AN ACT TO AMEND SECTION 57-10-511, MISSISSIPPI CODE OF 1972, TO INCREASE THE PERCENTAGE OF LOSSES IN GRANT FUNDS THAT A PLANNING AND DEVELOPMENT DISTRICT OR QUALIFIED ENTITY MUST EXPERIENCE UNDER THE MISSISSIPPI SMALL BUSINESS ASSISTANCE ACT BEFORE IT IS REQUIRED TO REPAY THE AMOUNT OF SUCH LOSSES; TO PROVIDE THAT IF THE MISSISSIPPI DEVELOPMENT AUTHORITY (MDA) FINDS THAT A PLANNING AND DEVELOPMENT DISTRICT OR A QUALIFIED ENTITY ADMINISTERING A REVOLVING LOAN PROGRAM UNDER THE MISSISSIPPI SMALL BUSINESS ASSISTANCE ACT IS NOT ACTIVELY ENGAGED IN LENDING, SUCH DISTRICT OR ENTITY MAY BE FOUND TO BE IN DEFAULT AND BE REQUIRED TO CEASE PROVIDING ASSISTANCE, REFUND ALL FUNDS HELD IN ITS REVOLVING ASSISTANCE FUND AND, IF REQUIRED BY MDA, CONVEY TO MDA ALL ADMINISTRATIVE AND MANAGEMENT CONTROL OF ASSISTANCE UNDER THE PROGRAM; TO PROVIDE THAT IF FEDERAL FUNDS ARE NOT AVAILABLE FOR COMMITMENTS MADE BY A PLANNING AND DEVELOPMENT DISTRICT TO PROVIDE ASSISTANCE UNDER ANY FEDERAL LOAN PROGRAM ADMINISTERED BY THE APPALACHIAN REGIONAL COMMISSION OR ECONOMIC DEVELOPMENT ADMINISTRATION, OR BOTH, A PLANNING AND DEVELOPMENT DISTRICT MAY USE UNCOMMITTED FUNDS IN ITS SMALL BUSINESS ASSISTANCE REVOLVING ASSISTANCE FUND FOR THE PURPOSE OF PROVIDING TEMPORARY FUNDING FOR SUCH COMMITMENTS; TO PROVIDE THAT IF A PLANNING AND DEVELOPMENT DISTRICT USES UNCOMMITTED FUNDS IN ITS REVOLVING ASSISTANCE FUND TO PROVIDE SUCH TEMPORARY FUNDING, THE DISTRICT SHALL USE FUNDS REPAYED TO THE DISTRICT UNDER THE TEMPORARILY FUNDED FEDERAL LOAN PROGRAM TO REPLENISH THE FUNDS USED TO PROVIDE THE TEMPORARY FUNDING; TO LIMIT THE NUMBER OF TIMES A PLANNING AND DEVELOPMENT DISTRICT MAY USE UNCOMMITTED FUNDS IN ITS REVOLVING ASSISTANCE FUND TO PROVIDE SUCH TEMPORARY FUNDING AND THE AMOUNT OF SUCH FUNDS THAT MAY BE USED FOR SUCH PURPOSES DURING A CALENDAR YEAR; TO AMEND SECTION 57-10-505, MISSISSIPPI CODE OF 1972, TO REFLECT THE CHANGE OF THE NAME OF THE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT TO THE MISSISSIPPI DEVELOPMENT AUTHORITY; AND FOR RELATED PURPOSES.

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

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

[Through June 30, 2001, this section shall read as follows:]
57-10-511. MDA shall grant funds under this article to a planning and development district or qualified entity in accordance with the following terms and conditions:

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

(b) Each planning and development district meeting the criteria set forth in this article shall receive an initial grant of not to exceed One Million Dollars ($1,000,000.00) for the purpose of establishing the program within its area in accordance with this article. Each qualified entity meeting the criteria set forth in this article shall be eligible to receive an initial grant of Five Hundred Thousand Dollars ($500,000.00) for the purpose of establishing the program within the area it serves in accordance with this article. The total amount of initial grants to planning and development districts shall not exceed Ten Million Dollars ($10,000,000.00) and the total amount of initial grants for qualified entities shall not exceed Two Million Dollars ($2,000,000.00). Each planning and development district or qualified entity receiving an initial grant shall have twelve (12) months in which to make binding commitments to provide assistance to small businesses in the principal amount of the initial grant in accordance with this article. Grant funds not committed to provide assistance to small businesses at the end of twelve (12) months after receipt thereof by the planning and development district or qualified entity shall be returned to MDA for...
placement in a pool to be redistributed by MDA to planning and development districts or qualified entities which have binding commitments to distribute as assistance all their initial grant funds and have pending applications for additional assistance in accordance with this article. Any planning and development district or qualified entity returning any such grant funds to MDA shall be required at the time such initial grant funds are returned to deliver to the State Treasury, for deposit in the General Fund, interest on the amount of such returned funds at the same rate as any bonds or notes of the State of Mississippi issued pursuant to this article to provide such grant funds.

