

By: Senator(s) Robertson

To: Finance

SENATE BILL NO. 2530

1 AN ACT TO CREATE THE MISSISSIPPI EXISTING INDUSTRY
 2 PRODUCTIVITY LOAN PROGRAM TO BE ADMINISTERED BY THE MISSISSIPPI
 3 DEVELOPMENT AUTHORITY FOR THE PURPOSE OF PROVIDING LOANS TO
 4 CERTAIN INDUSTRIES THAT HAVE BEEN OPERATING IN THIS STATE FOR NOT
 5 LESS THAN TWO YEARS; TO PROVIDE THAT THE LOANS SHALL BE UTILIZED
 6 BY INDUSTRIES TO DEPLOY LONG-TERM FIXED ASSETS THAT THROUGH NEW
 7 TECHNOLOGY WILL IMPROVE PRODUCTIVITY AND COMPETITIVENESS; TO
 8 CREATE THE MISSISSIPPI EXISTING INDUSTRY PRODUCTIVITY LOAN FUND TO
 9 BE ADMINISTERED BY THE MISSISSIPPI DEVELOPMENT AUTHORITY; TO
 10 AUTHORIZE THE ISSUANCE OF \$10,000,000.00 IN STATE GENERAL
 11 OBLIGATION BONDS TO PROVIDE FUNDS FOR THE MISSISSIPPI EXISTING
 12 INDUSTRY PRODUCTIVITY LOAN FUND; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** (1) As used in this section:

15 (a) "Existing industry" means a manufacturing
 16 enterprise that has been operating in this state for not less than
 17 two (2) consecutive years that meets minimum criteria established
 18 by the Mississippi Development Authority.

19 (b) "Long-term fixed assets" means assets that:

20 (i) Through new technology will improve an
 21 enterprise's productivity and competitiveness; and

22 (ii) Meet criteria established by the Mississippi
 23 Development Authority.

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

25 (2) (a) There is established the Mississippi Existing
 26 Industry Productivity Loan Program to be administered by the MDA
 27 for the purpose of providing loans to existing industries to
 28 deploy long-term fixed assets that through new technology will
 29 improve productivity and competitiveness. An existing industry
 30 that accepts a loan under this program shall not reduce employment
 31 by more than twenty percent (20%) through the use of the long-term
 32 fixed assets for which the loan is granted.

33 (b) An enterprise desiring a loan under this section
34 must submit an application to the MDA. The application shall
35 include:

36 (i) A description of the purpose for which the
37 loan is requested;

38 (ii) The amount of the loan requested;

39 (iii) The estimated total cost of the project;

40 (iv) A two-year business plan for the project;

41 (v) Financial statements or tax returns for the
42 two (2) years immediately prior to the application;

43 (vi) Credit reports on all persons with a twenty
44 percent (20%) or greater interest in the enterprise; and

45 (vii) Any other information required by the MDA.

46 (c) The MDA shall require that binding commitments be
47 entered into requiring that:

48 (i) The minimum requirements of this section and
49 such other requirements as the MDA considers proper shall be met;
50 and

51 (ii) If such requirements are not met, all or a
52 portion of the funds provided by this section as determined by the
53 MDA shall be repaid.

54 (d) The amount of a loan under this section shall not
55 exceed fifty percent (50%) of the total cost of the project.

56 (e) The rate of interest on loans under this section
57 shall be at the true interest cost on the most recent issue of
58 twenty-year state general obligation bonds occurring prior to the
59 date the loan is made.

60 (f) The MDA shall have all powers necessary to
61 implement and administer the program established under this
62 section, and the MDA shall promulgate rules and regulations, in
63 accordance with the Mississippi Administrative Procedures Law,
64 necessary for the implementation of this section.

65 (2) (a) There is created in the State Treasury a special
66 fund to be designated as the "Mississippi Existing Industry
67 Productivity Loan Fund," which shall consist of funds appropriated
68 or otherwise made available by the Legislature in any manner and
69 funds from any other source designated for deposit into such fund.
70 Unexpended amounts remaining in the fund at the end of a fiscal
71 year shall not lapse into the State General Fund, and any
72 investment earnings or interest earned on amounts in the fund
73 shall be deposited to the credit of the fund. Monies in the fund
74 shall be used by the MDA for the purposes described in this
75 section.

76 (b) Monies in the fund which are derived from the
77 proceeds of general obligation bonds may be used to reimburse
78 reasonable actual and necessary costs incurred by the MDA in
79 providing loans under this section through the use of general
80 obligation bonds. An accounting of actual costs incurred for
81 which reimbursement is sought shall be maintained for each loan by
82 the MDA. Reimbursement of reasonable actual and necessary costs
83 shall not exceed three percent (3%) of the proceeds of bonds
84 issued under this act. Monies authorized for a particular loan
85 may not be used for reimburse administrative costs for unrelated
86 loans. Reimbursements made under this subsection shall satisfy
87 any applicable federal tax law requirements.

