

By: Representative Buck

To: Ways and Means

HOUSE BILL NO. 1292

1 AN ACT TO AMEND SECTIONS 57-61-11 AND 57-61-34, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THAT A PRIVATE COMPANY THAT HAS RECEIVED
3 A LOAN UNDER THE MISSISSIPPI BUSINESS INVESTMENT ACT AND THAT IS A
4 SMALL BUSINESS MAY REQUEST A DEFERRAL OF LOAN PAYMENTS IF A
5 DEFERRAL WILL PLAY A SIGNIFICANT ROLE IN IMPROVING THE FINANCIAL
6 CONDITION OF THE PRIVATE COMPANY AND ASSIST IT TO SUCCEED AND
7 REMAIN A VIABLE OPERATION; TO AUTHORIZE A PRIVATE COMPANY TO
8 REQUEST A DEFERRAL OF PAYMENTS IF A PUBLIC HIGHWAY OR ROAD
9 CONSTRUCTION OR IMPROVEMENT PROJECT HAS HAD A SUBSTANTIALLY
10 ADVERSE EFFECT ON ITS OPERATIONS AND LEVEL OF BUSINESS ACTIVITY;
11 TO DEFINE THE TERM "SMALL BUSINESS"; TO AMEND SECTION 57-93-1,
12 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT AN ENTERPRISE THAT HAS
13 RECEIVED A LOAN UNDER THE MISSISSIPPI EXISTING INDUSTRY
14 PRODUCTIVITY LOAN PROGRAM AND THAT IS A SMALL BUSINESS MAY REQUEST
15 A DEFERRAL OF LOAN PAYMENTS IF A DEFERRAL WILL PLAY A SIGNIFICANT
16 ROLE IN IMPROVING THE FINANCIAL CONDITION OF THE ENTERPRISE AND
17 ASSIST IT TO SUCCEED AND REMAIN A VIABLE OPERATION; TO AUTHORIZE
18 AN ENTERPRISE TO REQUEST A DEFERRAL OF PAYMENTS IF A PUBLIC
19 HIGHWAY OR ROAD CONSTRUCTION OR IMPROVEMENT PROJECT HAS HAD A
20 SUBSTANTIALLY ADVERSE EFFECT ON ITS OPERATIONS AND LEVEL OF
21 BUSINESS ACTIVITY; TO DEFINE THE TERM "SMALL BUSINESS"; TO AMEND
22 SECTION 57-95-1, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT AN
23 ENTERPRISE THAT HAS RECEIVED A LOAN UNDER THE MISSISSIPPI JOB
24 PROTECTION ACT AND THAT IS A SMALL BUSINESS MAY REQUEST A DEFERRAL
25 OF LOAN PAYMENTS IF A DEFERRAL WILL PLAY A SIGNIFICANT ROLE IN
26 IMPROVING THE FINANCIAL CONDITION OF THE ENTERPRISE AND ASSIST IT
27 TO SUCCEED AND REMAIN A VIABLE OPERATION; TO AUTHORIZE AN
28 ENTERPRISE TO REQUEST A DEFERRAL OF PAYMENTS IF A PUBLIC HIGHWAY
29 OR ROAD CONSTRUCTION OR IMPROVEMENT PROJECT HAS HAD A
30 SUBSTANTIALLY ADVERSE EFFECT ON ITS OPERATIONS AND LEVEL OF
31 BUSINESS ACTIVITY; TO DEFINE THE TERM "SMALL BUSINESS"; TO AMEND
32 SECTION 69-2-13, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT AN
33 AGRIBUSINESS THAT HAS RECEIVED A LOAN FROM THE EMERGING CROPS FUND
34 AND THAT IS A SMALL BUSINESS MAY REQUEST A DEFERRAL OF LOAN
35 PAYMENTS IF A DEFERRAL WILL PLAY A SIGNIFICANT ROLE IN IMPROVING
36 THE FINANCIAL CONDITION OF THE ENTERPRISE AND ASSIST IT TO SUCCEED
37 AND REMAIN A VIABLE OPERATION; TO AUTHORIZE AN AGRIBUSINESS TO
38 REQUEST A DEFERRAL OF PAYMENTS IF A PUBLIC HIGHWAY OR ROAD
39 CONSTRUCTION OR IMPROVEMENT PROJECT HAS HAD A SUBSTANTIALLY
40 ADVERSE EFFECT ON ITS OPERATIONS AND LEVEL OF BUSINESS ACTIVITY;
41 TO DEFINE THE TERM "SMALL BUSINESS"; TO AMEND SECTION 3, CHAPTER
42 14, LAWS OF FIFTH EXTRAORDINARY SESSION OF 2005, TO PROVIDE THAT A
43 BUSINESS THAT HAS RECEIVED A LOAN UNDER THE MISSISSIPPI DISASTER
44 SMALL BUSINESS BRIDGE LOAN ACT MAY REQUEST A DEFERRAL OF LOAN
45 PAYMENTS IF A DEFERRAL WILL PLAY A SIGNIFICANT ROLE IN IMPROVING
46 THE FINANCIAL CONDITION OF THE BUSINESS AND ASSIST IT TO SUCCEED
47 AND REMAIN A VIABLE OPERATION; TO AUTHORIZE A BUSINESS TO REQUEST
48 A DEFERRAL OF PAYMENTS IF A PUBLIC HIGHWAY OR ROAD CONSTRUCTION OR
49 IMPROVEMENT PROJECT HAS HAD A SUBSTANTIALLY ADVERSE EFFECT ON ITS
50 OPERATIONS AND LEVEL OF BUSINESS ACTIVITY; TO AMEND SECTION
51 57-10-13, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT AN
52 AGRIBUSINESS THAT HAS RECEIVED A LOAN UNDER THE SMALL BUSINESS

53 ASSISTANCE ACT MAY REQUEST A DEFERRAL OF LOAN PAYMENTS IF A
54 DEFERRAL WILL PLAY A SIGNIFICANT ROLE IN IMPROVING THE FINANCIAL
55 CONDITION OF THE BUSINESS AND ASSIST IT TO SUCCEED AND REMAIN A
56 VIABLE OPERATION; TO AUTHORIZE A BUSINESS TO REQUEST A DEFERRAL OF
57 PAYMENTS IF A PUBLIC HIGHWAY OR ROAD CONSTRUCTION OR IMPROVEMENT
58 PROJECT HAS HAD A SUBSTANTIALLY ADVERSE EFFECT ON ITS OPERATIONS
59 AND LEVEL OF BUSINESS ACTIVITY; TO PROVIDE THAT AN ENTERPRISE THAT
60 HAS BEEN GRANTED A LOAN PAYMENT DEFERRAL UNDER THIS ACT SHALL BE
61 ALLOWED A DEFERRAL OF AD VALOREM FOR A PERIOD CORRESPONDING WITH
62 THE DEFERRAL OF LOAN PAYMENTS; TO AMEND SECTION 27-41-1,
63 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED
64 PURPOSES.

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

66 **SECTION 1.** Section 57-61-11, Mississippi Code of 1972, is
67 amended as follows:

68 57-61-11. The Mississippi Development Authority shall
69 establish such guidelines, rules and regulations for the repayment
70 of funds loaned pursuant to this chapter as may be necessary.
71 These provisions shall include, but not be limited to, the
72 following:

73 (a) Funds may be loaned for a maximum of ten (10) years
74 or the estimated useful life of the property as established by the
75 United States Department of Treasury, whichever is greater.

