

By: Representative Watson

To: Ways and Means

HOUSE BILL NO. 1159

1 AN ACT TO AUTHORIZE THE MISSISSIPPI DEVELOPMENT AUTHORITY TO
2 TAKE ACTIONS IT DETERMINES TO BE APPROPRIATE IN ORDER TO PRESERVE
3 THE STATE'S INTEREST IN CERTAIN AGRIBUSINESS ENTERPRISE PROJECTS
4 AND ASSETS OF SUCH PROJECTS FOR WHICH THE STATE ENTERED INTO A
5 LOAN GUARANTY OR OTHER AGREEMENT ON BEHALF OF UNDER THE EMERGING
6 CROPS PROGRAM; TO PROVIDE THAT SUCH ACTIONS INCLUDE ACQUIRING,
7 MARKETING, PROMOTING AND CONVEYING, SELLING, LEASING OR OTHERWISE
8 TRANSFERRING OR DISPOSING OF SUCH PROJECT AND ASSETS; TO AUTHORIZE
9 THE MISSISSIPPI DEVELOPMENT AUTHORITY TO ACQUIRE SUCH PROJECT AND
10 ASSETS FROM ANY ENTITY AND IN ANY MANNER IT DETERMINES TO BE
11 APPROPRIATE AND TO CONVEY, SELL, LEASE OR OTHERWISE TRANSFER OR
12 DISPOSE OF SUCH PROJECT AND ASSETS IN A SIMILAR MANNER; TO CREATE
13 A SPECIAL FUND IN THE STATE TREASURY FROM WHICH THE MISSISSIPPI
14 DEVELOPMENT AUTHORITY TO EXPEND MONIES FOR SUCH PURPOSES; TO
15 TRANSFER \$5,000,000.00 FROM THE MISSISSIPPI LAND, WATER AND TIMBER
16 RESOURCES FUND TO THE SPECIAL FUND CREATED IN THIS ACT; TO AMEND
17 SECTIONS 57-1-55 AND 69-46-7, MISSISSIPPI CODE OF 1972, IN
18 CONFORMITY TO THE PROVISIONS OF THIS ACT.

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

20 **SECTION 1.** (1) For the purposes of this section, the
21 following terms shall have the meanings ascribed in this section
22 unless the context clearly indicates otherwise:

23 (a) "MDA" means the Mississippi Development Authority.

24 (b) "Project" means any agribusiness enterprise for
25 which the state, acting through MDA, entered into a loan guaranty
26 or other agreement on behalf of under Section 69-2-13(3)(b) and
27 any assets of or related to the project for which the state has an
28 interest by reason of such loan guaranty or other agreement.

29 (c) "State" means the State of Mississippi.

30 (2) (a) There is hereby created in the State Treasury a
31 special fund which shall consist of funds transferred to the fund
32 under this act or otherwise made available by the Legislature in
33 any manner and funds from any other source designated for deposit
34 into such fund. Unexpended amounts remaining in the fund at the
35 end of a fiscal year shall not lapse into the State General Fund,

36 and any investment earnings or interest earned on amounts in the
37 fund shall be deposited to the credit of the fund. Monies in the
38 fund shall be used by the MDA for the purposes provided in this
39 section.

40 (b) The MDA may use monies in the special fund for the
41 purpose of defraying costs incurred by MDA in order to preserve
42 the project and all or any assets of or related to the project for
43 which the state has an interest by reason of its loan guaranty or
44 any other agreement on behalf of the project. Such costs include,
45 but are not limited to (i) paying to a bank any interest accrued
46 or that will accrue on the loan for which the state provided a
47 guaranty or similar agreement; (ii) expenses necessary to preserve
48 the operational integrity of the project, including, but not
49 limited to, maintenance and security services, electricity and
50 other utilities, regardless of whether such expenses are for past
51 services or for ongoing and future services; (iii) reimbursing the
52 bank for costs incurred by the bank in preserving the project;
53 (iv) marketing and promoting the project and conveying, selling,
54 leasing or otherwise transferring or disposing of the project and
55 all or any assets of or related to the project for which the state
56 has an interest by reason of its loan guaranty or any other
57 agreement on behalf of the project; (iv) negotiating settlements
58 for contracts regarding construction of the project and other
59 contracts as determined by the MDA; and (v) other purposes
60 determined by the MDA to be appropriate under this section.

