

By: Senator(s) Carmichael, Burton

To: Economic Development and  
Tourism; Finance

## SENATE BILL NO. 2824

1 AN ACT TO CREATE THE ALABAMA-MISSISSIPPI JOINT ECONOMIC  
2 DEVELOPMENT AUTHORITY FOR THE PURPOSE OF SECURING THE LOCATION OF  
3 MAJOR ECONOMIC IMPACT PROJECTS WITHIN THE AREA ALONG THE BORDER OF  
4 THE STATE OF ALABAMA AND THE STATE OF MISSISSIPPI; TO DEFINE THE  
5 TYPES OF PROJECTS THAT FALL WITHIN THE PURVIEW OF THE AUTHORITY;  
6 TO CREATE A BOARD OF DIRECTORS TO GOVERN THE AUTHORITY TO BE  
7 COMPOSED OF THE DIRECTOR OF THE ALABAMA DEVELOPMENT OFFICE AND THE  
8 EXECUTIVE DIRECTOR OF THE MISSISSIPPI DEVELOPMENT AUTHORITY; TO  
9 PROVIDE FOR THE POWERS AND DUTIES OF THE AUTHORITY AND THE BOARD  
10 OF DIRECTORS; TO PROVIDE FOR THE DETERMINATION OF A PROJECT'S  
11 STATE TAX LIABILITY; TO PROVIDE FOR THE FUNDING OF THE PROJECT;  
12 AND FOR RELATED PURPOSES.

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

15 **SECTION 1. Title.** This act shall be known and may be cited  
16 as the "Alabama-Mississippi Joint Economic Development Act."

17 **SECTION 2. Findings.** The Legislature hereby finds and  
18 declares the following:

19 (a) There exists in the State of Alabama and in the  
20 State of Mississippi a continuing need for gainful employment for  
21 the citizens of both states.

22 (b) There are significant advantages that will be  
23 realized from a cooperative approach between the two states with  
24 respect to economic development of the area in each state along  
25 the border of the State of Alabama and the State of Mississippi.

26 (c) In order to increase the gainful employment  
27 opportunities of the citizens of both states residing in such  
28 area, the Alabama-Mississippi Joint Economic Development Authority  
29 is hereby created with the purpose of securing the location of  
30 major economic impact projects within the area along the border of  
31 the State of Alabama and the State of Mississippi.

32 (d) In order to accomplish this purpose, the authority  
33 shall be authorized by this agreement and by operation of other

appropriate statutes, to act by cooperative endeavor with the State of Alabama, the State of Mississippi and with agencies and persons with such states to secure the economic development and welfare of the region.

**SECTION 3. Definitions.** As used in this act, the following words and phrases shall have the meanings ascribed to them in this section, unless the context clearly indicates a different meaning:

(a) "Act" means the provisions of this act.

(b) "Authority" means the Alabama-Mississippi Joint Economic Development Authority created pursuant to this act.

(c) "Board of Directors" means the board of directors of the authority.

(d) "Designated Geographic Area" means:

(i) Those counties in the State of Alabama that share a common border with any county in the State of Mississippi; and

(ii) Those counties in the State of Mississippi that share a common border with any county in the State of Alabama.

(e) "Herein", "hereby", "hereunder", "hereof" and other equivalent words refer to this act as an entirety and not solely to the particular section or portion thereof in which any such word is used.

(f) "Project" means:

(i) Any industrial, commercial, research and development, warehousing, distribution, transportation, processing, mining, United States government or tourism enterprise together with all real property required for construction, maintenance and operation of the enterprise:

1. With an initial capital investment of not less than Three Hundred Million Dollars (\$300,000,000.00) from private or United States government sources together with all buildings, and other supporting land and facilities, structures or

improvements of whatever kind required or useful for construction,  
maintenance and operation of the enterprise; or

2. With an initial capital investment of not  
less than One Hundred Fifty Million Dollars (\$150,000,000.00) from  
private or United States government sources together with all  
buildings and other supporting land and facilities, structures or  
improvements of whatever kind required or useful for construction,  
maintenance and operation of the enterprise and which creates at  
least one thousand (1,000) net new full-time jobs; or

3. Which creates at least one thousand  
(1,000) net new full-time jobs which provide an average hourly  
wage of not less than two hundred percent (200%) of the federal  
minimum wage in effect on the date the Project is placed in  
service.

(ii) Any addition to, or expansion of, any  
existing enterprise as described in this paragraph if the addition  
or expansion:

1. Has an initial capital investment of not  
less than Three Hundred Million Dollars (\$300,000,000.00) from  
private or United States government sources;

2. Has an initial capital investment of not  
less than One Hundred Fifty Million Dollars (\$150,000,000.00) from  
private or United States government sources together with all  
buildings and other supporting land and facilities, structures or  
improvements of whatever kind required or useful for construction,  
maintenance and operation of the enterprise and which creates at  
least one thousand (1,000) net new full-time jobs; or

3. Creates at least one thousand (1,000) net  
new full-time jobs which provide an average hourly wage of not  
less than two hundred percent (200%) of the federal minimum wage  
in effect on the date the project is placed in service.

(iii) Any development with an initial capital  
investment from private sources of not less than Seven Hundred

Fifty Million Dollars (\$750,000,000.00) which will create at least three thousand (3,000) net new full-time jobs satisfying criteria to be established by the Authority.

In addition to meeting the other requirements of this paragraph, in order to fall within the definition of the term "project":

(i) The enterprise or development must be located within the Designated Geographic Area; and

(ii) Each state must provide funds or in kind contributions equal to at least one-third (1/3) of the total costs of the project to the states.

