

By: Representative Watson

To: Ways and Means

HOUSE BILL NO. 1247
(As Passed the House)

1 AN ACT TO AMEND SECTION 57-1-16, MISSISSIPPI CODE OF 1972,
2 WHICH CREATES THE ACE FUND AND AUTHORIZES THE MISSISSIPPI
3 DEVELOPMENT AUTHORITY TO ESTABLISH AN ASSISTANCE PROGRAM THROUGH
4 WHICH TO ADMINISTER THE FUND; TO AMEND SECTION 57-61-9,
5 MISSISSIPPI CODE OF 1972, WHICH PROVIDES GUIDELINES AND
6 REQUIREMENTS FOR ASSISTANCE PROVIDED BY THE MISSISSIPPI
7 DEVELOPMENT AUTHORITY UNDER THE MISSISSIPPI BUSINESS INVESTMENT
8 ACT; TO AMEND SECTION 57-75-11, MISSISSIPPI CODE OF 1972, WHICH
9 PROVIDES FOR THE POWERS AND DUTIES OF THE MISSISSIPPI MAJOR
10 ECONOMIC IMPACT AUTHORITY UNDER THE MISSISSIPPI MAJOR ECONOMIC
11 IMPACT ACT; TO AMEND SECTION 57-85-5, MISSISSIPPI CODE OF 1972,
12 WHICH CREATES THE MISSISSIPPI RURAL IMPACT FUND AND AUTHORIZES THE
13 MISSISSIPPI DEVELOPMENT AUTHORITY TO ESTABLISH AN ASSISTANCE
14 PROGRAM THROUGH WHICH TO ADMINISTER THE FUND; TO AMEND SECTIONS
15 65-4-7 AND 65-4-9, MISSISSIPPI CODE OF 1972, WHICH PROVIDES
16 REQUIREMENTS REGARDING APPLICATIONS FOR ASSISTANCE UNDER THE
17 ECONOMIC DEVELOPMENT HIGHWAY ACT; TO PROVIDE THAT APPLICATIONS FOR
18 ASSISTANCE UNDER PROGRAMS PROVIDED FOR UNDER SUCH SECTIONS MUST
19 CONTAIN CERTAIN INFORMATION; TO PROVIDE THAT THE MISSISSIPPI
20 DEVELOPMENT AUTHORITY MUST REQUIRE CERTAIN COMMITMENTS FROM
21 APPLICANTS UNDER SUCH PROGRAMS WHICH PROVIDE FOR THE REPAYMENT OF
22 ASSISTANCE IF SUCH COMMITMENTS ARE NOT SATISFIED; TO PROVIDE
23 CERTAIN REQUIREMENTS REGARDING COST BENEFIT ANALYSES PERFORMED ON
24 PROJECTS FOR WHICH ASSISTANCE IS REQUESTED UNDER SUCH PROGRAMS; TO
25 AMEND SECTION 69-2-13, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
26 APPLICATIONS FOR ASSISTANCE UNDER THE PROGRAM ADMINISTERED BY THE
27 MISSISSIPPI DEVELOPMENT AUTHORITY THROUGH THE EMERGING CROPS FUND
28 FOR THE PURPOSE OF FINANCING MINORITY ECONOMIC DEVELOPMENT MUST
29 CONTAIN CERTAIN INFORMATION; TO PROVIDE THAT THE MISSISSIPPI
30 DEVELOPMENT AUTHORITY MUST REQUIRE CERTAIN COMMITMENTS FROM
31 APPLICANTS UNDER SUCH PROGRAM WHICH PROVIDE FOR THE REPAYMENT OF
32 ASSISTANCE IF SUCH COMMITMENTS ARE NOT SATISFIED; TO PROVIDE
33 CERTAIN REQUIREMENTS REGARDING COST BENEFIT ANALYSES PERFORMED ON
34 PROJECTS FOR WHICH ASSISTANCE IS REQUESTED UNDER SUCH PROGRAM; TO
35 AMEND SECTION 57-30-5, MISSISSIPPI CODE OF 1972, WHICH AUTHORIZES
36 THE MISSISSIPPI DEVELOPMENT AUTHORITY TO ESTABLISH AN INCENTIVE
37 PROGRAM THROUGH WHICH TO ADMINISTER THE SALES TAX INCENTIVE FUND;
38 TO PROVIDE THAT APPLICATIONS FOR ASSISTANCE UNDER THE PROGRAM MUST
39 CONTAIN CERTAIN INFORMATION; TO PROVIDE THAT THE MISSISSIPPI
40 DEVELOPMENT AUTHORITY MUST REQUIRE CERTAIN COMMITMENTS FROM
41 APPLICANTS UNDER THE PROGRAM WHICH PROVIDE FOR THE REPAYMENT OF
42 INCENTIVE PAYMENTS PROVIDED UNDER THE PROGRAM IF SUCH COMMITMENTS
43 ARE NOT SATISFIED; TO PROVIDE CERTAIN REQUIREMENTS REGARDING COST
44 BENEFIT ANALYSES PERFORMED ON PROJECTS FOR WHICH ASSISTANCE IS
45 REQUESTED UNDER SUCH PROGRAM; TO EXTEND THE REPEALER ON THE
46 INCENTIVE PAYMENT PROGRAM UNDER THE SALES TAX INCENTIVE FUND; AND
47 FOR RELATED PURPOSES.

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

49 **SECTION 1.** Section 57-1-16, Mississippi Code of 1972, is
50 amended as follows:

51 57-1-16. (1) As used in this section:

52 (a) "Extraordinary economic development opportunity"
53 means a new or expanded business or industry which maintains a
54 strong financial condition and minimal credit risk and creates
55 substantial employment, particularly in areas of high
56 unemployment.

57 (b) "Local economic development entities" means public
58 or private nonprofit local economic development entities
59 including, but not limited to, chambers of commerce, local
60 authorities, commissions or other entities created by local and
61 private legislation or districts created pursuant to Section
62 19-5-99.

63 (c) "MDA" means the Mississippi Development Authority.

64 (2) There is hereby created in the State Treasury a special
65 fund to be designated as the ACE Fund, which shall consist of
66 money from any public or private source designated for deposit
67 into such fund. Unexpended amounts remaining in the fund at the
68 end of a fiscal year shall not lapse into the State General Fund,
69 and any interest earned on amounts in the fund shall be deposited
70 to the credit of the fund. The purpose of the fund shall be to
71 assist in maximizing extraordinary economic development
72 opportunities related to any new or expanded business or industry.
73 Such funds may be used to make grants to local economic
74 development entities to assist any new or expanding business or
75 industry that meets the criteria provided in this section when
76 such assistance aids the consummation of a project within the
77 State of Mississippi.

78 (3) The MDA shall establish a grant program to make grants
79 from the ACE Fund created under this section. Local economic
80 development entities may apply to the MDA for a grant under this

81 section in the manner provided for in subsection (4) of this
82 section.

83 (4) (a) Any business or industry desiring assistance from a
84 local economic development entity under this section shall submit
85 an application to the local economic development entity which
86 shall include, at a minimum:

87 (i) Evidence that the business or industry meets
88 the definition of an extraordinary economic development
89 opportunity;

90 (ii) A description, including the cost, of the
91 requested assistance;

92 (iii) A two-year business plan (which shall
93 include proforma balance sheets, income statements and monthly
94 cash flow statements);

95 (iv) Financial statements and tax returns for the
96 three (3) years immediately prior to the application (if the
97 business or industry is a new company or enterprise, personal
98 financial statements and tax returns will be required);

99 (v) Credit reports on all persons or entities with
100 a twenty percent (20%) or greater interest in the business or
101 industry; and

102 (vi) Any other information required by the MDA.

103 (b) The MDA shall require that binding commitments be
104 entered into requiring that:

105 (i) The minimum requirements of this section and
106 such other requirements as the MDA considers proper shall be met;
107 and

108 (ii) If the agreed upon commitments are not met,
109 all or a portion of the funds provided under this section as
110 determined by the MDA shall be repaid.

111 (c) Where appropriate, in the discretion of MDA, MDA
112 shall acquire a security interest in or other lien upon any
113 applicable collateral.

114 (d) Upon receipt of the application from a business or
115 industry, the local economic development entity may apply to the
116 MDA for assistance under this section. Such application must
117 contain evidence that the business or industry meets the
118 definition of an extraordinary economic development opportunity, a
119 demonstration that the business or industry is at an economic
120 disadvantage by locating the new or expanded project in the
121 county, a description, including the cost, of the requested
122 assistance, other information required in the business or
123 industry's application under paragraph (a) of this subsection and
124 a statement of what efforts have been made or are being made by
125 the business or industry for securing or qualifying for other
126 local, state, federal or private funds for the project.