76 (b) The rate of interest charged by the Mississippi
77 Development Authority for improvements not on publicly owned
78 property may be negotiated by the Mississippi Development
79 Authority.

80 (c) For all improvements funded through this chapter
81 which occur on publicly owned property, repayment of funds loaned
82 may, in the discretion of the Mississippi Development Authority,
83 involve only the principal amount loaned with no interest charged
84 thereon.

85 (d) An audit by a certified public accountant of all
86 costs of a project hereunder must be submitted to the Mississippi
87 Development Authority not later than ninety (90) days after a
88 project's completion. Such an audit shall certify that all of the
89 funds loaned or granted pursuant to this chapter were disbursed in
90 accordance with the terms of this chapter and shall be paid for by
91 the private company benefited by the project.

92 (e) Notwithstanding the foregoing, in the case of an
93 application under Section 57-61-9(5)(a), the guidelines shall
94 include, but not be limited to, the following:

95 (i) Funds may be loaned for a maximum of twenty
96 (20) years, or the estimated useful life of improvements on the
97 land areas of the port, whichever is greater.

98 (ii) The rate of interest charged by the
99 Mississippi Development Authority for loans for port projects may
100 be negotiated by the Mississippi Development Authority and shall
101 be consistent with Section 57-61-11(b) and (c).

102 (iii) The total of grants and loans to any one (1)
103 state-owned port made pursuant to an application under Section
104 57-61-9(5)(a) shall not exceed Twenty Million Dollars
105 (\$20,000,000.00).

106 (iv) Before any loan or grant may be made under
107 Section 57-61-9(5)(a) to a state-owned port bordering the Gulf of
108 Mexico, the applicant shall make adequate assurance to the
109 Mississippi Development Authority that federal participation in
110 the cost of the project or projects has been committed contingent
111 only upon availability of local participation in accordance with
112 federal guidelines.

113 (v) Notwithstanding any provision of this chapter
114 to the contrary, the Mississippi Development Authority shall
115 utilize not more than Four Million Dollars (\$4,000,000.00) out of
116 the proceeds of bonds authorized to be issued in this chapter to
117 be made available as interest-bearing loans to state-owned ports
118 for the purpose of repairing, renovating, maintaining and
119 improving the state-owned port. The Mississippi Development
120 Authority shall establish an amortization schedule for the
121 repayment of any loans made pursuant to this subparagraph. The
122 state-owned port shall not spend any revenues for other purposes
123 unless payments on the loan are being timely made according to the
124 amortization schedule. The match requirements of this section and

125 Section 57-61-9 shall not apply to any loan made pursuant to this
126 subparagraph.

127 (f) Notwithstanding any provision of this chapter to
128 the contrary, the Mississippi Development Authority shall utilize
129 not more than Three Million Dollars (\$3,000,000.00) out of the
130 proceeds of bonds authorized to be issued in this chapter for the
131 purpose of making loans to municipalities operating county-owned
132 ports or municipally owned ports for the purpose of acquiring
133 land, buildings and other improvements and for repairing,
134 renovating, maintaining and improving such ports. The Mississippi
135 Development Authority shall establish an amortization schedule for
136 the repayment of any loans made pursuant to this paragraph (f). A
137 municipality shall not spend any port revenues for other purposes
138 unless payments on the loan are being timely made according to the
139 amortization schedule.

140 (g) Any private company that has received a loan under
141 this chapter and that is a small business may apply to the
142 Mississippi Development Authority to have the payments on the loan
143 deferred if the deferral will play a significant role in improving
144 the financial condition of the private company and assist the
145 private company to succeed and remain a viable operation. A
146 deferral granted under this paragraph (g) may not exceed four (4)
147 years. A private company desiring assistance under this paragraph
148 (g) must submit an application to the Mississippi Development
149 Authority. The application shall include:

150 (i) The reason for which the deferral is
151 requested;

152 (ii) An explanation of how the deferral of loan
153 payments will improve the financial condition of the private
154 company and assist the private company;

155 (iii) The outstanding balance of the loan for
156 which a deferral is requested;

157 (iv) Financial statements or tax returns for the
158 two (2) years immediately prior to the application;

159 (v) A business plan;

160 (vi) Credit reports on all persons or entities
161 with a twenty percent (20%) or greater interest in the private
162 company; and

163 (vii) Any other information required by the
164 Mississippi Development Authority.

165 A private company that receives a deferral of payments under this
166 paragraph (g) must submit on a semiannual basis information to the
167 Mississippi Development Authority for its review to determine
168 whether the deferral of payments is necessary and should continue.

169 For the purposes of this paragraph (g), the term "small
170 business" means any commercial enterprise with less than one
171 hundred (100) full-time employees, less than Two Million Dollars
172 (\$2,000,000.00) in net worth or less than Three Hundred Fifty
173 Thousand Dollars (\$350,000.00) in net annual profit after taxes.

174 (h) Any private company that has received a loan under
175 this chapter and that is a small business may apply to the
176 Mississippi Development Authority to have the payments on the loan
177 deferred if a public highway or road construction or improvement
178 project has had a substantially adverse impact on its operations
179 and level of business activity. A deferral granted under this
180 paragraph (h) may not exceed the period of time during which the
181 private company experiences a substantially adverse impact on its
182 business. A private company desiring assistance under this
183 paragraph (h) must submit an application to the Mississippi
184 Development Authority. The application shall include:

185 (i) The reason for which the deferral is
186 requested;

187 (ii) A description of the public highway or road
188 project that has had a substantially adverse impact on the private

189 company's business and how the project has adversely affected the
190 applicant's business;

191 (iii) An explanation of how the deferral of loan
192 payments will assist the private company's business during the
193 period for which the highway or road project is ongoing;

194 (iv) The outstanding balance of the loan for which
195 the deferral is requested;

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

198 (vi) A business plan;

199 (vii) Credit reports on all persons or entities
200 with a twenty percent (20%) or greater interest in the private
201 company; and

202 (viii) Any other information required by the
203 Mississippi Development Authority.

204 A private company that receives a deferral of payments under this
205 paragraph (h) must submit on a semiannual basis information to the
206 Mississippi Development Authority for its review to determine
207 whether the deferral of payments is necessary and should continue.

208 For the purposes of this paragraph (h), the term "small
209 business" means any commercial enterprise with less than one
210 hundred (100) full-time employees, less than Two Million Dollars
211 (\$2,000,000.00) in net worth or less than Three Hundred Fifty
212 Thousand Dollars (\$350,000.00) in net annual profit after taxes.

213 **SECTION 2.** Section 57-61-34, Mississippi Code of 1972, is
214 amended as follows:

215 57-61-34. (1) Notwithstanding any provision of this chapter
216 to the contrary, the Mississippi Development Authority shall
217 utilize not more than Sixteen Million Dollars (\$16,000,000.00) out
218 of the proceeds of bonds authorized to be issued in this chapter
219 to be made available as interest-bearing loans to municipalities
220 or private companies to aid in the establishment of business
221 incubation centers and the creation of new and expanding research

222 and development and technology-based business and industry. In
223 making loans under this section, the Mississippi Development
224 Authority shall attempt to provide for an equitable distribution
225 of such loans among each of the congressional districts of this
226 state in order to promote economic development across the entire
227 state.