88 **SECTION 2.** As used in Sections 2 through 17 of this act, the
89 following words shall have the meanings ascribed herein unless the
90 context clearly requires otherwise:

91 (a) "Accreted value" of any bonds means, as of any date
92 of computation, an amount equal to the sum of (i) the stated
93 initial value of such bond, plus (ii) the interest accrued thereon
94 from the issue date to the date of computation at the rate,
95 compounded semiannually, that is necessary to produce the
96 approximate yield to maturity shown for bonds of the same
97 maturity.

98 (b) "Act" means Sections 2 through 17 of this act.

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

100 (d) "Commission" means the State Bond Commission.

101 **SECTION 3.** (1) The Mississippi Development Authority, at
102 one time, or from time to time, may declare by resolution the
103 necessity for issuance of general obligation bonds of the State of
104 Mississippi to provide funds for the program authorized in Section
105 1, Senate Bill No. 2530, 2005 Regular Session. Upon the adoption
106 of a resolution by the Mississippi Development Authority,
107 declaring the necessity for the issuance of any part or all of the
108 general obligation bonds authorized by this section, the
109 Mississippi Development Authority shall deliver a certified copy
110 of its resolution or resolutions to the commission. Upon receipt
111 of such resolution, the commission, in its discretion, may act as
112 the issuing agent, prescribe the form of the bonds, advertise for
113 and accept bids, issue and sell the bonds so authorized to be sold
114 and do any and all other things necessary and advisable in
115 connection with the issuance and sale of such bonds. The total
116 amount of bonds issued under this act shall not exceed Ten Million
117 Dollars (\$10,000,000.00). No bonds shall be issued under Sections
118 2 through 17 of this act after July 1, 2008.

119 (2) The proceeds of bonds issued pursuant to this act shall
120 be deposited into the Mississippi Existing Industry Productivity
121 Loan Fund created pursuant to Section 1, Senate Bill No. 2530,
122 2005 Regular Session. Any investment earnings on bonds issued
123 pursuant to this act shall be used to pay debt service on bonds
124 issued under this act, in accordance with the proceedings
125 authorizing issuance of such bonds.

126 **SECTION 4.** The principal of and interest on the bonds
127 authorized under this act shall be payable in the manner provided
128 in this section. Such bonds shall bear such date or dates, be in
129 such denomination or denominations, bear interest at such rate or
130 rates (not to exceed the limits set forth in Section 75-17-101,

131 Mississippi Code of 1972), be payable at such place or places
132 within or without the State of Mississippi, shall mature
133 absolutely at such time or times not to exceed twenty-five (25)
134 years from date of issue, be redeemable before maturity at such
135 time or times and upon such terms, with or without premium, shall
136 bear such registration privileges, and shall be substantially in
137 such form, all as shall be determined by resolution of the
138 commission.

139 **SECTION 5.** The bonds authorized by this act shall be signed
140 by the chairman of the commission, or by his facsimile signature,
141 and the official seal of the commission shall be affixed thereto,
142 attested by the secretary of the commission. The interest
143 coupons, if any, to be attached to such bonds may be executed by
144 the facsimile signatures of such officers. Whenever any such
145 bonds shall have been signed by the officials designated to sign
146 the bonds who were in office at the time of such signing but who
147 may have ceased to be such officers before the sale and delivery
148 of such bonds, or who may not have been in office on the date such
149 bonds may bear, the signatures of such officers upon such bonds
150 and coupons shall nevertheless be valid and sufficient for all
151 purposes and have the same effect as if the person so officially
152 signing such bonds had remained in office until their delivery to
153 the purchaser, or had been in office on the date such bonds may
154 bear. However, notwithstanding anything herein to the contrary,
155 such bonds may be issued as provided in the Registered Bond Act of
156 the State of Mississippi.

157 **SECTION 6.** All bonds and interest coupons issued under the
158 provisions of this act have all the qualities and incidents of
159 negotiable instruments under the provisions of the Uniform
160 Commercial Code, and in exercising the powers granted by this act,
161 the commission shall not be required to and need not comply with
162 the provisions of the Uniform Commercial Code.

163 **SECTION 7.** The commission shall act as the issuing agent for
164 the bonds authorized under this act, prescribe the form of the
165 bonds, advertise for and accept bids, issue and sell the bonds so
166 authorized to be sold, pay all fees and costs incurred in such
167 issuance and sale, and do any and all other things necessary and
168 advisable in connection with the issuance and sale of such bonds.
169 The commission is authorized and empowered to pay the costs that
170 are incident to the sale, issuance and delivery of the bonds
171 authorized under this act from the proceeds derived from the sale
172 of such bonds. The commission shall sell such bonds on sealed
173 bids at public sale, and for such price as it may determine to be
174 for the best interest of the State of Mississippi, but no such
175 sale shall be made at a price less than par plus accrued interest
176 to the date of delivery of the bonds to the purchaser. All
177 interest accruing on such bonds so issued shall be payable
178 semiannually or annually; however, the first interest payment may
179 be for any period of not more than one (1) year.