127 (e) The MDA shall have sole discretion in the awarding
128 of ACE funds, provided that the business or industry and the local
129 economic development entity have met the statutory requirements of
130 this section. However, if a cost benefit analysis of the project
131 is performed, in order for the MDA to provide the requested
132 assistance, the cost benefit analysis must indicate that the
133 projected economic benefits derived by the state from the project
134 will exceed the costs incurred by the state for the requested
135 assistance.

136 (5) The MDA shall promulgate rules and regulations, in
137 accordance with the Mississippi Administrative Procedures Law, for
138 the implementation of this section. However, before the
139 implementation of any such rules and regulations, they shall be
140 submitted to a committee consisting of five (5) members of the
141 Senate Finance Committee and five (5) members of the House of
142 Representatives Ways and Means Committee, appointed by the
143 respective committee chairmen.

144 **SECTION 2.** Section 57-61-9, Mississippi Code of 1972, is
145 amended as follows:

146 57-61-9. (1) Any private company desiring assistance from a
147 municipality shall submit to the municipality a letter of intent
148 to locate, expand or build a facility entirely or partially within
149 the municipality or on land the municipality is authorized to own
150 or otherwise acquire. The letter of intent shall include:

151 (a) Except for strategic investments, a commitment that
152 the proposed project will create and maintain a minimum of ten
153 (10) net new full-time equivalent jobs, will create and maintain
154 at least a five percent (5%) increase in full-time equivalent jobs
155 in the case of expansion of an enterprise already located at the
156 site or at least a twenty-five percent (25%) increase in full-time
157 equivalent jobs pursuant to subsection (9) of Section 57-61-15 and
158 will create and maintain at least one (1) net new full-time
159 equivalent job for every Fifteen Thousand Dollars (\$15,000.00)
160 either loaned or granted for the project. The commitment required
161 by this paragraph (a) shall include any jobs created prior to the
162 effective date of this chapter resulting from contracts entered
163 into contingent upon assistance being made available under this
164 chapter. All jobs required to be maintained by this paragraph (a)
165 shall be maintained until such time as any loan made under this
166 chapter for the benefit of a private company is repaid.

167 (b) A statement that the specific improvements are
168 necessary for the efficient and cost-effective operation of the
169 private company, together with supporting financial and
170 engineering documentation.

171 (c) Any commitment to pay rental on, or to make loan
172 repayments related to, the improvements to be made with funds
173 loaned to a municipality under this chapter.

174 (d) If required by the Mississippi Development
175 Authority, a notarized statement of willingness to grant a lien on
176 the facility for which the improvement is being provided, in an
177 amount and a manner to be determined by the Mississippi
178 Development Authority, which lien may be foreclosed in the event

179 that the private company fails to operate in the facility
180 according to the terms of the agreement and/or to collateralize
181 the loan made for the benefit of the private company for which the
182 improvement is being provided in an amount and manner to be
183 determined by the Mississippi Development Authority. In the event
184 the contractual agreement is to be entered into with a department
185 or subsidiary of the United States government, the Mississippi
186 Development Authority shall determine that the governmental unit
187 will operate the proposed project for a sufficient number of years
188 to retire the loan based on increased revenue estimates by the
189 University Research Center and any agreement entered into shall
190 reflect that the interest paid on any loan for such purpose shall
191 be included in Mississippi's contributory value in the project.
192 In the event the private company requesting the assistance is a
193 subsidiary of another corporation, if required by the Mississippi
194 Development Authority, any contractual agreement entered into
195 shall also require the parent company to unconditionally warrant
196 the performance of the subsidiary in carrying out the terms of the
197 agreement or it shall require the subsidiary and/or the parent
198 company to pledge assets in an amount and a manner to be
199 determined by the Mississippi Development Authority and/or to
200 collateralize the loan in an amount and a manner to be determined
201 by the Mississippi Development Authority to ensure the performance
202 of the terms of the contract.

203 (2) Upon receipt of the letter of intent from a private
204 company, the municipality may apply to the Mississippi Development
205 Authority for a loan or grant. The application from the
206 municipality shall include, but not be limited to:

207 (a) A statement of the purpose of the proposed loan or
208 grant, including a list of eligible items and the cost of each.

209 (b) A statement showing the sources of funding for the
210 entire project, including the private company's or governmental

211 unit's investment in the project and any public and other private
212 sources of funding.

213 (c) A certified copy of the signed letter of intent
214 from a private company or governmental unit, as specified in this
215 section.

216 (d) Evidence that there will be a private match of at
217 least Three Dollars (\$3.00) for every One Dollar (\$1.00) of state
218 assistance, except:

219 (i) In the case of ports the private match will be
220 at least Two Dollars (\$2.00) for every One Dollar (\$1.00) of state
221 assistance; and

222 (ii) In the case where the Mississippi Development
223 Authority determines that a private company is a high technology
224 enterprise the private match will be at least Two Dollars (\$2.00)
225 for every One Dollar (\$1.00) of state assistance.

226 The Mississippi Development Authority shall establish
227 criteria for determining whether a private company is a high
228 technology enterprise.

229 (e) Demonstration that the private company is
230 financially sound and is likely to fulfill the commitments made in
231 its letter of intent.

232 (f) A proposed timetable for the provision of the
233 improvements.

234 (g) Evidence that the project will be expeditiously
235 carried out and completed as planned.

236 (h) A demonstration that insufficient local capital
237 improvement funds at reasonable rates and terms are available
238 within the necessary time to provide the needed improvement on
239 public property. This includes local funds available through
240 issuance of bonds or other means, state funds available through
241 existing programs, and available federal program funds such as
242 community development block grant funds, urban development action
243 grant funds, and economic development administration funds.

244 (i) A demonstration that insufficient private funds are
245 available at reasonable rates and terms within the necessary time
246 to fund improvement on property owned by the private company.

247 (3) The Mississippi Development Authority shall consider
248 grant and loan applications based on the following criteria:

249 (a) The number of net new full-time equivalent jobs
250 that will be provided and the amount of additional state and local
251 tax revenue estimated by the University Research Center to be
252 directly generated by the private company's new investment, and
253 additionally, as to loan applications by state agencies, the
254 extent to which shipping through the port will be increased by the
255 proposed port development projects, the degree to which jobs will
256 be increased in the port area and the impact on port revenues.

257 (b) The ability to repay the principal and interest, in
258 the case of a loan, based on increased revenue estimates and any
259 revenue-producing provision of a contractual agreement.

260 (c) The increase in the employment base of the state.

261 The Mississippi Development Authority and the University
262 Research Center may use the resources and capabilities of the
263 planning and development districts in carrying out the provisions
264 of this chapter.

265 (4) No loan shall be made in excess of the amounts which can
266 be repaid with the increased revenues estimated by the University
267 Research Center, provided that this subsection (4) shall not apply
268 to loans in connection with a United States Navy home port.

269 (5) (a) Notwithstanding anything contained in this chapter,
270 an agency of the State of Mississippi operating a state-owned
271 port, and hereinabove identified as a "municipality" and
272 "governmental unit" for purposes of this chapter, may make
273 application for a loan or grant under the terms and provisions of
274 this chapter. In addition, a public agency operating a port
275 bordering on the Gulf of Mexico, which shall be considered to be a
276 "municipality" or a "governmental unit" for the purposes of this

277 chapter, may make application for a loan or grant under the terms
278 and provisions of this chapter from funds other than those funds
279 authorized for a state-owned port under paragraph (e)(iii) of
280 Section 57-61-11. The application shall be initiated by
281 submission of a letter of intent to engage in a project or
282 projects for the purpose of effecting enlargement and improvement
283 in all facilities used and useful in attracting international and
284 foreign commerce through the port. Projects eligible for
285 inclusion in the letter of intent may include, but not be
286 restricted to:

287 (i) Dredging and deepening the access channel and
288 harbor basin of the port;

289 (ii) Effecting the enlargement of the land area of
290 the port by reclamation;

291 (iii) Construction and installation of piling,
292 bulkheads, docks, wharves, warehouses and appurtenances; and

293 (iv) Acquisition of facilities and equipment for
294 handling bulk and containerized cargo.

295 (b) With respect to a state-owned port bordering on the
296 Gulf of Mexico, the letter of intent shall include the following
297 information and any other information required by the Mississippi
298 Development Authority:

299 (i) Present and future annual tonnages expected as
300 a result of the improvements.

301 (ii) Reasons why present facilities are inadequate
302 to enable the port to compete, including limitations imposed by
303 insufficient depth of channel and basin.

304 (iii) Increased channel and basin depths necessary
305 to accommodate modern shipping.

306 (iv) Comparison of the percentage of the world's
307 cargo shipping that can now be accommodated with what could be
308 accommodated with project improvements.