228 (2) The Mississippi Development Authority shall require that
229 any private company receiving a loan under subsection (1) of this
230 section enter into a binding commitment to meet the following
231 minimum obligations, in return for obtaining a loan derived from
232 the proceeds of any bonds issued under this section after July 1,
233 2005:

234 (a) The private company shall create a certain minimum
235 number of jobs over a certain period of time, as determined by the
236 authority, and such jobs must be held by persons eligible for
237 employment in the United States under applicable state and federal
238 law;

239 (b) The private company shall invest, over a certain
240 period of time, a certain minimum amount of capital within the
241 state, as determined by the authority; and

242 (c) The private company must meet such other
243 requirements as the Mississippi Development Authority considers
244 proper.

245 If the private company fails to satisfy any commitment under
246 this subsection, then the company must repay an amount equal to
247 all or a portion of the funds loaned by the state under this
248 subsection, as determined by the Mississippi Development
249 Authority.

250 (3) In exercising the power given it under this section, the
251 Mississippi Development Authority shall work in conjunction with
252 the University Research Center and may contract with the center to
253 provide space and assistance to business incubation centers as the
254 center is authorized to do pursuant to Section 57-13-13.

255 (4) (a) Any private company that has received a loan under
256 this section and that is a small business may apply to the
257 Mississippi Development Authority to have the payments on the loan
258 deferred if the deferral will play a significant role in improving
259 the financial condition of the private company and assist the
260 private company to succeed and remain a viable operation. A
261 deferral granted under this subsection may not exceed four (4)
262 years. A private company desiring assistance under this
263 subsection must submit an application to the Mississippi
264 Development Authority. The application shall include:

265 (i) The reason for which the deferral is
266 requested;

267 (ii) An explanation of how the deferral of loan
268 payments will improve the financial condition of the private
269 company and assist the private company;

270 (iii) The outstanding balance of the loan for
271 which a deferral is requested;

272 (iv) Financial statements or tax returns for the
273 two (2) years immediately prior to the application;

274 (v) A business plan;

275 (vi) Credit reports on all persons or entities
276 with a twenty percent (20%) or greater interest in the private
277 company; and

278 (vii) Any other information required by the
279 Mississippi Development Authority.

280 A private company that receives a deferral of payments under this
281 subsection must submit on a semiannual basis information to the
282 Mississippi Development Authority for its review to determine
283 whether the deferral of payments is necessary and should continue.

284 (b) For the purposes of this subsection, the term
285 "small business" means any commercial enterprise with less than
286 one hundred (100) full-time employees, less than Two Million
287 Dollars (\$2,000,000.00) in net worth or less than Three Hundred

288 Fifty Thousand Dollars (\$350,000.00) in net annual profit after
289 taxes.

290 (5) (a) Any private company that has received a loan under
291 this section and that is a small business may apply to the
292 Mississippi Development Authority to have the payments on the loan
293 deferred if a public highway or road construction or improvement
294 project has had a substantially adverse impact on its operations
295 and level of business activity. A deferral granted under this
296 subsection may not exceed the period of time during which the
297 private company experiences a substantially adverse impact on its
298 business. A private company desiring assistance under this
299 subsection must submit an application to the Mississippi
300 Development Authority. The application shall include:

301 (i) The reason for which the deferral is
302 requested;

303 (ii) A description of the public highway or road
304 project that has had a substantially adverse impact on the private
305 company's business and how the project has adversely affected the
306 applicant's business;

307 (iii) An explanation of how the deferral of loan
308 payments will assist the private company's business during the
309 period for which the highway or road project is ongoing;

310 (iv) The outstanding balance of the loan for which
311 the deferral is requested;

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

314 (vi) A business plan;

315 (vii) Credit reports on all persons or entities
316 with a twenty percent (20%) or greater interest in the private
317 company; and

318 (viii) Any other information required by the
319 Mississippi Development Authority.

320 A private company that receives a deferral of payments under this
321 subsection must submit on a semiannual basis information to the
322 Mississippi Development Authority for its review to determine
323 whether the deferral of payments is necessary and should continue.

324 (b) For the purposes of this subsection, the term
325 "small business" means any commercial enterprise with less than
326 one hundred (100) full-time employees, less than Two Million
327 Dollars (\$2,000,000.00) in net worth or less than Three Hundred
328 Fifty Thousand Dollars (\$350,000.00) in net annual profit after
329 taxes.

330 (6) The requirements of Section 57-61-9 shall not apply to
331 any loan made under this section. The Mississippi Development
332 Authority shall establish criteria and guidelines to govern loans
333 made pursuant to this section.

334 **SECTION 3.** Section 57-93-1, Mississippi Code of 1972, is
335 amended as follows:

336 57-93-1. (1) As used in this section:

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

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

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

344 (ii) Meet criteria established by the Mississippi
345 Development Authority.

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

347 (2) (a) There is established the Mississippi Existing
348 Industry Productivity Loan Program to be administered by the MDA
349 for the purpose of providing loans to existing industries to
350 deploy long-term fixed assets that through new technology will
351 improve productivity and competitiveness. An existing industry
352 that accepts a loan under this program shall not reduce employment

353 by more than twenty percent (20%) through the use of the long-term
354 fixed assets for which the loan is granted.

355 (b) An enterprise desiring a loan under this section
356 must submit an application to the MDA. The application shall
357 include:

358 (i) A description of the purpose for which the
359 loan is requested;

360 (ii) The amount of the loan requested;

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

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

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

365 (vi) Credit reports on all persons or entities
366 with a twenty percent (20%) or greater interest in the enterprise;
367 and

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

369 (c) The MDA shall require that binding commitments be
370 entered into requiring that:

371 (i) The minimum requirements of this section and
372 such other requirements as the MDA considers proper shall be met;
373 and

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

377 (d) The amount of a loan under this section shall not
378 exceed fifty percent (50%) of the total cost of the project or
379 Five Hundred Thousand Dollars (\$500,000.00), whichever is less.

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

384 (f) Any enterprise that has received a loan under this
385 section and that is a small business may apply to the MDA to have

386 the payments on the loan deferred if the deferral will play a
387 significant role in improving the financial condition of the
388 enterprise and assist the enterprise to succeed and remain a
389 viable operation. A deferral granted under this paragraph (f) may
390 not exceed four (4) years. An enterprise desiring assistance
391 under this paragraph (f) must submit an application to the MDA.

392 The application shall include:

393 (i) The reason for which the deferral is
394 requested;

395 (ii) An explanation of how the deferral of loan
396 payments will improve the financial condition of the enterprise
397 and assist the enterprise;

398 (iii) The outstanding balance of the loan for
399 which a deferral is requested;

400 (iv) Financial statements or tax returns for the
401 two (2) years immediately prior to the application;

402 (v) A business plan;

403 (vi) Credit reports on all persons or entities
404 with a twenty percent (20%) or greater interest in the enterprise;
405 and

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

407 An enterprise that receives a deferral of payments under this
408 paragraph (f) must submit on a semiannual basis information to the
409 MDA for its review to determine whether the deferral of payments
410 is necessary and should continue.

411 For the purposes of this paragraph (f), the term "small
412 business" means any commercial enterprise with less than one
413 hundred (100) full-time employees, less than Two Million Dollars
414 (\$2,000,000.00) in net worth or less than Three Hundred Fifty
415 Thousand Dollars (\$350,000.00) in net annual profit after taxes.