61 (c) In addition to the authority provided in paragraph
62 (b) of this subsection, the MDA may take any action it determines
63 to be appropriate in order to preserve, acquire, market, promote,
64 acquire, and/or convey, sale, lease or otherwise transfer or
65 dispose the project and any or all of the assets of or related to
66 the project for which the state has an interest by reason of its
67 loan guaranty or any other agreement. The MDA may acquire such
68 project and assets from any entity, in any manner, and upon any

69 terms and conditions it determines to be appropriate, and it may
70 convey, sale, lease or otherwise transfer or dispose of such
71 project and assets in a similar manner.

72 (d) The MDA shall file a report with the Secretary of
73 the Senate and the Clerk of the House of Representatives not later
74 than July 1, 2005, and not later than the first day of each month
75 thereafter describing all actions taken by the MDA under this
76 section.

77 **SECTION 2.** The State Treasurer shall transfer to the special
78 fund created in Section 1(2) of this act, Five Million Dollars
79 (\$5,000,000.00) from the Mississippi Land, Water and Timber
80 Resources Fund created in Section 69-46-7.

81 **SECTION 3.** Section 57-1-55, Mississippi Code of 1972, is
82 amended as follows:

83 57-1-55. (1) The Mississippi Development Authority shall
84 have the following general powers and duties: To develop and
85 manage programs which enhance the climate for economic growth
86 through assistance to private sector businesses, local communities
87 and individuals, and through an extensive national and
88 international marketing effort.

89 (2) The Mississippi Development Authority shall have the
90 following general powers and duties with respect to economic
91 development:

92 (a) To plan, supervise and direct an active program of
93 solicitation of industries to locate within the state;

94 (b) To prepare, maintain and disseminate information
95 which is needed by companies in evaluating site locations;

96 (c) To consult with, advise and assist prospective
97 industries wishing to locate within the state;

98 (d) To encourage new or expanding industries, which
99 will add to the economy, to locate within the state;

100 (e) To maintain a coordinated liaison function with
101 other development groups, including state and federal agencies,

102 and planning and development districts, utility companies,
103 chambers of commerce and railroads;

104 (f) To assist communities and counties within the state
105 in preparation for economic growth;

106 (g) To assist new and existing business and industry
107 and encourage their development and expansion;

108 (h) To plan and conduct a nationwide advertising
109 program promoting the state to prospective industry. Any contract
110 entered into for such purposes shall be advertised, bid and
111 accepted in accordance with the same procedure as prescribed for
112 the advertisement and acceptance of bids for the purchase of
113 commodities and contracts for public purchases under Chapter 7,
114 Title 31, Mississippi Code of 1972;

115 (i) To work with economic development agencies of the
116 federal government in areas of industrial development and provide
117 information to industrial prospects regarding the availability of
118 federal funds and assistance;

119 (j) To work with the Department of Corrections,
120 pursuant to the provisions of Section 47-5-501 et seq., in
121 identifying and evaluating acceptable industries and businesses
122 and in acting as an agent of the Department of Corrections by
123 communicating with such concerns and aggressively soliciting their
124 participation in the Correctional Industries Work Program;

125 (k) To perform related work as required;

126 (l) To disseminate information about financial and
127 other programs of the Mississippi Development Authority that will
128 assist in the creation or expansion of industries processing wood
129 products in this state;

130 (m) To market processed and raw agricultural products
131 domestically and abroad;

132 (n) To aid in the establishment of business incubation
133 centers by private business interests, not for profit
134 corporations, and/or governmental entities. The department may

135 provide funds by contract for the establishment of business
136 incubation centers and may contract for space in which business
137 incubation centers will be located. Business incubation centers
138 are defined as facilities and support services that encourage the
139 establishment of successful small businesses by providing a
140 short-term sheltered environment. The department may solicit and
141 accept grants and other financial aid or support from private or
142 public sources to aid in the development of business incubation
143 centers. In addition, advice and assistance to established
144 business incubation centers may be provided by the department; and

145 (o) To employ licensed real estate brokers and
146 appraisers necessary for the industrial development of any real
147 estate under the ownership or control of the Mississippi
148 Development Authority. Any contract entered into for such
149 purposes shall be advertised, bid and accepted in accordance with
150 the same procedure as prescribed for the advertisement and
151 acceptance of bids for the purchase of commodities and contracts
152 for public purchases under Chapter 7, Title 31, Mississippi Code
153 of 1972.

154 (p) To take any action authorized under Section 1 of
155 House Bill No. _____, 2005 Regular Session, or as otherwise may be
156 provided by law.