309 (v) Economic contribution to the region and state
310 resulting from increased shipping activity.

311 (vi) Statement of degree to which port revenues
312 are expected to be increased as a result of projects.

313 (vii) Financial data of port activities, including
314 cost of project, degree of federal funding available and required
315 local participation.

316 On or before January 1, 1989, a state-owned port described in
317 this paragraph (b) shall submit to the Senate Finance Committee
318 and the House Ways and Means Committee of the Mississippi
319 Legislature a comprehensive, written report updating for each
320 committee the information listed in items (i) through (vii) of
321 this paragraph (b) with particular emphasis on the economic
322 contribution to the region and state by shipping activity at the
323 port; on financial data with respect to the degree of federal
324 funding available and local participation in funding port
325 activities; and on progress made in dredging and completing other
326 improvements necessary to accommodate modern shipping.

327 (c) The Mississippi Development Authority shall
328 consider grant and loan applications based on the following:

329 (i) The extent to which shipping through the port
330 will be increased by the proposed projects.

331 (ii) The degree to which jobs will be increased in
332 the port area.

333 (iii) Impact on port revenues.

334 (iv) The ability of the port to repay interest and
335 principal in the case of a loan.

336 (6) A municipality may apply to the Mississippi Development
337 Authority for a grant under the terms and provisions of this
338 chapter, and the Mississippi Development Authority may award
339 grants to a municipality subject to limitations contained in this
340 chapter. The application shall be initiated by submission of a
341 letter of intent to engage in a project or projects for the

342 purpose of providing improvements necessary to accommodate a
343 United States Navy home port.

344 (7) The Legislature hereby finds and determines that
345 financing facilities necessary to accommodate a Navy home port
346 serves a valid public purpose in that a Navy home port will
347 significantly contribute to the employment base of the state which
348 is in great need of assistance; provided, that in the event such
349 facilities are no longer required for use by the Navy as a home
350 port, such facilities shall revert as provided in Section 59-9-21.

351 (8) Notwithstanding any provision or requirement of this
352 chapter to the contrary, a municipality may make application for a
353 loan under this chapter, in an amount not to exceed Five Million
354 Dollars (\$5,000,000.00), for the purpose of acquiring and
355 developing land to be used as a technology/industrial park for
356 which there is a binding commitment by one or more private
357 companies to create and maintain not less than an aggregate of
358 three hundred (300) jobs meeting minimum criteria established by
359 the Mississippi Development Authority. Such a commitment by a
360 private company shall not disqualify the private company from
361 obtaining assistance under this section. The match requirements
362 of this section shall not apply to any loan made pursuant to this
363 subsection (8).

364 (9) Notwithstanding any provision or requirement of this
365 chapter to the contrary, a municipality operating a county-owned
366 port or municipally owned port may make application for a loan
367 under this chapter, in an amount not to exceed Three Million
368 Dollars (\$3,000,000.00), for the purpose of acquiring land,
369 buildings and other improvements and for repairing, renovating,
370 maintaining and improving such a port.

371 (10) (a) A municipality is authorized to negotiate a
372 contract for the acquisition, construction and erection of a
373 project or any portion of a project hereunder where a municipality
374 finds that, because of the particular nature of a project or any

375 portion thereof, it would be in the best public interest of the
376 municipality to negotiate.

377 (b) Contracts by a private company for the acquisition,
378 construction or erection of a project which receives assistance
379 under this chapter shall be effected in the manner prescribed by
380 law for public contracts, unless the Mississippi Development
381 Authority makes a written finding that, because of special
382 circumstances with respect to the projects or any portion thereof,
383 it would better serve the public interest or more effectively
384 achieve the purposes of this chapter to enter into such contracts
385 based on negotiation.

386 (11) A municipality is authorized upon such terms and
387 conditions as the municipality may deem advisable, provided such
388 terms and conditions shall not be in conflict with the provisions
389 of this chapter, to (a) acquire, whether by construction,
390 purchase, gift or lease, all of or any portion of a project
391 hereunder; (b) to lease or sell to others all of or any portion of
392 a project hereunder; and (c) to lend to the private company the
393 proceeds of the loan from the board to such municipality.

394 (12) All agreements between a municipality and a private
395 company related directly or indirectly to a project or a portion
396 of a project to be funded in whole or in part under this chapter
397 are subject to approval by the Mississippi Development Authority.

398 (13) (a) In addition to any other requirements or
399 conditions under this section or elsewhere in this chapter, the
400 Mississippi Development Authority shall require that any
401 application for assistance regarding a private company include, at
402 a minimum:

403 (i) A two-year business plan (which shall include
404 proforma balance sheets, income statements and monthly cash flow
405 statements);

406 (ii) Financial statements and tax returns for the
407 three (3) years immediately prior to the application (if the

408 private company is a new company or enterprise, personal financial
409 statements and tax returns will be required);

410 (iii) Credit reports on all persons or entities
411 with a twenty percent (20%) or greater interest in the private
412 company;

413 (iv) Data supporting the expertise of the private
414 company's principals;

415 (v) A cost benefit analysis of the project
416 performed by a state institution of higher learning or other
417 entity selected by the Mississippi Development Authority; and

418 (vi) Any other information required by the
419 Mississippi Development Authority.

420 (b) In order for the Mississippi Development Authority
421 to provide the requested assistance, the cost benefit analysis
422 performed under paragraph (a) of this subsection must indicate
423 that the projected economic benefits derived by the state from the
424 project will exceed the costs incurred by the state for the
425 requested assistance.

426 (c) The Mississippi Development Authority shall require
427 that binding commitments be entered into requiring that:

428 (i) The applicable minimum requirements of this
429 chapter and such other requirements as the Mississippi Development
430 Authority considers proper shall be met; and

431 (ii) If the agreed upon commitments are not met,
432 all or a portion of the funds provided under this chapter as
433 determined by the Mississippi Development Authority shall be
434 repaid.

435 (d) Where appropriate, in the discretion of the
436 Mississippi Development Authority, the Mississippi Development
437 Authority shall acquire a security interest in or other lien upon
438 any applicable collateral.

439 **SECTION 3.** Section 57-75-11, Mississippi Code of 1972, is
440 amended as follows:

441 57-75-11. The authority, in addition to any and all powers
442 now or hereafter granted to it, is empowered and shall exercise
443 discretion and the use of these powers depending on the
444 circumstances of the project or projects:

445 (a) To maintain an office at a place or places within
446 the state.

447 (b) To employ or contract with architects, engineers,
448 attorneys, accountants, construction and financial experts and
449 such other advisors, consultants and agents as may be necessary in
450 its judgment and to fix and pay their compensation.

451 (c) To make such applications and enter into such
452 contracts for financial assistance as may be appropriate under
453 applicable federal or state law.

454 (d) To apply for, accept and utilize grants, gifts and
455 other funds or aid from any source for any purpose contemplated by
456 the act, and to comply, subject to the provisions of this act,
457 with the terms and conditions thereof.

458 (e) (i) To acquire by purchase, lease, gift, or in
459 other manner, including quick-take eminent domain, or obtain
460 options to acquire, and to own, maintain, use, operate and convey
461 any and all property of any kind, real, personal, or mixed, or any
462 interest or estate therein, within the project area, necessary for
463 the project or any facility related to the project. The
464 provisions of this paragraph that allow the acquisition of
465 property by quick-take eminent domain shall be repealed by
466 operation of law on July 1, 1994; and

467 (ii) Notwithstanding any other provision of this
468 paragraph (e), from and after November 6, 2000, to exercise the
469 right of immediate possession pursuant to the provisions of
470 Sections 11-27-81 through 11-27-89 for the purpose of acquiring
471 land, property and/or rights-of-way in the county in which a
472 project as defined in Section 57-75-5(f)(iv)1 is located, that are
473 necessary for such project or any facility related to the project.

474 (f) To acquire by purchase or lease any public lands
475 and public property, including sixteenth section lands and lieu
476 lands, within the project area, which are necessary for the
477 project. Sixteenth section lands or lieu lands acquired under
478 this act shall be deemed to be acquired for the purposes of
479 industrial development thereon and such acquisition will serve a
480 higher public interest in accordance with the purposes of this
481 act.

482 (g) If the authority identifies any land owned by the
483 state as being necessary, for the location or use of the project,
484 or any facility related to the project, to recommend to the
485 Legislature the conveyance of such land or any interest therein,
486 as the Legislature deems appropriate.

487 (h) To make or cause to be made such examinations and
488 surveys as may be necessary to the planning, design, construction
489 and operation of the project.

