shall not exceed Ten Million
242 Dollars (\$10,000,000.00) and the total amount of initial grants
243 for qualified entities shall not exceed Two Million Dollars
244 (\$2,000,000.00). Each planning and development district or
245 qualified entity receiving an initial grant shall have twelve (12)
246 months in which to make binding commitments to provide assistance
247 to small businesses in the principal amount of the initial grant
248 in accordance with this article. Grant funds not committed to
249 provide assistance to small businesses at the end of twelve (12)
250 months after receipt thereof by the planning and development
251 district or qualified entity shall be returned to MDA for
252 placement in a pool to be redistributed by MDA to planning and
253 development districts or qualified entities which have binding
254 commitments to distribute as assistance all their initial grant
255 funds and have pending applications for additional assistance in
256 accordance with this article. Any planning and development
257 district or qualified entity returning any such grant funds to MDA
258 shall be required at the time such initial grant funds are
259 returned to deliver to the State Treasury, for deposit in the
260 General Fund, interest on the amount of such returned funds at the
261 same rate as any bonds or notes of the State of Mississippi issued
262 pursuant to this article to provide such grant funds.

263 (c) After all of the initial grant funds have been
264 provided as assistance to small businesses in accordance with this
265 article, MDA shall distribute additional grant funds to each
266 planning and development district or qualified entity qualified
267 under this article to receive and requesting such funds in
268 whatever amounts MDA deems appropriate and when needed by such
269 planning and development districts or qualified entities to

270 provide additional assistance to small businesses in accordance
271 with this article. The schedule for distributing such funds shall
272 be determined by MDA. Funds distributed to planning and
273 development districts and qualified entities pursuant to this
274 paragraph shall be in addition to funds distributed to planning
275 and development districts and qualified entities pursuant to
276 paragraph (b) of this section. The total amount of grants issued
277 pursuant to this paragraph shall not exceed Twenty Million Dollars
278 (\$20,000,000.00) for planning and development districts or
279 qualified entities. Grant funds not committed to provide
280 assistance to small businesses at the end of twelve (12) months
281 after receipt thereof by the planning and development district or
282 qualified entity shall be returned to MDA for placement in a pool
283 to be redistributed by MDA to planning and development districts
284 or qualified entities which have binding commitments to distribute
285 as assistance all their initial grant funds and have pending
286 applications for additional assistance in accordance with this
287 article. Any planning and development district or qualified
288 entity returning any such grant funds to MDA shall be required at
289 the time such grant funds are returned to deliver to the State
290 Treasury, for deposit in the General Fund, interest on the amount
291 of such returned funds at the same rate as any bonds or notes of
292 the State of Mississippi issued pursuant to this article to
293 provide such grant funds.

294 (d) A planning and development district or qualified
295 entity participating in the program may utilize not more than
296 fifty percent (50%) of interest earned on assistance provided to
297 small businesses in accordance with this article for
298 administration and management of the program, unless specifically
299 authorized to utilize more by MDA; provided, however, any interest
300 earned on grant funds held by a planning and development district
301 or qualified entity prior to the utilization of such grant funds
302 to provide assistance to small businesses shall be placed in the

303 revolving assistance fund of the planning and development district
304 or qualified entity and shall not be expended for administration
305 or management costs. Planning and development districts and
306 qualified entities may retain fifty percent (50%) of the interest
307 earned on repayment funds that are being held on deposit in
308 anticipation of relending to aid in the administration and
309 management of the program. Each planning and development district
310 and qualified entity shall file annually with the Secretary of the
311 Senate and the Clerk of the House of Representatives not later
312 than the first day of each regular legislative session a report
313 which details any interest retained or utilized by the planning
314 and development district or qualified entity pursuant to this
315 paragraph (d).

316 (e) If a planning and development district or qualified
317 entity participating in the program experiences losses from
318 assistance provided pursuant to the program in excess of sixty
319 percent (60%) of the amount of grant funds received by the
320 planning and development district or qualified entity, the
321 planning and development district or qualified entity shall repay
322 the State of Mississippi the amount of such losses in excess of
323 sixty percent (60%) by delivering that amount to the State
324 Treasury for deposit in the General Fund.

325 (f) MDA shall assist each planning and development
326 district or qualified entity participating in the program in
327 connection with such planning and development district's or
328 qualified entity's compliance with this article.

329 (g) Each planning and development district or qualified
330 entity participating in the program shall submit the following
331 reports to the House Ways and Means Committee, the Senate Economic
332 Development, Tourism and Parks Committee and MDA:

333 (i) An annual audit of grant funds received in
334 connection with the program; and

335 (ii) A semiannual report on July 30 and January 30
336 of each year, describing all assistance provided to small
337 businesses pursuant to the program, such reports to include
338 without limitation the following: a description of each small
339 business receiving assistance; the project to be assisted and
340 purpose of assistance; a description of each loan and equity
341 investment, including the terms and conditions thereof and use of
342 the funds assistance by the small business; history of the
343 assistance pool, including principal amount loaned, interest
344 earned, interest expended for administration and management,
345 principal amount of equity investments, assistance funds
346 available, and losses; and a statement of jobs created or retained
347 as a result of the assistance program.