157 **SECTION 4.** Section 69-46-7, Mississippi Code of 1972, is
158 amended as follows:

159 69-46-7. (1) (a) The Mississippi Land, Water and Timber
160 Resources Board may accept and expend funds appropriated or
161 otherwise made available by the Legislature and funds from any
162 other source in order to carry out the provisions of the
163 Mississippi Land, Water and Timber Resources Act. Such funds
164 shall be deposited into a special fund hereby established in the
165 State Treasury to be known as the "Mississippi Land, Water and
166 Timber Resources Fund." Unexpended amounts derived from bond
167 proceeds or private funds, or both, remaining in the fund at the

168 end of a fiscal year shall not lapse into the State General Fund,
169 and any investment earnings or interest earned on such amounts in
170 the fund shall be deposited to the credit of the fund. All other
171 unexpended amounts remaining in the fund at the end of a fiscal
172 year shall lapse into the State General Fund. Five Million
173 Dollars (\$5,000,000.00) of the monies in the fund shall be
174 transferred to the special fund created in Section 1 of House Bill
175 No. _____, 2005 Regular Session, as provided in Section 2 of House
176 Bill No. _____, 2005 Regular Session. The board may provide to the
177 Mississippi Department of Agriculture and Commerce not more than
178 Two Hundred Fifty Thousand Dollars (\$250,000.00), in the
179 aggregate, of monies in the fund that are derived from proceeds of
180 bonds issued under Sections 1 through 16 of Chapter 538, Laws of
181 2001, and/or Sections 1 through 16 of Chapter 542, Laws of 2002,
182 for the purpose of providing additional funds to defray costs
183 incurred by the department in assisting the board in carrying out
184 the provisions of the Mississippi Land, Water and Timber Resources
185 Act. However, the Mississippi Department of Agriculture and
186 Commerce may not use any portion of such funds for the purpose of
187 hiring any person as an employee as defined in Section 25-3-91(c).
188 The Mississippi Department of Agriculture may escalate its budget
189 and expend such funds, when provided by the board, in accordance
190 with rules and regulations of the Department of Finance and
191 Administration in a manner consistent with the escalation of
192 federal funds. The board may provide to the Mississippi
193 Development Authority not more than Two Hundred Fifty Thousand
194 Dollars (\$250,000.00), in the aggregate, of monies in the fund
195 that are derived from proceeds of bonds issued under Sections 1
196 through 16 of Chapter 538, Laws of 2001, and/or Sections 1 through
197 16 of Chapter 542, Laws of 2002, for the purpose of providing
198 additional funds to defray costs incurred by the Mississippi
199 Development Authority in assisting the board in carrying out the
200 provisions of the Mississippi Land, Water and Timber Resources

201 Act. However, the Mississippi Development Authority may not use
202 any portion of such funds for the purpose of hiring any person as
203 an employee as defined in Section 25-3-91(c). The Mississippi
204 Development Authority may escalate its budget and expend such
205 funds, when provided by the board, in accordance with rules and
206 regulations of the Department of Finance and Administration in a
207 manner consistent with the escalation of federal funds.

208 (b) (i) The Mississippi Land, Water and Timber
209 Resources Board may provide to the Mississippi Department of
210 Agriculture and Commerce not more than One Hundred Twenty-five
211 Thousand Dollars (\$125,000.00), in the aggregate, of monies in the
212 fund that are derived from proceeds of bonds issued under Sections
213 1 through 16 of Chapter 505, Laws of 2003, and One Hundred
214 Twenty-five Thousand Dollars (\$125,000.00), in the aggregate, of
215 monies in the fund that are derived from proceeds of bonds issued
216 under Sections 72 through 87 of Chapter 1, Laws of 2004 Third
217 Extraordinary Session, for the purpose of providing additional
218 funds to defray costs incurred by the department in assisting the
219 board in carrying out the provisions of the Mississippi Land,
220 Water and Timber Resources Act. However, the Mississippi
221 Department of Agriculture and Commerce may not use any portion of
222 such funds for the purpose of hiring any person as an employee as
223 defined in Section 25-3-91(c). The Mississippi Department of
224 Agriculture and Commerce may escalate its budget and expend such
225 funds, when provided by the board, in accordance with rules and
226 regulations of the Department of Finance and Administration in a
227 manner consistent with the escalation of federal funds.