416 (g) Any enterprise that has received a loan under this
417 section and that is a small business may apply to the Mississippi
418 Development Authority to have the payments on the loan deferred if

419 a public highway or road construction or improvement project has
420 had a substantially adverse impact on its operations and level of
421 business activity. A deferral granted under this paragraph (g)
422 may not exceed the period of time during which the enterprise
423 experiences a substantially adverse impact to its business. A
424 enterprise desiring assistance under this paragraph (g) must
425 submit an application to the Mississippi Development Authority.
426 The application shall include:

427 (i) The reason for which the deferral is
428 requested;

429 (ii) A description of the public highway or road
430 project that has had a substantially adverse impact on the
431 enterprise's business and how the project has adversely affected
432 the applicant's business;

433 (iii) An explanation of how the deferral of loan
434 payments will assist the enterprise's business during the period
435 for which the highway or road project is ongoing;

436 (iv) The outstanding balance of the loan for which
437 the deferral is requested;

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

440 (vi) A business plan;

441 (vii) Credit reports on all persons or entities
442 with a twenty percent (20%) or greater interest in the enterprise;
443 and

444 (viii) Any other information required by the
445 Mississippi Development Authority.

446 An enterprise that receives a deferral of payments under this
447 paragraph (g) must submit on a semiannual basis information to the
448 Mississippi Development Authority for its review to determine
449 whether the deferral of payments is necessary and should continue.

450 For the purposes of this paragraph (g), the term "small
451 business" means any commercial enterprise with less than one

452 hundred (100) full-time employees, less than Two Million Dollars
453 (\$2,000,000.00) in net worth or less than Three Hundred Fifty
454 Thousand Dollars (\$350,000.00) in net annual profit after taxes.

455 (h) The MDA shall have all powers necessary to
456 implement and administer the program established under this
457 section, and the MDA shall promulgate rules and regulations, in
458 accordance with the Mississippi Administrative Procedures Law,
459 necessary for the implementation of this section. However, in
460 making loans under this section, the MDA shall attempt to provide
461 for an equitable distribution of such loans among each of the
462 congressional districts of this state in order to promote economic
463 development across the entire state.

464 (3) (a) There is created in the State Treasury a special
465 fund to be designated as the "Mississippi Existing Industry
466 Productivity Loan Fund," which shall consist of funds appropriated
467 or otherwise made available by the Legislature in any manner and
468 funds from any other source designated for deposit into such fund.
469 Unexpended amounts remaining in the fund at the end of a fiscal
470 year shall not lapse into the State General Fund, and any
471 investment earnings or interest earned on amounts in the fund
472 shall be deposited to the credit of the fund. Monies in the fund
473 shall be used by the MDA for the purposes described in this
474 section.

475 (b) Monies in the fund which are derived from the
476 proceeds of general obligation bonds may be used to reimburse
477 reasonable actual and necessary costs incurred by the MDA in
478 providing loans under this section through the use of general
479 obligation bonds. An accounting of actual costs incurred for
480 which reimbursement is sought shall be maintained for each loan by
481 the MDA. Reimbursement of reasonable actual and necessary costs
482 shall not exceed three percent (3%) of the proceeds of bonds
483 issued under Sections 2 through 17 of Chapter 1, Laws of 2005
484 Third Extraordinary Session. Monies authorized for a particular

485 loan may not be used to reimburse administrative costs for
486 unrelated loans. Reimbursements made under this subsection shall
487 satisfy any applicable federal tax law requirements.

488 **SECTION 4.** Section 57-95-1, Mississippi Code of 1972, is
489 amended as follows:

490 57-95-1. (1) As used in this section:

491 (a) "At-risk industry" means any enterprise that has
492 been operating in this state for not less than three (3)
493 consecutive years that has lost jobs or is at-risk to lose jobs
494 because such jobs have been outsourced.

495 (b) "MDA" means the Mississippi Development Authority.

496 (c) "Outsource" means to send out work or jobs of a
497 certain provider or manufacturer of the State of Mississippi to an
498 overseas provider or manufacturer or a provider or manufacturer
499 located outside the boundaries of the United States or any
500 territory of the United States.

501 (2) (a) There is established the Mississippi Job Protection
502 Act to be administered by the MDA for the purpose of providing
503 grants and loans to at-risk industries to be used for job
504 retention and to improve productivity and competitiveness. An
505 at-risk industry that accepts a grant or loan under this program
506 shall not reduce employment by more than twenty percent (20%).

507 (b) An enterprise desiring a grant or loan under this
508 section must submit an application to the MDA. The application
509 shall include:

510 (i) A description of the purpose for which the
511 grant or loan is requested;

512 (ii) The amount of the grant or loan requested;

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

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

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

517 (vi) Credit reports on all persons or entities
518 with a twenty percent (20%) or greater interest in the enterprise;
519 and

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

521 (c) The MDA shall require that binding commitments be
522 entered into requiring that:

523 (i) The minimum requirements of this section and
524 such other requirements as the MDA considers proper shall be met;
525 and

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

529 (d) The amount of a grant or loan under this section
530 shall not exceed fifty percent (50%) of the total cost of the
531 project.

532 (e) Any enterprise that has received a loan under this
533 section and that is a small business may apply to the MDA to have
534 the payments on the loan deferred if the deferral will play a
535 significant role in improving the financial condition of the
536 enterprise and assist the enterprise to succeed and remain a
537 viable operation. A deferral granted under this paragraph (e) may
538 not exceed four (4) years. An enterprise desiring assistance
539 under this paragraph (e) must submit an application to the MDA.
540 The application shall include:

541 (i) The reason for which the deferral is
542 requested;

543 (ii) An explanation of how the deferral of loan
544 payments will improve the financial condition of the enterprise
545 and assist the enterprise;

546 (iii) The outstanding balance of the loan for
547 which a deferral is requested;

548 (iv) Financial statements or tax returns for the
549 two (2) years immediately prior to the application;

550 (v) A business plan;
551 (vi) Credit reports on all persons or entities
552 with a twenty percent (20%) or greater interest in the enterprise;
553 and

554 (vii) Any other information required by the MDA.
555 An enterprise that receives a deferral of payments under this
556 paragraph (e) must submit on a semiannual basis information to the
557 MDA for its review to determine whether the deferral of payments
558 is necessary and should continue.

559 For the purposes of this paragraph (e), the term "small
560 business" means any commercial enterprise with less than one
561 hundred (100) full-time employees, less than Two Million Dollars
562 (\$2,000,000.00) in net worth or less than Three Hundred Fifty
563 Thousand Dollars (\$350,000.00) in net annual profit after taxes.

564 (f) Any enterprise that has received a loan under this
565 chapter and that is a small business may apply to the MDA to have
566 the payments on the loan deferred if a public highway or road
567 construction or improvement project has had a substantially
568 adverse impact on its operations and level of business activity.
569 A deferral granted under this paragraph (e) may not exceed the
570 period of time during which the enterprise experiences a
571 substantially adverse impact on its business. An enterprise
572 desiring assistance under this paragraph (h) must submit an
573 application to the MDA. The application shall include:

574 (i) The reason for which the deferral is
575 requested;

576 (ii) A description of the public highway or road
577 project that has had a substantially adverse impact on the
578 enterprise's business and how the project has adversely affected
579 the applicant's business;

580 (iii) An explanation of how the deferral of loan
581 payments will assist the enterprise's business during the period
582 for which the highway or road project is ongoing;

583 (iv) The outstanding balance of the loan for which
584 the deferral is requested;

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

587 (vi) A business plan;

588 (vii) Credit reports on all persons or entities
589 with a twenty percent (20%) or greater interest in the enterprise;
590 and

591 (viii) Any other information required by the MDA.