490 (i) From and after the date of notification to the
491 authority by the enterprise that the state has been finally
492 selected as the site of the project, to acquire by condemnation
493 and to own, maintain, use, operate and convey or otherwise dispose
494 of any and all property of any kind, real, personal or mixed, or
495 any interest or estate therein, within the project area, necessary
496 for the project or any facility related to the project, with the
497 concurrence of the affected public agency, and the exercise of the
498 powers granted by this act, according to the procedures provided
499 by Chapter 27, Title 11, Mississippi Code of 1972, except as
500 modified by this act.

501 (i) Except as otherwise provided in subparagraph
502 (iii) of this paragraph (i), in acquiring lands by condemnation,
503 the authority shall not acquire minerals or royalties in minerals
504 unless a competent registered professional engineer shall have
505 certified that the acquisition of such minerals and royalties in
506 minerals is necessary for purposes of the project; provided that

507 limestone, clay, chalk, sand and gravel shall not be considered as
508 minerals for the purposes of subparagraphs (i) and (ii) of this
509 paragraph (i);

510 (ii) Unless minerals or royalties in minerals have
511 been acquired by condemnation or otherwise, no person or persons
512 owning the drilling rights or the right to share in production of
513 minerals shall be prevented from exploring, developing, or
514 producing oil or gas with necessary rights-of-way for ingress and
515 egress, pipelines and other means of transporting interests on any
516 land or interest therein of the authority held or used for the
517 purposes of this act; but any such activities shall be under such
518 reasonable regulation by the authority as will adequately protect
519 the project contemplated by this act as provided in paragraph (r)
520 of this section; and

521 (iii) In acquiring lands by condemnation,
522 including the exercise of immediate possession, for a project, as
523 defined in Section 57-75-5(f)(iv)1, the authority may acquire
524 minerals or royalties in minerals.

525 (j) To negotiate the necessary relocation or rerouting
526 of roads and highways, railroad, telephone and telegraph lines and
527 properties, electric power lines, pipelines and related
528 facilities, or to require the anchoring or other protection of any
529 of these, provided due compensation is paid to the owners thereof
530 or agreement is had with such owners regarding the payment of the
531 cost of such relocation, and to acquire by condemnation or
532 otherwise easements or rights-of-way for such relocation or
533 rerouting and to convey the same to the owners of the facilities
534 being relocated or rerouted in connection with the purposes of
535 this act.

536 (k) To negotiate the necessary relocation of graves and
537 cemeteries and to pay all reasonable costs thereof.

538 (l) To perform or have performed any and all acts and
539 make all payments necessary to comply with all applicable federal

540 laws, rules or regulations including, but not limited to, the
541 Uniform Relocation Assistance and Real Property Acquisition
542 Policies Act of 1970 (42 USCS 4601, 4602, 4621 to 4638, and 4651
543 to 4655) and relocation rules and regulations promulgated by any
544 agency or department of the federal government.

545 (m) To construct, extend, improve, maintain, and
546 reconstruct, to cause to be constructed, extended, improved,
547 maintained, and reconstructed, and to use and operate any and all
548 components of the project or any facility related to the project,
549 with the concurrence of the affected public agency, within the
550 project area, necessary to the project and to the exercise of such
551 powers, rights, and privileges granted the authority.

552 (n) To incur or defray any designated portion of the
553 cost of any component of the project or any facility related to
554 the project acquired or constructed by any public agency.

555 (o) (i) To lease, sell or convey any or all property
556 acquired by the authority under the provisions of this act to the
557 enterprise, its successors or assigns, and in connection therewith
558 to pay the costs of title search, perfection of title, title
559 insurance and recording fees as may be required. The authority
560 may provide in the instrument conveying such property a provision
561 that such property shall revert to the authority if, as and when
562 the property is declared by the enterprise to be no longer needed.

563 (ii) To lease, sell, transfer or convey on any
564 terms agreed upon by the authority any or all real and personal
565 property, improvements, leases, funds and contractual obligations
566 of a project as defined in Section 57-75-5(f)(vi) and conveyed to
567 the State of Mississippi by a Quitclaim Deed from the United
568 States of America dated February 23, 1996, filed of record at
569 pages 511 to 524, Deed Book Number B179, Chancery Clerk's Office,
570 Tishomingo County, Mississippi, to any governmental authority
571 located within the geographic boundaries of the county wherein
572 such project exists upon agreement of such governmental authority

573 to undertake and assume from the State of Mississippi all
574 obligations and responsibilities in connection with ownership and
575 operation of the project. Property leased, sold, transferred or
576 otherwise conveyed by the authority under this paragraph (o) shall
577 be used only for economic development purposes.

578 (p) To enter into contracts with any person or public
579 agency, including, but not limited to, contracts authorized by
580 Section 57-75-17, in furtherance of any of the purposes authorized
581 by this act upon such consideration as the authority and such
582 person or public agency may agree. Any such contract may extend
583 over any period of time, notwithstanding any rule of law to the
584 contrary, may be upon such terms as the parties thereto shall
585 agree, and may provide that it shall continue in effect until
586 bonds specified therein, refunding bonds issued in lieu of such
587 bonds, and all other obligations specified therein are paid or
588 terminated. Any such contract shall be binding upon the parties
589 thereto according to its terms. Such contracts may include an
590 agreement to reimburse the enterprise, its successors and assigns
591 for any assistance provided by the enterprise in the acquisition
592 of real property for the project or any facility related to the
593 project.

594 (q) To establish and maintain reasonable rates and
595 charges for the use of any facility within the project area owned
596 or operated by the authority, and from time to time, to adjust
597 such rates and to impose penalties for failure to pay such rates
598 and charges when due.

599 (r) To adopt and enforce with the concurrence of the
600 affected public agency all necessary and reasonable rules and
601 regulations to carry out and effectuate the implementation of the
602 project and any land use plan or zoning classification adopted for
603 the project area, including, but not limited to, rules,
604 regulations, and restrictions concerning mining, construction,
605 excavation or any other activity the occurrence of which may

606 endanger the structure or operation of the project. Such rules
607 may be enforced within the project area and without the project
608 area as necessary to protect the structure and operation of the
609 project. The authority is authorized to plan or replan, zone or
610 rezone, and make exceptions to any regulations, whether local or
611 state, with the concurrence of the affected public agency which
612 are inconsistent with the design, planning, construction or
613 operation of the project and facilities related to the project.

614 (s) To plan, design, coordinate and implement measures
615 and programs to mitigate impacts on the natural environment caused
616 by the project or any facility related to the project.

617 (t) To develop plans for technology transfer activities
618 to ensure private sector conduits for exchange of information,
619 technology and expertise related to the project to generate
620 opportunities for commercial development within the state.

621 (u) To consult with the State Department of Education
622 and other public agencies for the purpose of improving public
623 schools and curricula within the project area.

624 (v) To consult with the State Board of Health and other
625 public agencies for the purpose of improving medical centers,
626 hospitals and public health centers in order to provide
627 appropriate health care facilities within the project area.

628 (w) To consult with the Office of Minority Business
629 Enterprise Development and other public agencies for the purpose
630 of developing plans for technical assistance and loan programs to
631 maximize the economic impact related to the project for minority
632 business enterprises within the State of Mississippi.

633 (x) To deposit into the "Yellow Creek Project Area
634 Fund" created pursuant to Section 57-75-31:

635 (i) Any funds or aid received as authorized in
636 this section for the project described in Section 57-75-5(f)(vi),
637 and

638 (ii) Any funds received from the sale or lease of
639 property from the project described in Section 57-75-5(f)(vi)
640 pursuant to the powers exercised under this section.

641 (y) To manage and develop the project described in
642 Section 57-75-5(f)(vi).

643 (z) To promulgate rules and regulations necessary to
644 effectuate the purposes of this act.

645 (aa) To negotiate a fee-in-lieu with the owners of the
646 project.

647 (bb) To enter into contractual agreements to warrant
648 any site work for a project defined in Section 57-75-5(f)(iv)1;
649 provided, however, that the aggregate amount of such warranties
650 shall not exceed Fifteen Million Dollars (\$15,000,000.00).

651 (cc) To provide grant funds to an enterprise operating
652 a project defined in Section 57-75-5(f)(iv)1 in an amount not to
653 exceed Thirty-nine Million Dollars (\$39,000,000.00).

654 (dd) (i) To own surface water transmission lines
655 constructed with the proceeds of bonds issued pursuant to this act
656 and in connection therewith to purchase and provide water to any
657 project defined in Section 57-75-5(f)(iv) and to certificated
658 water providers; and

659 (ii) To lease such surface water transmission
660 lines to a public agency or public utility to provide water to
661 such project and to certificated water providers.

662 (ee) To provide grant funds to an enterprise operating
663 a project defined in Section 57-75-5(f)(v) or, in connection with
664 a facility related to such a project, for job training, recruiting
665 and infrastructure.