180 Notice of the sale of any such bonds shall be published at
181 least one time, not less than ten (10) days before the date of
182 sale, and shall be so published in one or more newspapers
183 published or having a general circulation in the City of Jackson,
184 Mississippi, and in one or more other newspapers or financial
185 journals with a national circulation, to be selected by the
186 commission.

187 The commission, when issuing any bonds under the authority of
188 this act, may provide that bonds, at the option of the State of
189 Mississippi, may be called in for payment and redemption at the
190 call price named therein and accrued interest on such date or
191 dates named therein.

192 **SECTION 8.** The bonds issued under the provisions of this act
193 are general obligations of the State of Mississippi, and for the
194 payment thereof the full faith and credit of the State of
195 Mississippi is irrevocably pledged. If the funds appropriated by

196 the Legislature are insufficient to pay the principal of and the
197 interest on such bonds as they become due, then the deficiency
198 shall be paid by the State Treasurer from any funds in the State
199 Treasury not otherwise appropriated. All such bonds shall contain
200 recitals on their faces substantially covering the provisions of
201 this section.

202 **SECTION 9.** Upon the issuance and sale of bonds under the
203 provisions of this act, the commission shall transfer the proceeds
204 of any such sale or sales to the Mississippi Existing Industry
205 Productivity Loan Fund created in Section 1 of Senate Bill No.
206 2530, 2005 Regular Session. The proceeds of such bonds shall be
207 disbursed solely upon the order of the Mississippi Development
208 Authority under such restrictions, if any, as may be contained in
209 the resolution providing for the issuance of the bonds.

210 **SECTION 10.** The bonds authorized under this act may be
211 issued without any other proceedings or the happening of any other
212 conditions or things other than those proceedings, conditions and
213 things which are specified or required by this act. Any
214 resolution providing for the issuance of bonds under the
215 provisions of this act shall become effective immediately upon its
216 adoption by the commission, and any such resolution may be adopted
217 at any regular or special meeting of the commission by a majority
218 of its members.

219 **SECTION 11.** The bonds authorized under the authority of this
220 act may be validated in the Chancery Court of the First Judicial
221 District of Hinds County, Mississippi, in the manner and with the
222 force and effect provided by Chapter 13, Title 31, Mississippi
223 Code of 1972, for the validation of county, municipal, school
224 district and other bonds. The notice to taxpayers required by
225 such statutes shall be published in a newspaper published or
226 having a general circulation in the City of Jackson, Mississippi.

227 **SECTION 12.** Any holder of bonds issued under the provisions
228 of this act or of any of the interest coupons pertaining thereto

229 may, either at law or in equity, by suit, action, mandamus or
230 other proceeding, protect and enforce any and all rights granted
231 under this act, or under such resolution, and may enforce and
232 compel performance of all duties required by this act to be
233 performed, in order to provide for the payment of bonds and
234 interest thereon.

235 **SECTION 13.** All bonds issued under the provisions of this
236 act shall be legal investments for trustees and other fiduciaries,
237 and for savings banks, trust companies and insurance companies
238 organized under the laws of the State of Mississippi, and such
239 bonds shall be legal securities which may be deposited with and
240 shall be received by all public officers and bodies of this state
241 and all municipalities and political subdivisions for the purpose
242 of securing the deposit of public funds.

243 **SECTION 14.** Bonds issued under the provisions of this act
244 and income therefrom shall be exempt from all taxation in the
245 State of Mississippi.

246 **SECTION 15.** The proceeds of the bonds issued under this act
247 shall be used solely for the purposes therein provided, including
248 the costs incident to the issuance and sale of such bonds.

249 **SECTION 16.** The State Treasurer is authorized, without
250 further process of law, to certify to the Department of Finance
251 and Administration the necessity for warrants, and the Department
252 of Finance and Administration is authorized and directed to issue
253 such warrants, in such amounts as may be necessary to pay when due
254 the principal of, premium, if any, and interest on, or the
255 accreted value of, all bonds issued under this act; and the State
256 Treasurer shall forward the necessary amount to the designated
257 place or places of payment of such bonds in ample time to
258 discharge such bonds, or the interest thereon, on the due dates
259 thereof.

260 **SECTION 17.** This act shall be deemed to be full and complete
261 authority for the exercise of the powers therein granted, but this

262 act shall not be deemed to repeal or to be in derogation of any
263 existing law of this state.

264 **SECTION 18.** This act shall take effect and be in force from
265 and after July 1, 2005.