592 An enterprise that receives a deferral of payments under this
593 paragraph (f) must submit on a semiannual basis information to the
594 MDA for its review to determine whether the deferral of payments
595 is necessary and should continue.

596 For the purposes of this paragraph (f), the term "small
597 business" means any commercial enterprise with less than one
598 hundred (100) full-time employees, less than Two Million Dollars
599 (\$2,000,000.00) in net worth or less than Three Hundred Fifty
600 Thousand Dollars (\$350,000.00) in net annual profit after taxes.

601 (g) The MDA shall have all powers necessary to
602 implement and administer the program established under this
603 section, and the MDA shall promulgate rules and regulations, in
604 accordance with the Mississippi Administrative Procedures Law,
605 necessary for the implementation of this section.

606 (3) Grants to at-risk industries under this section shall
607 not exceed Two Hundred Thousand Dollars (\$200,000.00).

608 (4) (a) There is created in the State Treasury a special
609 fund to be designated as the "Mississippi Job Protection Act
610 Fund," which shall consist of funds appropriated or otherwise made
611 available by the Legislature in any manner and funds from any
612 other source designated for deposit into such fund. Unexpended
613 amounts remaining in the fund at the end of a fiscal year shall
614 not lapse into the State General Fund, and any investment earnings
615 or interest earned on amounts in the fund shall be deposited to

616 the credit of the fund. Monies in the fund shall be used by the
617 MDA for the purposes described in this section.

618 (b) Monies in the fund which are derived from the
619 proceeds of general obligation bonds may be used to reimburse
620 reasonable actual and necessary costs incurred by the MDA in
621 providing grants or loans under this section through the use of
622 general obligation bonds. An accounting of actual costs incurred
623 for which reimbursement is sought shall be maintained for each
624 grant or loan by the MDA. Reimbursement of reasonable actual and
625 necessary costs shall not exceed three percent (3%) of the
626 proceeds of bonds issued under Sections 40 through 55 of Chapter
627 1, Laws of Third Extraordinary Session of 2005. Monies authorized
628 for a particular grant or loan may not be used to reimburse
629 administrative costs for unrelated grants or loans.
630 Reimbursements made under this subsection shall satisfy any
631 applicable federal tax law requirements.

632 **SECTION 5.** Section 69-2-13, Mississippi Code of 1972, is
633 amended as follows:

634 69-2-13. (1) There is hereby established in the State
635 Treasury a fund to be known as the "Emerging Crops Fund," which
636 shall be used to pay the interest on loans made to farmers for
637 nonland capital costs of establishing production of emerging crops
638 on land in Mississippi, and to make loans and grants which are
639 authorized under this section to be made from the fund. The fund
640 shall be administered by the Mississippi Development Authority. A
641 board comprised of the directors of the authority, the Mississippi
642 Cooperative Extension Service, the Mississippi Small Farm
643 Development Center and the Mississippi Agricultural and Forestry
644 Experiment Station, or their designees, shall develop definitions,
645 guidelines and procedures for the implementation of this chapter.
646 Funds for the Emerging Crops Fund shall be provided from the
647 issuance of bonds or notes under Sections 69-2-19 through 69-2-37
648 and from repayment of interest loans made from the fund.

649 (2) (a) The Mississippi Development Authority shall develop
650 a program which gives fair consideration to making loans for the
651 processing and manufacturing of goods and services by
652 agribusiness, greenhouse production horticulture, and small
653 business concerns. It is the policy of the State of Mississippi
654 that the Mississippi Development Authority shall give due
655 recognition to and shall aid, counsel, assist and protect, insofar
656 as is possible, the interests of agribusiness, greenhouse
657 production horticulture, and small business concerns. To ensure
658 that the purposes of this subsection are carried out, the
659 Mississippi Development Authority shall loan not more than One
660 Million Dollars (\$1,000,000.00) to finance any single
661 agribusiness, greenhouse production horticulture, or small
662 business concern. Loans made pursuant to this subsection shall be
663 made in accordance with the criteria established in Section
664 57-71-11.

665 (b) The Mississippi Development Authority may, out of
666 the total amount of bonds authorized to be issued under this
667 chapter, make available funds to any planning and development
668 district in accordance with the criteria established in Section
669 57-71-11. Planning and development districts which receive monies
670 pursuant to this provision shall use such monies to make loans to
671 private companies for purposes consistent with this subsection.

672 (c) The Mississippi Development Authority is hereby
673 authorized to engage legal services, financial advisors,
674 appraisers and consultants if needed to review and close loans
675 made hereunder and to establish and assess reasonable fees,
676 including, but not limited to, liquidation expenses.

677 (3) (a) The Mississippi Development Authority shall, in
678 addition to the other programs described in this section, provide
679 for a program of loans to be made to agribusiness or greenhouse
680 production horticulture enterprises for the purpose of encouraging
681 thereby the extension of conventional financing and the issuance

682 of letters of credit to such agribusiness or greenhouse production
683 horticulture enterprises by private institutions. Monies to make
684 such loans by the Mississippi Development Authority shall be drawn
685 from the Emerging Crops Fund. The amount of a loan to any single
686 agribusiness or greenhouse production horticulture enterprise
687 under this paragraph (a) shall not exceed twenty percent (20%) of
688 the total cost of the project for which financing is sought or Two
689 Hundred Thousand Dollars (\$200,000.00), whichever is less. No
690 interest shall be charged on such loans, and only the amount
691 actually loaned shall be required to be repaid. Repayments shall
692 be deposited into the Emerging Crops Fund.

693 (b) The Mississippi Development Authority shall, in
694 addition to the other programs described in this section, provide
695 for a program of loans or loan guaranties, or both, to be made to
696 or on behalf of any agribusiness enterprise engaged in beef
697 processing for the purpose of encouraging thereby the extension of
698 conventional financing and the issuance of letters of credit to
699 such agribusiness enterprises by private institutions. Monies to
700 make such loans or loan guaranties, or both, by the Mississippi
701 Development Authority shall be drawn from the Emerging Crops Fund
702 and shall not exceed Thirty-five Million Dollars (\$35,000,000.00)
703 in the aggregate. The amount of a loan to any single agribusiness
704 enterprise or loan guaranty on behalf of such agribusiness
705 enterprise, or both, under this paragraph (b) shall not exceed the
706 total cost of the project for which financing is sought or
707 Thirty-five Million Dollars (\$35,000,000.00), whichever is less.
708 The interest charged on a loan made under this paragraph (b) shall
709 be at a rate determined by the Mississippi Development Authority.
710 All repayments of any loan made under this paragraph (b) shall be
711 deposited into the Emerging Crops Fund. Assistance received by an
712 agribusiness enterprise under this paragraph (b) shall not
713 disqualify the agribusiness enterprise from obtaining any other
714 assistance under this chapter.