666 (ff) To enter into negotiations with persons proposing
667 projects defined in Section 57-75-5(f)(xi) and execute acquisition
668 options and conduct planning, design and environmental impact
669 studies with regard to such project.

670 (gg) To establish such guidelines, rules and
671 regulations as the authority may deem necessary and appropriate
672 from time to time in its sole discretion, to promote the purposes
673 of this act.

674 (hh) In connection with projects defined in Section
675 57-75-5(f)(ii):

676 (i) To provide grant funds or loans to a public
677 agency or an enterprise owning, leasing or operating a project
678 defined in Section 57-75-5(f)(ii) in amounts not to exceed the
679 amount authorized in Section 57-75-15(3)(b);

680 (ii) To supervise the use of all such grant funds
681 or loans; and

682 (iii) To requisition money in the Mississippi
683 Major Economic Impact Authority Revolving Loan Fund in connection
684 with such loans.

685 (ii) In connection with projects defined under Section
686 57-75-5(f)(xiv):

687 (i) To provide grant funds or loans to an
688 enterprise owning, leasing or operating a project defined in
689 Section 57-75-5(f)(xiv); however, the amount of any such loan
690 under this paragraph (ii) shall not exceed Eight Million Dollars
691 (\$8,000,000.00) and the amount of any such grant under this
692 paragraph (ii) shall not exceed Two Million Dollars
693 (\$2,000,000.00);

694 (ii) To supervise the use of all such grant funds
695 or loans; and

696 (iii) Notwithstanding any provision of this act to
697 the contrary, such loans shall be for a term not to exceed twenty
698 (20) years as may be determined by the authority, shall bear
699 interest at such rates as may be determined by the authority,
700 shall, in the sole discretion of the authority, be secured in an
701 amount and a manner as may be determined by the authority.

702 (jj) (i) In addition to any other requirements or
703 conditions under this chapter, the authority shall require that
704 any application for assistance regarding a project under this
705 chapter include, at a minimum:

706 1. A two-year business plan (which shall
707 include proforma balance sheets, income statements and monthly
708 cash flow statements);

709 2. Financial statements and tax returns for
710 the three (3) years immediately prior to the application (if the
711 project is a new company or enterprise, personal financial
712 statements and tax returns will be required);

713 3. Credit reports on all persons or entities
714 with a twenty percent (20%) or greater interest in the project;

715 4. Data supporting the expertise of the
716 project's principals;

717 5. A cost benefit analysis of the project
718 performed by a state institution of higher learning or other
719 entity selected by the authority; and

720 6. Any other information required by the
721 authority.

722 (ii) In order for the authority to provide the
723 requested assistance, the cost benefit analysis performed under
724 subparagraph (i) of this paragraph must indicate that the
725 projected economic benefits derived by the state from the project
726 will exceed the costs incurred by the state for the requested
727 assistance.

728 (iii) The authority shall require that binding
729 commitments be entered into requiring that:

730 1. The applicable minimum requirements of
731 this chapter and such other requirements as the authority
732 considers proper shall be met; and

733 2. If the agreed upon commitments are not
734 met, all or a portion of the funds provided under this chapter as
735 determined by the authority shall be repaid.

736 (iv) Where appropriate, in the discretion of the
737 authority, the authority shall acquire a security interest in or
738 other lien upon any applicable collateral.

739 **SECTION 4.** Section 57-85-5, Mississippi Code of 1972, is
740 amended as follows:

741 57-85-5. (1) For the purposes of this section, the
742 following words and phrases shall have the meanings ascribed in
743 this section unless the context clearly indicates otherwise:

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

745 (b) "Project" means construction, rehabilitation or
746 repair of buildings; sewer systems and transportation directly
747 affecting the site of the proposed rural business; sewer
748 facilities, acquisition of real property, development of real
749 property, improvements to real property, and any other project
750 approved by the Mississippi Development Authority.

751 (c) "Rural business" means a new or existing business
752 located or to be located in a rural community or a business or
753 industry located or to be located within five (5) miles of a rural
754 community. "Rural business" does not include gaming businesses or
755 utility businesses.

756 (d) "Rural community" means a county in the State of
757 Mississippi that meets the population criteria for the term
758 "limited population county" as provided in Section 57-1-18.
759 "Rural community" also means a municipality in the State of
760 Mississippi that meets the population criteria for the term "small
761 municipality" as provided in Section 57-1-18.

762 (2) (a) There is created in the State Treasury a special
763 fund to be designated as the "Mississippi Rural Impact Fund,"
764 which shall consist of funds appropriated or otherwise made
765 available by the Legislature in any manner and funds from any

766 other source designated for deposit into such fund. Unexpended
767 amounts remaining in the fund at the end of a fiscal year shall
768 not lapse into the State General Fund, and any investment earnings
769 or interest earned on amounts in the fund shall be deposited to
770 the credit of the fund. Monies in the fund shall be used to make
771 grants and loans to rural communities and loan guaranties on
772 behalf of rural businesses to assist in completing projects under
773 this section.

774 (b) Monies in the fund which are derived from proceeds
775 of bonds issued after the effective date of this act, may be used
776 to reimburse reasonable actual and necessary costs incurred by the
777 MDA in providing assistance related to a project for which funding
778 is provided under this section from the use of proceeds of such
779 bonds. An accounting of actual costs incurred for which
780 reimbursement is sought shall be maintained for each project by
781 the MDA. Reimbursement of reasonable actual and necessary costs
782 for a project shall not exceed three percent (3%) of the proceeds
783 of bonds issued for such project. Monies authorized for a
784 particular project may not be used to reimburse administrative
785 costs for unrelated projects. Reimbursements under this paragraph
786 (b) shall satisfy any applicable federal tax law requirements.

787 (c) The MDA may use monies in the fund to pay for the
788 services of architects, engineers, attorneys and such other
789 advisors, consultants and agents that the MDA determines are
790 necessary to review loan and grant applications and to implement
791 and administer the program established under this section.

792 (3) The MDA shall establish a program to make grants and
793 loans to rural communities and loan guaranties on behalf of rural
794 businesses from the Mississippi Rural Impact Fund. A rural
795 community may apply to the MDA for a grant or loan under this
796 section in the manner provided for in this section. A rural
797 business may apply to the MDA for a loan guaranty under this
798 section in the manner provided in this section.

799 (4) (a) A rural community desiring assistance under this
800 section must submit an application to the MDA. The application
801 must include, at a minimum:

802 (i) A description of the project for which
803 assistance is requested;

804 (ii) The cost of the project for which assistance
805 is requested;

806 (iii) A two-year business plan for the project
807 (which shall include proforma balance sheets, income statements
808 and monthly cash flow statements);

809 (iv) Financial statements and tax returns for the
810 three (3) years immediately prior to the application (if the
811 project is a new company or enterprise, personal financial
812 statements and tax returns will be required);

813 (v) Credit reports on all persons or entities with
814 a twenty percent (20%) or greater interest in the project; and

815 (vi) Any other information required by the MDA.

816 A rural business desiring assistance under this section must
817 submit an application to the MDA. The application must include,
818 at a minimum:

819 (i) A description of the purpose for which
820 assistance is requested;

821 (ii) A two-year business plan for the project
822 (which shall include at least proforma balance sheets, income
823 statements and monthly cash flow statements);

824 (iii) Financial statements and tax returns for the
825 three (3) years immediately prior to the application (if the
826 project is a new company or enterprise, personal financial
827 statements and tax returns will be required);

828 (iv) Credit reports on all persons or entities
829 with a twenty percent (20%) or greater interest in the project;

830 and

831 (v) Any other information required by the MDA.
832 The MDA may waive any requirements of the program established
833 under this section in order to expedite funding for unique
834 projects. However, if a cost benefit analysis of the project is
835 performed, in order for the MDA to provide the requested
836 assistance, the cost benefit analysis must indicate that the
837 projected economic benefits derived by the state from the project
838 will exceed the costs incurred by the state for the requested
839 assistance.

840 (b) The MDA shall require that binding commitments be
841 entered into requiring that:

842 (i) The minimum requirements of this section and
843 such other requirements as the MDA considers proper shall be met;
844 and

845 (ii) If the agreed upon commitments are not met,
846 all or a portion of the funds provided under this section as
847 determined by the MDA shall be repaid.

848 (c) Where appropriate, in the discretion of MDA, MDA
849 shall acquire a security interest in or other lien upon any
850 applicable collateral.

851 (5) The MDA shall have all powers necessary to implement and
852 administer the program established under this section, and the MDA
853 shall promulgate rules and regulations, in accordance with the
854 Mississippi Administrative Procedures Law, necessary for the
855 implementation of this section.