228 (ii) The Mississippi Land, Water and Timber
229 Resources Board may provide to the Mississippi Development
230 Authority not more than One Hundred Twenty-five Thousand Dollars
231 (\$125,000.00), in the aggregate, of monies in the fund that are
232 derived from proceeds of bonds issued under Sections 1 through 16
233 of Chapter 505, Laws of 2003, and One Hundred Twenty-five Thousand

234 Dollars (\$125,000.00), in the aggregate, of monies in the fund
235 that are derived from proceeds of bonds issued under Sections 72
236 through 87 of Chapter 1, Laws of 2004 Third Extraordinary Session,
237 for the purpose of providing additional funds to defray costs
238 incurred by the Mississippi Development Authority in assisting the
239 board in carrying out the provisions of the Mississippi Land,
240 Water and Timber Resources Act. However, the Mississippi
241 Development Authority may not use any portion of such funds for
242 the purpose of hiring any person as an employee as defined in
243 Section 25-3-91(c). The Mississippi Development Authority may
244 escalate its budget and expend such funds, when provided by the
245 board, in accordance with rules and regulations of the Department
246 of Finance and Administration in a manner consistent with the
247 escalation of federal funds.

248 (iii) The Mississippi Land, Water and Timber
249 Resources Board may provide to the Department of Audit not more
250 than Fifty Thousand Dollars (\$50,000.00), in the aggregate, of
251 monies in the fund that are derived from proceeds of bonds issued
252 under Sections 1 through 16 of Chapter 505, Laws of 2003, and
253 Fifty Thousand Dollars (\$50,000.00), in the aggregate, of monies
254 in the fund that are derived from proceeds of bonds issued under
255 Sections 72 through 87 of Chapter 1, Laws of 2004 Third
256 Extraordinary Session, for the purpose of providing additional
257 funds to defray costs incurred by the department in assisting the
258 board in carrying out the provisions of the Mississippi Land,
259 Water and Timber Resources Act. However, the Department of Audit
260 may not use any portion of such funds for the purpose of hiring
261 any person as an employee as defined in Section 25-3-91(c). The
262 Department of Audit may escalate its budget and expend such funds,
263 when provided by the board, in accordance with rules and
264 regulations of the Department of Finance and Administration in a
265 manner consistent with the escalation of federal funds.

266 (2) The Mississippi Land, Water and Timber Resources Board
267 shall set aside One Million Dollars (\$1,000,000.00) of the monies
268 in the Mississippi Land, Water and Timber Resources Fund that are
269 derived from proceeds of bonds issued under Sections 1 through 16
270 of Chapter 505, Laws of 2003, for the purpose of providing funds
271 to the Mississippi Department of Agriculture and Commerce for use
272 in making payments to ethanol producers under Section 69-51-5
273 during the state fiscal year beginning July 1, 2003, and ending
274 June 30, 2004. Any monies set aside which are not used for such
275 purposes during the fiscal year shall no longer be set aside for
276 such purposes after the end of the fiscal year. In addition, if
277 the Commissioner of Agriculture and Commerce determines during
278 such fiscal year that no ethanol producer will be eligible for
279 such payments during the fiscal year, the commissioner shall
280 inform the board of his determination and the monies set aside
281 shall no longer be set aside for such purposes. The Mississippi
282 Department of Agriculture and Commerce may escalate its budget and
283 expend funds, when provided by the board under this subsection
284 (2), in accordance with rules and regulations of the Department of
285 Finance and Administration in a manner consistent with the
286 escalation of federal funds.

287 (3) In anticipation of the issuance of bonds authorized for
288 the purpose of providing funds for the Mississippi Land, Water and
289 Timber Resources Fund, the State Bond Commission is authorized to
290 negotiate and enter into any purchase, loan, credit or other
291 agreement with any bank, trust company or other lending
292 institution or to issue and sell interim notes for the purpose of
293 carrying out the provisions of the Mississippi Land, Water and
294 Timber Resources Act. All borrowings made under this subsection
295 (3) shall be evidenced by notes of the State of Mississippi, which
296 shall be issued from time to time, for such amounts, in such form
297 and in such denomination and subject to such terms and conditions
298 of sale and issuance, prepayment or redemption and maturity, rate

299 or rates of interest not to exceed the maximum rate authorized for
300 bonds in Section 75-17-101, and time of payment of interest as the
301 State Bond Commission shall agree to in such agreement. Such
302 notes shall constitute general obligations of the State of
303 Mississippi, and shall be backed by the full faith and credit of
304 the state. Such notes may also be issued for the purpose of
305 refunding previously issued notes. No note shall mature more than
306 three (3) years following the date of its issuance. The State
307 Bond Commission is authorized to provide for the compensation of
308 any purchaser of the notes by payment of a fixed fee or commission
309 and for all other costs and expenses of issuance and service,
310 including paying agent costs. Such costs and expenses may be paid
311 from the proceeds of the notes. Borrowings made under the
312 provisions of this subsection (3) shall not exceed the aggregate
313 sum of Five Million Dollars (\$5,000,000.00) outstanding at any one
314 time.

315 **SECTION 5.** This act shall take effect and be in force from
316 and after its passage.