715 (c) Any enterprise that has received a loan under this
716 subsection and that is a small business may apply to the
717 Mississippi Development Authority to have the payments on the loan
718 deferred if the deferral will play a significant role in improving
719 the financial condition of the enterprise and assist the
720 enterprise to succeed and remain a viable operation. A deferral
721 granted under this paragraph (c) may not exceed four (4) years.
722 An enterprise desiring assistance under this paragraph (c) must
723 submit an application to the Mississippi Development Authority.

724 The application shall include:

725 (i) The reason for which the deferral is
726 requested;

727 (ii) An explanation of how the deferral of loan
728 payments will improve the financial condition of the enterprise
729 and assist the enterprise;

730 (iii) The outstanding balance of the loan for
731 which a deferral is requested;

732 (iv) Financial statements or tax returns for the
733 two (2) years immediately prior to the application;

734 (v) A business plan;

735 (vi) Credit reports on all persons or entities
736 with a twenty percent (20%) or greater interest in the enterprise;
737 and

738 (vii) Any other information required by the
739 Mississippi Development Authority.

740 An enterprise that receives a deferral of payments under this
741 paragraph (c) must submit on a semiannual basis information to the
742 Mississippi Development Authority for its review to determine
743 whether the deferral of payments is necessary and should continue.

744 For the purposes of this paragraph (c), the term "small
745 business" means any commercial enterprise with less than one
746 hundred (100) full-time employees, less than Two Million Dollars

747 (\$2,000,000.00) in net worth or less than Three Hundred Fifty
748 Thousand Dollars (\$350,000.00) in net annual profit after taxes.

749 (d) Any enterprise that has received a loan under this
750 subsection and that is a small business may apply to the
751 Mississippi Development Authority to have the payments on the loan
752 deferred if a public highway or road construction or improvement
753 project has had a substantially adverse impact on its operations
754 and level of business activity. A deferral granted under this
755 paragraph (d) section may not exceed the period of time during
756 which the enterprise experiences a substantially adverse impact on
757 its business. An enterprise desiring assistance under this
758 paragraph (d) must submit an application to the Mississippi
759 Development Authority. The application shall include:

760 (i) The reason for which the deferral is
761 requested;

762 (ii) A description of the public highway or road
763 project that has had a substantially adverse impact on the
764 enterprise's business and how the project has adversely affected
765 the applicant's business;

766 (iii) An explanation of how the deferral of loan
767 payments will assist the enterprise's business during the period
768 for which the highway or road project is ongoing;

769 (iv) The outstanding balance of the loan for which
770 the deferral is requested;

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

773 (vi) A business plan;

774 (vii) Credit reports on all persons or entities
775 with a twenty percent (20%) or greater interest in the enterprise;
776 and

777 (viii) Any other information required by the
778 Mississippi Development Authority.

779 An enterprise that receives a deferral of payments under this
780 paragraph (d) must submit on a semiannual basis information to the
781 Mississippi Development Authority for its review to determine
782 whether the deferral of payments is necessary and should continue.

783 For the purposes of this paragraph (d), the term "small
784 business" means any commercial enterprise with less than one
785 hundred (100) full-time employees, less than Two Million Dollars
786 (\$2,000,000.00) in net worth or less than Three Hundred Fifty
787 Thousand Dollars (\$350,000.00) in net annual profit after taxes.

788 (4) (a) Through June 30, 2006, the Mississippi Development
789 Authority may loan or grant to qualified planning and development
790 districts, and to small business investment corporations,
791 bank-based community development corporations, the Recruitment and
792 Training Program, Inc., the City of Jackson Business Development
793 Loan Fund, the Lorman Southwest Mississippi Development
794 Corporation, the West Jackson Community Development Corporation,
795 the East Mississippi Development Corporation, and other entities
796 meeting the criteria established by the Mississippi Development
797 Authority (all referred to hereinafter as "qualified entities"),
798 funds for the purpose of establishing loan revolving funds to
799 assist in providing financing for minority economic development.
800 The monies loaned or granted by the Mississippi Development
801 Authority shall be drawn from the Emerging Crops Fund and shall
802 not exceed Twenty-six Million Dollars (\$26,000,000.00) in the
803 aggregate. Planning and development districts or qualified
804 entities which receive monies pursuant to this provision shall use
805 such monies to make loans to minority business enterprises
806 consistent with criteria established by the Mississippi
807 Development Authority. Such criteria shall include, at a minimum,
808 the following:

809 (i) The business enterprise must be a private,
810 for-profit enterprise.

811 (ii) If the business enterprise is a
812 proprietorship, the borrower must be a resident citizen of the
813 State of Mississippi; if the business enterprise is a corporation
814 or partnership, at least fifty percent (50%) of the owners must be
815 resident citizens of the State of Mississippi.

816 (iii) The borrower must have at least five percent
817 (5%) equity interest in the business enterprise.

818 (iv) The borrower must demonstrate ability to
819 repay the loan.

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

822 (vi) Loan proceeds may be used for financing all
823 project costs associated with development or expansion of a new
824 small business, including fixed assets, working capital, start-up
825 costs, rental payments, interest expense during construction and
826 professional fees related to the project.

827 (vii) Loan proceeds shall not be used to pay off
828 existing debt for loan consolidation purposes; to finance the
829 acquisition, construction, improvement or operation of real
830 property which is to be held primarily for sale or investment; to
831 provide for, or free funds, for speculation in any kind of
832 property; or as a loan to owners, partners or stockholders of the
833 applicant which do not change ownership interest by the applicant.
834 However, this does not apply to ordinary compensation for services
835 rendered in the course of business.

836 (viii) The maximum amount that may be loaned to
837 any one (1) borrower shall be Two Hundred Fifty Thousand Dollars
838 (\$250,000.00).

839 (ix) The Mississippi Development Authority shall
840 review each loan before it is made, and no loan shall be made to
841 any borrower until the loan has been reviewed and approved by the
842 Mississippi Development Authority.

843 (b) For the purpose of this subsection, the term
844 "minority business enterprise" means a socially and economically
845 disadvantaged small business concern, organized for profit,
846 performing a commercially useful function which is owned and
847 controlled by one or more minorities or minority business
848 enterprises certified by the Mississippi Development Authority, at
849 least fifty percent (50%) of whom are resident citizens of the
850 State of Mississippi. For purposes of this subsection, the term
851 "socially and economically disadvantaged small business concern"
852 shall have the meaning ascribed to such term under the Small
853 Business Act (15 USCS, Section 637(a)), or women, and the term
854 "owned and controlled" means a business in which one or more
855 minorities or minority business enterprises certified by the
856 Mississippi Development Authority own sixty percent (60%) or, in
857 the case of a corporation, sixty percent (60%) of the voting
858 stock, and control sixty percent (60%) of the management and daily
859 business operations of the business.

860 From and after July 1, 2006, monies not loaned or granted by
861 the Mississippi Development Authority to planning and development
862 districts or qualified entities under this subsection, and monies
863 not loaned by planning and development districts or qualified
864 entities, shall be deposited to the credit of the sinking fund
865 created and maintained in the State Treasury for the retirement of
866 bonds issued under Section 69-2-19.