856 **SECTION 5.** Section 65-4-7, Mississippi Code of 1972, is
857 amended as follows:

858 65-4-7. Any political subdivision desiring the assistance of
859 the state in order to construct or improve any highways or highway
860 segments, the primary purpose of such construction or improvement
861 being to encourage a private company to engage in a high economic
862 benefit project within the geographic boundaries of the political
863 subdivision, may apply to the board for such approval and

864 assistance. The application from the political subdivision shall
865 include, but not be limited to:

866 (a) A description of the highways or highway segments
867 requested to be constructed or improved;

868 (b) A certified resolution from the governing
869 authorities of the political subdivision detailing the source and
870 amount of funds which the political subdivision has committed or
871 is willing to commit for construction or improvement of such
872 highways or highway segments;

873 (c) A certified copy of a signed letter of intent from
874 the private company to the political subdivision describing in
875 detail the high economic benefit project in which it is committed
876 to engage upon construction or improvement of the highways or
877 highway segments within the political subdivision and the proposed
878 timetable for completion of such project;

879 (d) Demonstration that the private company is
880 financially sound and is likely to fulfill the commitments made in
881 its letter of intent; * * *

882 (e) An estimate by the private company of the number,
883 size and weight of motor vehicles and the frequency of travel of
884 such vehicles upon the highways or highway segments requested to
885 be constructed or improved after completion of the project by the
886 private company;

887 (f) A two-year business plan for the private company
888 (which shall include proforma balance sheets, income statements
889 and monthly cash flow statements);

890 (g) Financial statements and tax returns for the three
891 (3) years immediately prior to the application (if the private
892 company is a new company or enterprise, personal financial
893 statements and tax returns will be required); and

894 (h) Credit reports on all persons or entities with a
895 twenty percent (20%) or greater interest in the private company.

896 **SECTION 6.** Section 65-4-9, Mississippi Code of 1972, is
897 amended as follows:

898 65-4-9. (1) Upon receipt of an application by a political
899 subdivision as provided under Section 65-4-7, Mississippi Code of
900 1972, the board shall review the application and may approve the
901 application if it determines:

902 (a) The highways or highway segments for which the
903 political subdivision is requesting assistance in constructing or
904 improving are necessary and essential to ensure adequate and
905 appropriate access to the proposed project for the purpose of
906 encouraging its location within the geographical boundaries of the
907 political subdivision;

908 (b) The project proposed by the private company meets
909 the definition of a "high economic benefit project" as such term
910 is defined in Section 65-4-5, Mississippi Code of 1972;

911 (c) The private company has demonstrated financial
912 soundness and appears to have such assets and credit worthiness as
913 to permit it to secure necessary funds to complete the project
914 according to its commitments; * * *

915 (d) The costs for the construction or improvement of
916 such highways or highway segments to be funded hereunder will not
917 exceed the funds available in the Economic Development Highway
918 Fund created by Section 65-4-15, Mississippi Code of 1972;

919 (e) That if a cost benefit analysis of the project is
920 performed, such analysis indicates that the projected economic
921 benefits derived by the state from the project will exceed the
922 costs incurred by the state for the requested assistance; and

923 (f) The private company and/or political subdivision
924 enters in binding commitments with the board requiring that:

925 (i) The applicable minimum requirements of this
926 chapter and such other requirements as the board considers proper
927 shall be met; and

928 (ii) If the agreed upon commitments are not met,
929 all or a portion of the funds provided under this chapter as
930 determined by the board shall be repaid.

931 (2) Where appropriate, in the discretion of the board, the
932 board shall acquire a security interest in or other lien upon any
933 applicable collateral.

934 **SECTION 7.** Section 69-2-13, Mississippi Code of 1972, is
935 amended as follows:

936 69-2-13. (1) There is hereby established in the State
937 Treasury a fund to be known as the "Emerging Crops Fund," which
938 shall be used to pay the interest on loans made to farmers for
939 nonland capital costs of establishing production of emerging crops
940 on land in Mississippi, and to make loans and grants which are
941 authorized under this section to be made from the fund. The fund
942 shall be administered by the Mississippi Development Authority. A
943 board comprised of the directors of the authority, the Mississippi
944 Cooperative Extension Service, the Mississippi Small Farm
945 Development Center and the Mississippi Agricultural and Forestry
946 Experiment Station, or their designees, shall develop definitions,
947 guidelines and procedures for the implementation of this chapter.
948 Funds for the Emerging Crops Fund shall be provided from the
949 issuance of bonds or notes under Sections 69-2-19 through 69-2-37
950 and from repayment of interest loans made from the fund.

951 (2) (a) The Mississippi Development Authority shall develop
952 a program which gives fair consideration to making loans for the
953 processing and manufacturing of goods and services by
954 agribusiness, greenhouse production horticulture, and small
955 business concerns. It is the policy of the State of Mississippi
956 that the Mississippi Development Authority shall give due
957 recognition to and shall aid, counsel, assist and protect, insofar
958 as is possible, the interests of agribusiness, greenhouse
959 production horticulture, and small business concerns. To ensure
960 that the purposes of this subsection are carried out, the

961 Mississippi Development Authority shall loan not more than One
962 Million Dollars (\$1,000,000.00) to finance any single
963 agribusiness, greenhouse production horticulture, or small
964 business concern. Loans made pursuant to this subsection shall be
965 made in accordance with the criteria established in Section
966 57-71-11.

967 (b) The Mississippi Development Authority may, out of
968 the total amount of bonds authorized to be issued under this
969 chapter, make available funds to any planning and development
970 district in accordance with the criteria established in Section
971 57-71-11. Planning and development districts which receive monies
972 pursuant to this provision shall use such monies to make loans to
973 private companies for purposes consistent with this subsection.

974 (c) The Mississippi Development Authority is hereby
975 authorized to engage legal services, financial advisors,
976 appraisers and consultants if needed to review and close loans
977 made hereunder and to establish and assess reasonable fees,
978 including, but not limited to, liquidation expenses.

979 (3) (a) The Mississippi Development Authority shall, in
980 addition to the other programs described in this section, provide
981 for a program of loans to be made to agribusiness or greenhouse
982 production horticulture enterprises for the purpose of encouraging
983 thereby the extension of conventional financing and the issuance
984 of letters of credit to such agribusiness or greenhouse production
985 horticulture enterprises by private institutions. Monies to make
986 such loans by the Mississippi Development Authority shall be drawn
987 from the Emerging Crops Fund. The amount of a loan to any single
988 agribusiness or greenhouse production horticulture enterprise
989 under this paragraph (a) shall not exceed twenty percent (20%) of
990 the total cost of the project for which financing is sought or Two
991 Hundred Thousand Dollars (\$200,000.00), whichever is less. No
992 interest shall be charged on such loans, and only the amount

993 actually loaned shall be required to be repaid. Repayments shall
994 be deposited into the Emerging Crops Fund.

995 (b) The Mississippi Development Authority shall, in
996 addition to the other programs described in this section, provide
997 for a program of loans or loan guaranties, or both, to be made to
998 or on behalf of any agribusiness enterprise engaged in beef
999 processing for the purpose of encouraging thereby the extension of
1000 conventional financing and the issuance of letters of credit to
1001 such agribusiness enterprises by private institutions. Monies to
1002 make such loans or loan guaranties, or both, by the Mississippi
1003 Development Authority shall be drawn from the Emerging Crops Fund
1004 and shall not exceed Thirty-five Million Dollars (\$35,000,000.00)
1005 in the aggregate. The amount of a loan to any single agribusiness
1006 enterprise or loan guaranty on behalf of such agribusiness
1007 enterprise, or both, under this paragraph (b) shall not exceed the
1008 total cost of the project for which financing is sought or
1009 Thirty-five Million Dollars (\$35,000,000.00), whichever is less.
1010 The interest charged on a loan made under this paragraph (b) shall
1011 be at a rate determined by the Mississippi Development Authority.
1012 All repayments of any loan made under this paragraph (b) shall be
1013 deposited into the Emerging Crops Fund. Assistance received by an
1014 agribusiness enterprise under this paragraph (b) shall not
1015 disqualify the agribusiness enterprise from obtaining any other
1016 assistance under this chapter.

1017 (4) (a) Through June 30, 2006, the Mississippi Development
1018 Authority may loan or grant to qualified planning and development
1019 districts, and to small business investment corporations,
1020 bank-based community development corporations, the Recruitment and
1021 Training Program, Inc., the City of Jackson Business Development
1022 Loan Fund, the Lorman Southwest Mississippi Development
1023 Corporation, the West Jackson Community Development Corporation,
1024 the East Mississippi Development Corporation, and other entities
1025 meeting the criteria established by the Mississippi Development

1026 Authority (all referred to hereinafter as "qualified entities"),
1027 funds for the purpose of establishing loan revolving funds to
1028 assist in providing financing for minority economic development.
1029 The monies loaned or granted by the Mississippi Development
1030 Authority shall be drawn from the Emerging Crops Fund and shall
1031 not exceed Twenty-six Million Dollars (\$26,000,000.00) in the
1032 aggregate. Planning and development districts or qualified
1033 entities which receive monies pursuant to this provision shall use
1034 such monies to make loans to minority business enterprises
1035 consistent with criteria established by the Mississippi
1036 Development Authority. Such criteria shall include, at a minimum,
1037 the following:

1038 (i) The business enterprise must be a private,
1039 for-profit enterprise.