(c) After all of the initial grant funds have been provided as assistance to small businesses in accordance with this article, MDA shall distribute additional grant funds to each planning and development district or qualified entity qualified under this article to receive and requesting such funds in whatever amounts MDA deems appropriate and when needed by such planning and development districts or qualified entities to provide additional assistance to small businesses in accordance with this article. The schedule for distributing such funds shall be determined by MDA. Funds distributed to planning and development districts and qualified entities pursuant to this paragraph shall be in addition to funds distributed to planning and development districts and qualified entities pursuant to paragraph (b) of this section. The total amount of grants issued pursuant to this paragraph shall not exceed Twenty Million Dollars ($20,000,000.00) for planning and development districts or qualified entities. Grant funds not committed to provide assistance to small businesses at the end of twelve (12) months after receipt thereof by the planning and development district or qualified entity shall be returned to MDA for placement in a pool to be redistributed by MDA to planning and development districts or qualified entities which have binding commitments to distribute
as assistance all their initial grant funds and have pending applications for additional assistance in accordance with this article. Any planning and development district or qualified entity returning any such grant funds to MDA shall be required at the time such grant funds are returned to deliver to the State Treasury, for deposit in the General Fund, interest on the amount of such returned funds at the same rate as any bonds or notes of the State of Mississippi issued pursuant to this article to provide such grant funds.

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

(e) If a planning and development district or qualified entity participating in the program experiences losses from
assistance provided pursuant to the program in excess of fifty percent (50%) of the amount of grant funds received by the planning and development district or qualified entity, the planning and development district or qualified entity shall repay the State of Mississippi the amount of such losses in excess of fifty percent (50%) by delivering that amount to the State Treasury for deposit in the General Fund.

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

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

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

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

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

(i) Notwithstanding any other provision of this article to the contrary, if federal funds are not available for commitments made by a planning and development district to provide assistance under any federal loan program administered by the Appalachian Regional Commission or Economic Development Administration, or both, a planning and development district may use funds in its revolving assistance fund, which have not been committed otherwise to provide assistance, for the purpose of providing temporary funding for such commitments. If a planning and development district uses uncommitted funds in its revolving assistance fund to provide such temporary funding, the district shall use funds repaid to the district under the temporarily funded federal loan program to replenish the funds used to provide the temporary funding. Funds used by a planning and development district to provide temporary funding under this paragraph (j)
must be repaid to the district's revolving assistance fund no later than twelve (12) months after the date the district provides the temporary funding. A planning and development district may not use uncommitted funds in its revolving assistance fund to provide temporary funding under this paragraph (i) on more than two (2) occasions during a calendar year. A planning and development district may provide temporary funding for multiple commitments on each such occasion. The maximum aggregate amount of uncommitted funds in a revolving assistance fund that may be used for such purposes during a calendar year shall not exceed seventy percent (70%) of the uncommitted funds in the revolving assistance fund on the date the district first provides temporary funding during the calendar year.

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

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

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

(b) Each planning and development district meeting the criteria set forth in this article shall receive an initial grant of not to exceed One Million Dollars ($1,000,000.00) for the purpose of establishing the program within its area in accordance with this article. Each qualified entity meeting the criteria set
forth in this article shall be eligible to receive an initial
grant of Five Hundred Thousand Dollars ($500,000.00) for the
purpose of establishing the program within the area it serves in
accordance with this article. The total amount of initial grants
to planning and development districts shall not exceed Ten Million
Dollars ($10,000,000.00) and the total amount of initial grants
for qualified entities shall not exceed Two Million Dollars
($2,000,000.00). Each planning and development district or
qualified entity receiving an initial grant shall have twelve (12)
months in which to make binding commitments to provide assistance
to small businesses in the principal amount of the initial grant
in accordance with this article. Grant funds not committed to
provide assistance to small businesses at the end of twelve (12)
months after receipt thereof by the planning and development
district or qualified entity shall be returned to MDA for
placement in a pool to be redistributed by MDA to planning and
development districts or qualified entities which have binding
commitments to distribute as assistance all their initial grant
funds and have pending applications for additional assistance in
accordance with this article. Any planning and development
district or qualified entity returning any such grant funds to MDA
shall be required at the time such initial grant funds are
returned to deliver to the State Treasury, for deposit in the
General Fund, interest on the amount of such returned funds at the
same rate as any bonds or notes of the State of Mississippi issued
pursuant to this article to provide such grant funds.