867 (c) Notwithstanding any other provision of this
868 subsection to the contrary, if federal funds are not available for
869 commitments made by a planning and development district to provide
870 assistance under any federal loan program administered by the
871 planning and development district in coordination with the
872 Appalachian Regional Commission or Economic Development
873 Administration, or both, a planning and development district may
874 use funds in its loan revolving fund, which have not been
875 committed otherwise to provide assistance, for the purpose of

876 providing temporary funding for such commitments. If a planning
877 and development district uses uncommitted funds in its loan
878 revolving fund to provide such temporary funding, the district
879 shall use funds repaid to the district under the temporarily
880 funded federal loan program to replenish the funds used to provide
881 the temporary funding. Funds used by a planning and development
882 district to provide temporary funding under this paragraph (c)
883 must be repaid to the district's loan revolving fund no later than
884 twelve (12) months after the date the district provides the
885 temporary funding. A planning and development district may not
886 use uncommitted funds in its loan revolving fund to provide
887 temporary funding under this paragraph (c) on more than two (2)
888 occasions during a calendar year. A planning and development
889 district may provide temporary funding for multiple commitments on
890 each such occasion. The maximum aggregate amount of uncommitted
891 funds in a loan revolving fund that may be used for such purposes
892 during a calendar year shall not exceed seventy percent (70%) of
893 the uncommitted funds in the loan revolving fund on the date the
894 district first provides temporary funding during the calendar
895 year.

896 (d) If the Mississippi Development Authority determines
897 that a planning and development district or qualified entity has
898 provided loans to minority businesses in a manner inconsistent
899 with the provisions of this subsection, then the amount of such
900 loans so provided shall be withheld by the Mississippi Development
901 Authority from any additional grant funds to which the planning
902 and development district or qualified entity becomes entitled
903 under this subsection. If the Mississippi Development Authority
904 determines, after notifying such planning and development district
905 or qualified entity twice in writing and providing such planning
906 and development district or qualified entity a reasonable
907 opportunity to comply, that a planning and development district or
908 qualified entity has consistently failed to comply with this

909 subsection, the Mississippi Development Authority may declare such
910 planning and development district or qualified entity in default
911 under this subsection and, upon receipt of notice thereof from the
912 Mississippi Development Authority, such planning and development
913 district or qualified entity shall immediately cease providing
914 loans under this subsection, shall refund to the Mississippi
915 Development Authority for distribution to other planning and
916 development districts or qualified entities all funds held in its
917 revolving loan fund and, if required by the Mississippi
918 Development Authority, shall convey to the Mississippi Development
919 Authority all administrative and management control of loans
920 provided by it under this subsection.

921 (e) If the Mississippi Development Authority
922 determines, after notifying a planning and development district or
923 qualified entity twice in writing and providing copies of such
924 notification to each member of the Legislature in whose district
925 or in a part of whose district such planning and development
926 district or qualified entity is located and providing such
927 planning and development district or qualified entity a reasonable
928 opportunity to take corrective action, that a planning and
929 development district or qualified entity administering a revolving
930 loan fund under the provisions of this subsection is not actively
931 engaged in lending as defined by the rules and regulations of the
932 Mississippi Development Authority, the Mississippi Development
933 Authority may declare such planning and development district or
934 qualified entity in default under this subsection and, upon
935 receipt of notice thereof from the Mississippi Development
936 Authority, such planning and development district or qualified
937 entity shall immediately cease providing loans under this
938 subsection, shall refund to the Mississippi Development Authority
939 for distribution to other planning and development districts or
940 qualified entities all funds held in its revolving loan fund and,
941 if required by the Mississippi Development Authority, shall convey

942 to the Mississippi Development Authority all administrative and
943 management control of loans provided by it under this subsection.

944 (5) The Mississippi Development Authority shall develop a
945 program which will assist minority business enterprises by
946 guaranteeing bid, performance and payment bonds which such
947 minority businesses are required to obtain in order to contract
948 with federal agencies, state agencies or political subdivisions of
949 the state. Monies for such program shall be drawn from the monies
950 allocated under subsection (4) of this section to assist the
951 financing of minority economic development and shall not exceed
952 Three Million Dollars (\$3,000,000.00) in the aggregate. The
953 Mississippi Development Authority may promulgate rules and
954 regulations for the operation of the program established pursuant
955 to this subsection. For the purpose of this subsection (5) the
956 term "minority business enterprise" has the meaning assigned such
957 term in subsection (4) of this section.

958 (6) The Mississippi Development Authority may loan or grant
959 to public entities and to nonprofit corporations funds to defray
960 the expense of financing (or to match any funds available from
961 other public or private sources for the expense of financing)
962 projects in this state which are devoted to the study, teaching
963 and/or promotion of regional crafts and which are deemed by the
964 authority to be significant tourist attractions. The monies
965 loaned or granted shall be drawn from the Emerging Crops Fund and
966 shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00)
967 in the aggregate.

968 (7) Through June 30, 2006, the Mississippi Development
969 Authority shall make available to the Mississippi Department of
970 Agriculture and Commerce funds for the purpose of establishing
971 loan revolving funds and other methods of financing for
972 agribusiness programs administered under the Mississippi
973 Agribusiness Council Act of 1993. The monies made available by
974 the Mississippi Development Authority shall be drawn from the

975 Emerging Crops Fund and shall not exceed One Million Two Hundred
976 Thousand Dollars (\$1,200,000.00) in the aggregate. The
977 Mississippi Department of Agriculture and Commerce shall establish
978 control and auditing procedures for use of these funds. These
979 funds will be used primarily for quick payment to farmers for
980 vegetable and fruit crops processed and sold through vegetable
981 processing plants associated with the Department of Agriculture
982 and Commerce and the Mississippi State Extension Service.

983 (8) From and after July 1, 1996, the Mississippi Development
984 Authority shall make available to the Mississippi Small Farm
985 Development Center One Million Dollars (\$1,000,000.00) to be used
986 by the center to assist small entrepreneurs as provided in Section
987 37-101-25, Mississippi Code of 1972. The monies made available by
988 the Mississippi Development Authority shall be drawn from the
989 Emerging Crops Fund.

990 (9) The Mississippi Development Authority shall make
991 available to the Agribusiness and Natural Resource Development
992 Center through Alcorn State University an amount not to exceed Two
993 Hundred Fifty Thousand Dollars (\$250,000.00) in fiscal year 2001
994 and Two Hundred Fifty Thousand Dollars (\$250,000.00) in fiscal
995 year 2002 from the cash balance of the Emerging Crops Fund to
996 support the development of a cooperative program for agribusiness
997 development, marketing and natural resources development. This
998 subsection (9) shall stand repealed on June 30, 2006.

999 (10) The Mississippi Development Authority shall make
1000 available to the Small Farm Development Center at Alcorn State
1001 University funds in an aggregate amount not to exceed Three
1002 Hundred Thousand Dollars (\$300,000.00), to be drawn from the cash
1003 balance of the Emerging Crops Fund. The Small Farm Development
1004 Center at Alcorn State University shall use such funds to make
1005 loans to producers of sweet potatoes and cooperatives anywhere in
1006 the State of Mississippi owned by sweet potato producers to assist
1007 in the planting of sweet potatoes and the purchase of sweet potato

1008 production and harvesting equipment. A report of the loans made
1009 under this subsection shall be furnished by January 15 of each
1010 year to the Chairman of the Senate Agriculture Committee and the
1011 Chairman of the House Agriculture Committee.

1012 (11) The Mississippi Development Authority shall make
1013 available to the Mississippi Department of Agriculture and
1014 Commerce "Make Mine Mississippi" program an amount not to exceed
1015 One Hundred Fifty Thousand Dollars (\$150,000.00) to be drawn from
1016 the cash balance of the Emerging Crops Fund.