1040 (ii) If the business enterprise is a
1041 proprietorship, the borrower must be a resident citizen of the
1042 State of Mississippi; if the business enterprise is a corporation
1043 or partnership, at least fifty percent (50%) of the owners must be
1044 resident citizens of the State of Mississippi.

1045 (iii) The borrower must have at least five percent
1046 (5%) equity interest in the business enterprise.

1047 (iv) The borrower must demonstrate ability to
1048 repay the loan.

1049 (v) The borrower must not be in default of any
1050 previous loan from the state or federal government.

1051 (vi) The business enterprise and/or borrower must
1052 provide a two-year business plan (which shall include proforma
1053 balance sheets, income statements and monthly cash flow
1054 statements).

1055 (vii) The business enterprise and/or borrower must
1056 provide financial statements and tax returns for the three (3)
1057 years immediately prior to the proposed loan (in the case of a new

1058 company or enterprise, personal financial statements and tax
1059 returns will be required).

1060 (viii) Credit reports on all persons or entities
1061 with a twenty percent (20%) or greater interest in the business
1062 enterprise and/or borrower.

1063 (ix) Loan proceeds may be used for financing all
1064 project costs associated with development or expansion of a new
1065 small business, including fixed assets, working capital, start-up
1066 costs, rental payments, interest expense during construction and
1067 professional fees related to the project.

1068 (x) Loan proceeds shall not be used to pay off
1069 existing debt for loan consolidation purposes; to finance the
1070 acquisition, construction, improvement or operation of real
1071 property which is to be held primarily for sale or investment; to
1072 provide for, or free funds, for speculation in any kind of
1073 property; or as a loan to owners, partners or stockholders of the
1074 applicant which do not change ownership interest by the applicant.
1075 However, this does not apply to ordinary compensation for services
1076 rendered in the course of business.

1077 (xi) The maximum amount that may be loaned to any
1078 one (1) borrower shall be Two Hundred Fifty Thousand Dollars
1079 (\$250,000.00).

1080 (xii) Where appropriate, in the discretion of the
1081 Mississippi Development Authority, the Mississippi Development
1082 Authority shall acquire a security interest in or other lien upon
1083 any applicable collateral.

1084 (xiii) The Mississippi Development Authority shall
1085 review each loan before it is made, and no loan shall be made to
1086 any borrower until the loan has been reviewed and approved by the
1087 Mississippi Development Authority. In addition, if a cost benefit
1088 analysis of the project is performed, in order for the Mississippi
1089 Development Authority to provide the requested assistance, such
1090 analysis must indicate that the projected economic benefits

1091 derived by the state from the project will exceed the costs
1092 incurred by the state for the requested assistance.

1093 (b) For the purpose of this subsection, the term
1094 "minority business enterprise" means a socially and economically
1095 disadvantaged small business concern, organized for profit,
1096 performing a commercially useful function which is owned and
1097 controlled by one or more minorities or minority business
1098 enterprises certified by the Mississippi Development Authority, at
1099 least fifty percent (50%) of whom are resident citizens of the
1100 State of Mississippi. For purposes of this subsection, the term
1101 "socially and economically disadvantaged small business concern"
1102 shall have the meaning ascribed to such term under the Small
1103 Business Act (15 USCS, Section 637(a)), or women, and the term
1104 "owned and controlled" means a business in which one or more
1105 minorities or minority business enterprises certified by the
1106 Mississippi Development Authority own sixty percent (60%) or, in
1107 the case of a corporation, sixty percent (60%) of the voting
1108 stock, and control sixty percent (60%) of the management and daily
1109 business operations of the business.

1110 From and after July 1, 2006, monies not loaned or granted by
1111 the Mississippi Development Authority to planning and development
1112 districts or qualified entities under this subsection, and monies
1113 not loaned by planning and development districts or qualified
1114 entities, shall be deposited to the credit of the sinking fund
1115 created and maintained in the State Treasury for the retirement of
1116 bonds issued under Section 69-2-19.

1117 (c) Notwithstanding any other provision of this
1118 subsection to the contrary, if federal funds are not available for
1119 commitments made by a planning and development district to provide
1120 assistance under any federal loan program administered by the
1121 planning and development district in coordination with the
1122 Appalachian Regional Commission or Economic Development
1123 Administration, or both, a planning and development district may

1124 use funds in its loan revolving fund, which have not been
1125 committed otherwise to provide assistance, for the purpose of
1126 providing temporary funding for such commitments. If a planning
1127 and development district uses uncommitted funds in its loan
1128 revolving fund to provide such temporary funding, the district
1129 shall use funds repaid to the district under the temporarily
1130 funded federal loan program to replenish the funds used to provide
1131 the temporary funding. Funds used by a planning and development
1132 district to provide temporary funding under this paragraph (c)
1133 must be repaid to the district's loan revolving fund no later than
1134 twelve (12) months after the date the district provides the
1135 temporary funding. A planning and development district may not
1136 use uncommitted funds in its loan revolving fund to provide
1137 temporary funding under this paragraph (c) on more than two (2)
1138 occasions during a calendar year. A planning and development
1139 district may provide temporary funding for multiple commitments on
1140 each such occasion. The maximum aggregate amount of uncommitted
1141 funds in a loan revolving fund that may be used for such purposes
1142 during a calendar year shall not exceed seventy percent (70%) of
1143 the uncommitted funds in the loan revolving fund on the date the
1144 district first provides temporary funding during the calendar
1145 year.

1146 (d) If the Mississippi Development Authority determines
1147 that a planning and development district or qualified entity has
1148 provided loans to minority businesses in a manner inconsistent
1149 with the provisions of this subsection, then the amount of such
1150 loans so provided shall be withheld by the Mississippi Development
1151 Authority from any additional grant funds to which the planning
1152 and development district or qualified entity becomes entitled
1153 under this subsection. If the Mississippi Development Authority
1154 determines, after notifying such planning and development district
1155 or qualified entity twice in writing and providing such planning
1156 and development district or qualified entity a reasonable

1157 opportunity to comply, that a planning and development district or
1158 qualified entity has consistently failed to comply with this
1159 subsection, the Mississippi Development Authority may declare such
1160 planning and development district or qualified entity in default
1161 under this subsection and, upon receipt of notice thereof from the
1162 Mississippi Development Authority, such planning and development
1163 district or qualified entity shall immediately cease providing
1164 loans under this subsection, shall refund to the Mississippi
1165 Development Authority for distribution to other planning and
1166 development districts or qualified entities all funds held in its
1167 revolving loan fund and, if required by the Mississippi
1168 Development Authority, shall convey to the Mississippi Development
1169 Authority, all administrative and management control of loans
1170 provided by it under this subsection.

1171 (e) If the Mississippi Development Authority
1172 determines, after notifying a planning and development district or
1173 qualified entity twice in writing and providing copies of such
1174 notification to each member of the Legislature in whose district
1175 or in a part of whose district such planning and development
1176 district or qualified entity is located and providing such
1177 planning and development district or qualified entity a reasonable
1178 opportunity to take corrective action, that a planning and
1179 development district or qualified entity administering a revolving
1180 loan fund under the provisions of this subsection is not actively
1181 engaged in lending as defined by the rules and regulations of the
1182 Mississippi Development Authority, the Mississippi Development
1183 Authority may declare such planning and development district or
1184 qualified entity in default under this subsection and, upon
1185 receipt of notice thereof from the Mississippi Development
1186 Authority, such planning and development district or qualified
1187 entity shall immediately cease providing loans under this
1188 subsection, shall refund to the Mississippi Development Authority
1189 for distribution to other planning and development districts or

1190 qualified entities all funds held in its revolving loan fund and,
1191 if required by the Mississippi Development Authority, shall convey
1192 to the Mississippi Development Authority all administrative and
1193 management control of loans provided by it under this subsection.

