

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.