(c) After all of the initial grant funds have been
provided as assistance to small businesses in accordance with this
article, MDA shall distribute additional grant funds to each
planning and development district or qualified entity qualified
under this article to receive and requesting such funds in
whatever amounts MDA deems appropriate and when needed by such
planning and development districts or qualified entities to
provide additional assistance to small businesses in accordance with this article. The schedule for distributing such funds shall be determined by MDA. Funds distributed to planning and development districts and qualified entities pursuant to this paragraph shall be in addition to funds distributed to planning and development districts and qualified entities pursuant to paragraph (b) of this section. The total amount of grants issued pursuant to this paragraph shall not exceed Twenty Million Dollars ($20,000,000.00) for planning and development districts or qualified entities. Grant funds not committed to provide assistance to small businesses at the end of twelve (12) months after receipt thereof by the planning and development district or qualified entity shall be returned to MDA for placement in a pool to be redistributed by MDA to planning and development districts or qualified entities which have binding commitments to distribute as assistance all their initial grant funds and have pending applications for additional assistance in accordance with this article. Any planning and development district or qualified entity returning any such grant funds to MDA shall be required at the time such grant funds are returned to deliver to the State Treasury, for deposit in the General Fund, interest on the amount of such returned funds at the same rate as any bonds or notes of the State of Mississippi issued pursuant to this article to provide such grant funds.

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

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

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

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

(i) An annual audit of grant funds received in
connection with the program; and
(ii) A semiannual report on July 30 and January 30 of each year, describing all assistance provided to small businesses pursuant to the program, such reports to include without limitation the following: a description of each small business receiving assistance; the project to be assisted and purpose of assistance; a description of each loan and equity investment, including the terms and conditions thereof and use of the funds assistance by the small business; history of the assistance pool, including principal amount loaned, interest earned, interest expended for administration and management, principal amount of equity investments, assistance funds available, and losses; and a statement of jobs created or retained as a result of the assistance program.

(h) If MDA determines that a district or entity has provided assistance to small businesses in a manner inconsistent with the provisions of this article, then the amount of such assistance so provided shall be withheld by MDA from any additional grant funds to which the district or entity becomes entitled under this article. If MDA determines, after notifying such district or entity twice in writing and providing such district or entity a reasonable opportunity to comply, that a planning and development district or qualified entity has consistently failed to comply with this article in connection with the program, MDA may declare such planning and development district or qualified entity in default under the program and, upon receipt of notice thereof from MDA, such planning and development district or qualified entity shall immediately cease providing assistance under the program, shall refund to MDA for distribution to other planning and development districts or qualified entities all funds held in its revolving assistance fund and, if required by MDA, shall convey to MDA all administrative and management control of assistance provided by it under the program.
(i) If MDA determines, after notifying a planning and development district or qualified entity twice in writing and providing copies of such notification to each member of the Legislature in whose district or in a part of whose district such planning and development district or qualified entity is located and providing such district or entity a reasonable opportunity to take corrective action, that a planning and development district or a qualified entity administering a revolving assistance fund under the provisions of this article is not actively engaged in lending as defined by the rules and regulations of MDA, MDA may declare such planning and development district or qualified entity in default under the program and, upon receipt of notice thereof from MDA, such planning and development district or qualified entity shall immediately cease providing assistance under the program, shall refund to MDA for distribution to other planning and development districts or qualified entities all funds held in its revolving assistance fund and, if required by MDA, shall convey to MDA all administrative and management control of assistance provided by it under the program.

(j) Notwithstanding any other provision of this article to the contrary, if federal funds are not available for commitments made by a planning and development district to provide assistance under any federal loan program administered by the Appalachian Regional Commission or Economic Development Administration, or both, a planning and development district may use funds in its revolving assistance fund, which have not been committed otherwise to provide assistance, for the purpose of providing temporary funding for such commitments. If a planning and development district uses uncommitted funds in its revolving assistance fund to provide such temporary funding, the district shall use funds repaid to the district under the temporarily funded federal loan program to replenish the funds used to provide
the temporary funding. Funds used by a planning and development
district to provide temporary funding under this paragraph (j)
must be repaid to the district's revolving assistance fund no
later than twelve (12) months after the date the district provides
the temporary funding. A planning and development district may
not use uncommitted funds in its revolving assistance fund to
provide temporary funding under this paragraph (j) on more than
two (2) occasions during a calendar year. A planning and
development district may provide temporary funding for multiple
commitments on each such occasion. The maximum aggregate amount
of uncommitted funds in a revolving assistance fund that may be
used for such purposes during a calendar year shall not exceed
seventy percent (70%) of the uncommitted funds in the revolving
assistance fund on the date the district first provides temporary
funding during the calendar year.

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

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

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

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

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

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

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

(f) "MDA" means the Mississippi Development Authority.
ST: Mississippi Small Business Assistance Act;
MDA may take over loan programs that are not active.

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

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

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

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

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

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

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