348 (h) If MDA determines that a district or entity has
349 provided assistance to small businesses in a manner inconsistent
350 with the provisions of this article, then the amount of such
351 assistance so provided shall be withheld by MDA from any
352 additional grant funds to which the district or entity becomes
353 entitled under this article. If MDA determines, after notifying
354 such district or entity twice in writing and providing such
355 district or entity a reasonable opportunity to comply, that a
356 planning and development district or qualified entity has
357 consistently failed to comply with this article in connection with
358 the program, MDA may declare such planning and development
359 district or qualified entity in default under the program and,
360 upon receipt of notice thereof from MDA, such planning and
361 development district or qualified entity shall immediately cease
362 providing assistance under the program, shall refund to MDA for
363 distribution to other planning and development districts or
364 qualified entities all funds held in its revolving assistance fund
365 and, if required by MDA, shall convey to MDA all administrative
366 and management control of assistance provided by it under the
367 program.

368 (i) If MDA determines, after notifying a planning and
369 development district or qualified entity twice in writing and
370 providing copies of such notification to each member of the
371 Legislature in whose district or in a part of whose district such
372 planning and development district or qualified entity is located
373 and providing such district or entity a reasonable opportunity to
374 take corrective action, that a planning and development district
375 or a qualified entity administering a revolving assistance fund
376 under the provisions of this article is not actively engaged in
377 lending as defined by the rules and regulations of MDA, MDA may
378 declare such planning and development district or qualified entity
379 in default under the program and, upon receipt of notice thereof
380 from MDA, such planning and development district or qualified
381 entity shall immediately cease providing assistance under the
382 program, shall refund to MDA for distribution to other planning
383 and development districts or qualified entities all funds held in
384 its revolving assistance fund and, if required by MDA, shall
385 convey to MDA all administrative and management control of
386 assistance provided by it under the program.

387 (j) Notwithstanding any other provision of this article
388 to the contrary, if federal funds are not available for
389 commitments made by a planning and development district to provide
390 assistance under any federal loan program administered by the
391 planning and development district in coordination with the
392 Appalachian Regional Commission or Economic Development
393 Administration, or both, a planning and development district may
394 use funds in its revolving assistance fund, which have not been
395 committed otherwise to provide assistance, for the purpose of
396 providing temporary funding for such commitments. If a planning
397 and development district uses uncommitted funds in its revolving
398 assistance fund to provide such temporary funding, the district
399 shall use funds repaid to the district under the temporarily
400 funded federal loan program to replenish the funds used to provide

401 the temporary funding. Funds used by a planning and development
402 district to provide temporary funding under this paragraph (j)
403 must be repaid to the district's revolving assistance fund no
404 later than twelve (12) months after the date the district provides
405 the temporary funding. A planning and development district may
406 not use uncommitted funds in its revolving assistance fund to
407 provide temporary funding under this paragraph (j) on more than
408 two (2) occasions during a calendar year. A planning and
409 development district may provide temporary funding for multiple
410 commitments on each such occasion. The maximum aggregate amount
411 of uncommitted funds in a revolving assistance fund that may be
412 used for such purposes during a calendar year shall not exceed
413 seventy percent (70%) of the uncommitted funds in the revolving
414 assistance fund on the date the district first provides temporary
415 funding during the calendar year.

416 SECTION 2. Section 57-10-505, Mississippi Code of 1972, is
417 amended as follows:

418 57-10-505. The following words and phrases when used in this
419 article shall have the meaning given to them in this section
420 unless the context clearly indicates otherwise:

421 (a) "Assistance" means a loan to a small business or an
422 equity investment in a small business by a planning and
423 development district in accordance with this article.

424 (b) "DECD" means the Mississippi Development Authority.

425 (c) "Equity investment" means an investment in the
426 ownership of a small business incorporated in Mississippi by a
427 planning and development district in accordance with this article.

428 (d) "General Fund" means the General Fund of the State
429 of Mississippi.

430 (e) "Loan" means a loan by a planning and development
431 district to a small business in accordance with this article.

432 (f) "MDA" means the Mississippi Development Authority.

433 (g) "Planning and development districts" means an
434 organized planning and development district in Mississippi.

435 (h) "Program" means the Mississippi Small Business
436 Assistance Program established in this article.

437 (i) "Qualified entities" means small business
438 investment corporations, community development corporations and
439 other similar entities approved by the Mississippi Business
440 Finance Corporation to participate in the program.

441 (j) "Seller" means the State Bond Commission.

442 (k) "Small business" means any commercial enterprise
443 with less than one hundred (100) full-time employees, less than
444 Two Million Dollars (\$2,000,000.00) in net worth or less than
445 Three Hundred Fifty Thousand Dollars (\$350,000.00) in net annual
446 profit after taxes.

447 SECTION 3. It is the intent of the Legislature that the
448 amendments to Sections 57-10-505 and 57-10-511, Mississippi Code
449 of 1972, contained in this Senate Bill No. 2662, 2001 Regular
450 Session, shall supersede the amendments to these sections
451 contained in House Bill No. 1482, 2001 Regular Session.

452 SECTION 4. This act shall take effect and be in force from
453 and after January 1, 2001.