(g) "Project Agreement" means an agreement, approved by the legislature of the states, setting forth certain obligations, responsibilities, benefits, administrative matters and any other matters with respect to a specific project that are not inconsistent with the terms of this act as the legislatures of the states deem appropriate with respect to a specific project.

(h) "Project Tax Revenues" means:

(i) All of the following state and local taxes paid directly to a state or a local government by the project: income taxes, ad valorem taxes on real and personal property, sales and use taxes, franchise taxes, license taxes, excise taxes and severance taxes; and

(ii) All state and local personal income tax and occupational tax withholdings from employees of the project attributable to employment at the project.

(i) "States" means the State of Alabama and the State of Mississippi collectively.

**SECTION 4.** **Creation; governance; authority to act.** (1) The Alabama-Mississippi Joint Economic Development Authority is hereby created by the states for the performance of essential public functions.

(2) The authority shall be governed by a board of directors consisting of the Director of the Alabama Development Office and the Executive Director of the Mississippi Major Economic Impact Authority. The Board of Directors shall administer, manage and direct the affairs and business of the authority. The board of directors shall act by unanimous consent in exercising the powers now or hereafter granted to the authority and in administering, managing and directing the affairs and business of the authority. The board of directors may delegate the performance of any administrative functions to such persons or public agencies of either of the states as the board of directors deems appropriate.

(3) The board of directors may enter into an administrative agreement setting forth any provision regarding:

- (a) The management and operation of the authority;
- (b) The terms, conditions or manner in which the authority will engage in projects; and
- (c) Any other matters not inconsistent with the terms or purposes of this act.

(4) The Board of Directors may negotiate and enter into a project agreement setting forth any provisions relating to a specific project that are not inconsistent with the terms or purposes of this act.

(5) The authority, through its board of directors, is hereby authorized, designated and empowered to:

- (a) Promulgate rules and regulations consistent with this act concerning such matters as the authority deems appropriate;
- (b) Take all steps necessary or appropriate to effect the siting, development and operation of a project within the designated geographic area;
- (c) Act on behalf of the states in submitting site and incentive proposals for any project. Notwithstanding anything in this act to the contrary, no proposal shall be binding upon the

165 authority or the states until after the project agreement, and the  
166 incentives contained in the agreement with respect to the Project,  
167 have been approved by the legislatures of both states as required  
168 under the laws of each state;

169 (d) To employ or contract with architects, engineers,  
170 attorneys, accountants, construction and financial experts and  
171 such other advisors, consultants and agents as may be necessary in  
172 its judgment and to fix and pay their compensation;

173 (e) To make applications and enter into any contracts  
174 for financial assistance as may be appropriate under applicable  
175 federal law or the laws of either state;

176 (f) To apply for, accept and utilize grants, gifts and  
177 other funds or aid from any source for any purpose contemplated by  
178 this act, and to comply, subject to the provisions of this act,  
179 with the terms and conditions thereof; and

180 (g) To acquire by purchase, lease, gift, or in other  
181 manner, or obtain options to acquire and to own, maintain, use,  
182 operate and convey any and all property of any kind, public or  
183 private, real, personal, or mixed, or any interest or estate  
184 therein, within the designated geographic area necessary for the  
185 project or any facility related and necessary to the Project.

186 (6) If an area within the designated geographic area is  
187 selected as the preferred project site for a project and the  
188 legislatures of the states have approved a project agreement with  
189 respect to the project, the authority is hereby designated and  
190 empowered to coordinate fully the development of the project with  
191 private business, the United States government and public agencies  
192 and/or political subdivisions of both states.

193 (7) The authority shall create a separate account for money  
194 that it receives from sources other than the states and shall  
195 account for such monies separate from appropriations and other  
196 monies from the States.

197       **SECTION 5. Taxation; incentives; allocation; distribution.**

198       (1) A project shall be subject to taxation in the state in which  
199 the project is located. A project shall be subject to all state  
200 and local taxes in the state in which the project is located that  
201 are levied on other enterprises of similar nature in the state.

202       (2) For purposes of determining an entity's state tax  
203 liability with respect to a project, an entity engaging in a  
204 project located in the designated geographic area may request tax  
205 incentives offered by the state in which the project is located.  
206 Tax incentives and modifications to implement more favorable  
207 incentives may be offered to the project at the discretion of the  
208 authority. No such incentives are final without approval of the  
209 legislatures of the states.

210       **SECTION 6. Cross-border activities.** All public agencies and  
211 political subdivisions of the States of Alabama and Mississippi  
212 are hereby authorized to perform for the benefit of any project  
213 any functions, activities or services that such agencies are  
214 otherwise permitted by law to perform regardless of where the  
215 project is located.

216       **SECTION 7. Funding.** The authority shall submit annually to  
217 the executive head or designated officer or officers of each state  
218 a budget of its estimated expenditures for such year as may be  
219 required by the laws of that state for presentation to the  
220 legislature thereof. The total amount of the authority 's budget  
221 of estimated expenditures shall be apportioned among the states in  
222 equal shares. Subject to appropriation by the legislatures of the  
223 states, the authority shall be provided with such funds by each of  
224 the states as are necessary to enable the authority to fulfill the  
225 powers and duties imposed upon and entrusted to it.

226       **SECTION 8. Severability; construction.** The provisions of  
227 this act shall be severable and if any phrase, clause, sentence or  
228 provision of this act is declared unconstitutional or the  
229 application thereof to any agency, person or circumstance is held

230 invalid, the constitutionality of the remainder of this act and  
231 the applicability thereof to any other agency, person or  
232 circumstance shall not be affected thereby. It is the legislative  
233 intent that the provisions of the act be reasonably and liberally  
234 construed so as to accomplish the purposes set forth in Section 2  
235 of this act.

236       **SECTION 9.** This act shall take effect and be in force from  
237 and after its passage.