1194 (5) The Mississippi Development Authority shall develop a
1195 program which will assist minority business enterprises by
1196 guaranteeing bid, performance and payment bonds which such
1197 minority businesses are required to obtain in order to contract
1198 with federal agencies, state agencies or political subdivisions of
1199 the state. Monies for such program shall be drawn from the monies
1200 allocated under subsection (4) of this section to assist the
1201 financing of minority economic development and shall not exceed
1202 Three Million Dollars (\$3,000,000.00) in the aggregate. The
1203 Mississippi Development Authority may promulgate rules and
1204 regulations for the operation of the program established pursuant
1205 to this subsection. For the purpose of this subsection (5) the
1206 term "minority business enterprise" has the meaning assigned such
1207 term in subsection (4) of this section.

1208 (6) The Mississippi Development Authority may loan or grant
1209 to public entities and to nonprofit corporations funds to defray
1210 the expense of financing (or to match any funds available from
1211 other public or private sources for the expense of financing)
1212 projects in this state which are devoted to the study, teaching
1213 and/or promotion of regional crafts and which are deemed by the
1214 authority to be significant tourist attractions. The monies
1215 loaned or granted shall be drawn from the Emerging Crops Fund and
1216 shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00)
1217 in the aggregate.

1218 (7) Through June 30, 2006, the Mississippi Development
1219 Authority shall make available to the Mississippi Department of
1220 Agriculture and Commerce funds for the purpose of establishing
1221 loan revolving funds and other methods of financing for
1222 agribusiness programs administered under the Mississippi

1223 Agribusiness Council Act of 1993. The monies made available by
1224 the Mississippi Development Authority shall be drawn from the
1225 Emerging Crops Fund and shall not exceed One Million Two Hundred
1226 Thousand Dollars (\$1,200,000.00) in the aggregate. The
1227 Mississippi Department of Agriculture and Commerce shall establish
1228 control and auditing procedures for use of these funds. These
1229 funds will be used primarily for quick payment to farmers for
1230 vegetable and fruit crops processed and sold through vegetable
1231 processing plants associated with the Department of Agriculture
1232 and Commerce and the Mississippi State Extension Service.

1233 (8) From and after July 1, 1996, the Mississippi Development
1234 Authority shall make available to the Mississippi Small Farm
1235 Development Center One Million Dollars (\$1,000,000.00) to be used
1236 by the center to assist small entrepreneurs as provided in Section
1237 37-101-25, Mississippi Code of 1972. The monies made available by
1238 the Mississippi Development Authority shall be drawn from the
1239 Emerging Crops Fund.

1240 (9) The Mississippi Development Authority shall make
1241 available to the Agribusiness and Natural Resource Development
1242 Center through Alcorn State University an amount not to exceed Two
1243 Hundred Fifty Thousand Dollars (\$250,000.00) in fiscal year 2001
1244 and Two Hundred Fifty Thousand Dollars (\$250,000.00) in fiscal
1245 year 2002 from the cash balance of the Emerging Crops Fund to
1246 support the development of a cooperative program for agribusiness
1247 development, marketing and natural resources development. This
1248 subsection (9) shall stand repealed on June 30, 2006.

1249 (10) The Mississippi Development Authority shall make
1250 available to the Small Farm Development Center at Alcorn State
1251 University funds in an aggregate amount not to exceed Three
1252 Hundred Thousand Dollars (\$300,000.00), to be drawn from the cash
1253 balance of the Emerging Crops Fund. The Small Farm Development
1254 Center at Alcorn State University shall use such funds to make
1255 loans to producers of sweet potatoes and cooperatives anywhere in

1256 the State of Mississippi owned by sweet potato producers to assist
1257 in the planting of sweet potatoes and the purchase of sweet potato
1258 production and harvesting equipment. A report of the loans made
1259 under this subsection shall be furnished by January 15 of each
1260 year to the Chairman of the Senate Agriculture Committee and the
1261 Chairman of the House Agriculture Committee.

1262 (11) The Mississippi Development Authority shall make
1263 available to the Mississippi Department of Agriculture and
1264 Commerce "Make Mine Mississippi" program an amount not to exceed
1265 One Hundred Fifty Thousand Dollars (\$150,000.00) to be drawn from
1266 the cash balance of the Emerging Crops Fund.

1267 (12) The Mississippi Development Authority shall make
1268 available to the Mississippi Department of Agriculture and
1269 Commerce an amount not to exceed One Hundred Fifty Thousand
1270 Dollars (\$150,000.00) to be drawn from the cash balance of the
1271 Emerging Crops Fund to be used for the rehabilitation and
1272 maintenance of the Mississippi Farmers Central Market in Jackson,
1273 Mississippi.

1274 (13) The Mississippi Development Authority shall make
1275 available to the Mississippi Department of Agriculture and
1276 Commerce an amount not to exceed Twenty-five Thousand Dollars
1277 (\$25,000.00) to be drawn from the cash balance of the Emerging
1278 Crops Fund to be used for advertising purposes related to the
1279 Mississippi Farmers Central Market in Jackson, Mississippi.

1280 (14) (a) The Mississippi Development Authority shall, in
1281 addition to the other programs described in this section, provide
1282 for a program of loan guaranties to be made on behalf of any
1283 nonprofit entity qualified under Section 501(c)(3) of the Internal
1284 Revenue Code and certified by the United States Department of the
1285 Treasury as a community development financial institution for the
1286 purpose of encouraging the extension of financing to such an
1287 entity which financing the entity will use to make funds available
1288 to other entities for the purpose of making loans available in

1289 low-income communities in Mississippi. Monies to make such loan
1290 guaranties by the Mississippi Development Authority shall be drawn
1291 from the Emerging Crops Fund and shall not exceed Two Million
1292 Dollars (\$2,000,000.00) in the aggregate. The amount of a loan
1293 guaranty on behalf of such an entity under this subsection (14)
1294 shall not exceed Two Million Dollars (\$2,000,000.00). Assistance
1295 received by an entity under this subsection (14) shall not
1296 disqualify the entity from obtaining any other assistance under
1297 this chapter.

1298 (b) An entity desiring assistance under this subsection
1299 (14) must submit an application to the Mississippi Development
1300 Authority. The application must include any information required
1301 by the Mississippi Development Authority.

1302 (c) The Mississippi Development Authority shall have
1303 all powers necessary to implement and administer the program
1304 established under this subsection (14), and the Mississippi
1305 Development Authority shall promulgate rules and regulations, in
1306 accordance with the Mississippi Administrative Procedures Law,
1307 necessary for the implementation of this subsection (14).

1308 **SECTION 8.** Section 57-30-5, Mississippi Code of 1972, is
1309 amended as follows:

1310 57-30-5. (1) The MDA shall develop, implement and
1311 administer the incentive program authorized in this chapter and
1312 shall promulgate rules and regulations necessary for the
1313 development, implementation and administration of such program.

1314 (2) A person, corporation or other entity desiring to
1315 participate in the incentive payment program authorized in this
1316 chapter must submit an application to the MDA. Such application
1317 must contain (a) plans for the proposed project; (b) a detailed
1318 description of the proposed project; (c) the method of financing
1319 the proposed project and the terms of such financing; (d) a
1320 two-year business plan for the project (which shall include at a
1321 minimum proforma balance sheets, income statements and monthly

1322 cash flow statements); (e) financial statements and tax returns
1323 for the three (3) years immediately prior to the application (if
1324 the project is a new company or enterprise, personal financial
1325 statements and tax returns will be required); (f) credit reports
1326 on all persons or entities with a twenty percent (20%) or greater
1327 interest in the project; and (g) any other information required by
1328 the MDA. In addition, the MDA shall require that binding
1329 commitments be entered into requiring that: (a) the applicable
1330 minimum requirements of this chapter and such other requirements
1331 as the MDA considers proper shall be met; and (b) if the agreed
1332 upon commitments are not met, all or a portion of the funds
1333 provided under this chapter as determined by the MDA shall be
1334 repaid. Where appropriate, in the discretion of MDA, MDA shall
1335 acquire a security interest in or other lien upon any applicable
1336 collateral. The Executive Director of the MDA shall review the
1337 application and determine whether it qualifies as a project.
1338 Except as otherwise provided, if the executive director determines
1339 the proposed project qualifies as a project, he shall issue a
1340 certificate to the person, corporation or other entity designating
1341 such person, corporation or other entity as an approved
1342 participant and authorizing the approved participant to
1343 participate in the incentive payment program provided for in this
1344 chapter; however, no certificates shall be issued after July 1,
1345 2004, for projects that pertain to facilities whose primary
1346 purpose is the retail sale of tangible personal property.
1347 However, if a cost benefit analysis of the proposed project is
1348 performed, in order for the MDA to issue a certificate, the cost
1349 benefit analysis must indicate that the projected economic
1350 benefits derived by the state from the project will exceed the
1351 costs incurred by the state for the requested assistance.

1352 (3) This section shall stand repealed from and after July 1,
1353 2006.

1354 **SECTION 9.** This act shall take effect and be in force from
1355 and after July 1, 2005.