1017 (12) The Mississippi Development Authority shall make
1018 available to the Mississippi Department of Agriculture and
1019 Commerce an amount not to exceed One Hundred Fifty Thousand
1020 Dollars (\$150,000.00) to be drawn from the cash balance of the
1021 Emerging Crops Fund to be used for the rehabilitation and
1022 maintenance of the Mississippi Farmers Central Market in Jackson,
1023 Mississippi.

1024 (13) The Mississippi Development Authority shall make
1025 available to the Mississippi Department of Agriculture and
1026 Commerce an amount not to exceed Twenty-five Thousand Dollars
1027 (\$25,000.00) to be drawn from the cash balance of the Emerging
1028 Crops Fund to be used for advertising purposes related to the
1029 Mississippi Farmers Central Market in Jackson, Mississippi.

1030 (14) (a) The Mississippi Development Authority shall, in
1031 addition to the other programs described in this section, provide
1032 for a program of loan guaranties to be made on behalf of any
1033 nonprofit entity qualified under Section 501(c)(3) of the Internal
1034 Revenue Code and certified by the United States Department of the
1035 Treasury as a community development financial institution for the
1036 purpose of encouraging the extension of financing to such an
1037 entity which financing the entity will use to make funds available
1038 to other entities for the purpose of making loans available in
1039 low-income communities in Mississippi. Monies to make such loan
1040 guaranties by the Mississippi Development Authority shall be drawn

1041 from the Emerging Crops Fund and shall not exceed Two Million
1042 Dollars (\$2,000,000.00) in the aggregate. The amount of a loan
1043 guaranty on behalf of such an entity under this subsection (14)
1044 shall not exceed Two Million Dollars (\$2,000,000.00). Assistance
1045 received by an entity under this subsection (14) shall not
1046 disqualify the entity from obtaining any other assistance under
1047 this chapter.

1048 (b) An entity desiring assistance under this subsection
1049 (14) must submit an application to the Mississippi Development
1050 Authority. The application must include any information required
1051 by the Mississippi Development Authority.

1052 (c) The Mississippi Development Authority shall have
1053 all powers necessary to implement and administer the program
1054 established under this subsection (14), and the Mississippi
1055 Development Authority shall promulgate rules and regulations, in
1056 accordance with the Mississippi Administrative Procedures Law,
1057 necessary for the implementation of this subsection (14).

1058 **SECTION 6.** Section 3, Chapter 14, Laws of Fifth
1059 Extraordinary Session of 2005, is amended as follows:

1060 Section 3. (1) The Mississippi Development Authority
1061 (hereinafter referred to as the "authority") is authorized and
1062 empowered to utilize any funds acquired pursuant to Section 5 of
1063 this act and any funds otherwise provided for the purposes
1064 expressed in this act from any source, to establish a disaster
1065 loan program with federally insured financial institutions or
1066 other approved lending institutions according to rules and
1067 regulations of the authority to provide short-term bridge loans to
1068 small business owners in this state for the purpose of assisting
1069 such small businesses in returning to business as quickly as
1070 possible.

1071 (2) The amount of any loan granted under this act shall be
1072 not less than One Thousand Dollars (\$1,000.00) nor more than
1073 Twenty-five Thousand Dollars (\$25,000.00). Except as otherwise

1074 provided, the term of any loan made under this section shall be
1075 ninety (90) days or one hundred eighty (180) days as determined by
1076 the authority based upon the circumstances of the business
1077 applying for the loan. However, upon request by the issuing
1078 financial institution, the authority may extend the term of any
1079 loan made under this act up to an additional one hundred eighty
1080 (180) days. The proceeds of the loans authorized under this act
1081 shall be used only for the purpose of maintaining or restarting
1082 the business in the area for which a disaster declaration by the
1083 Governor for Hurricane Katrina was issued.

1084 (3) To be eligible for the loans authorized under this act,
1085 small businesses shall:

1086 (a) Be located in the area for which a disaster
1087 declaration for Hurricane Katrina was issued by the Governor;

1088 (b) Have been established in the area for which the
1089 disaster declaration of the Governor for Hurricane Katrina was
1090 issued for not less than one (1) year prior to the declaration;

1091 (c) Have employed not less than two (2) nor more than
1092 one hundred (100) persons immediately prior to the disaster
1093 declaration;

1094 (d) Have suffered physical damage as a direct result of
1095 the disaster; and

1096 (e) Be at least fifty-one percent (51%) owned by
1097 Mississippi residents, or, in the case of a Mississippi nonprofit
1098 corporation, controlled by Mississippi residents.

1099 (4) (a) Any small business that has received a loan under
1100 this section may apply to the authority to have the payments on
1101 the loan deferred if the deferral will play a significant role in
1102 improving the financial condition of the small business and assist
1103 the small business to succeed and remain a viable operation. A
1104 deferral granted under this subsection may not exceed four (4)
1105 years. A small business desiring assistance under this subsection

1106 must submit an application to the authority. The application
1107 shall include:

1108 (i) The reason for which the deferral is
1109 requested;

1110 (ii) An explanation of how the deferral of loan
1111 payments will improve the financial condition of the small
1112 business and assist the small business;

1113 (iii) The outstanding balance of the loan for
1114 which a deferral is requested;

1115 (iv) Financial statements or tax returns for the
1116 two (2) years immediately prior to the application;

1117 (v) A business plan;

1118 (vi) Credit reports on all persons or entities
1119 with a twenty percent (20%) or greater interest in the private
1120 company; and

1121 (vii) Any other information required by the
1122 Mississippi Development Authority.

1123 (b) A small business that receives a deferral of
1124 payments under this subsection must submit on a semiannual basis
1125 information to the authority for its review to determine whether
1126 the deferral of payments is necessary and should continue.

1127 (5) (a) Any small business that has received a loan under
1128 this section may apply to the authority to have the payments on
1129 the loan deferred if a public highway or road construction or
1130 improvement project has had a substantially adverse impact on its
1131 operations and level of business activity. A deferral granted
1132 under this subsection may not exceed the period of time during
1133 which the small business experiences a substantially adverse
1134 impact on its business. A small business desiring assistance
1135 under this subsection must submit an application to the authority.

1136 The application shall include:

1137 (i) The reason for which the deferral is
1138 requested;

1139 (ii) A description of the public highway or road
1140 project that has had a substantially adverse impact on the small
1141 business's business and how the project has adversely affected the
1142 applicant's business;

1143 (iii) An explanation of how the deferral of loan
1144 payments will assist the small business during the period for
1145 which the highway or road project is ongoing;

1146 (iv) The outstanding balance of the loan for which
1147 the deferral is requested;

1148 (v) Financial statements or tax returns for the
1149 two (2) years immediately prior to the application;

1150 (vi) A business plan;

1151 (vii) Credit reports on all persons or entities
1152 with a twenty percent (20%) or greater interest in the small
1153 business; and

1154 (viii) Any other information required by the
1155 authority.

1156 (b) A small business that receives a deferral of
1157 payments under this subsection must submit on a semiannual basis
1158 information to the authority for its review to determine whether
1159 the deferral of payments is necessary and should continue.

1160 (6) Using assessments of the disaster impacted areas, the
1161 authority shall designate the area, and the counties in the area,
1162 in which a small business must be located to be eligible to
1163 participate in the program. The authority shall develop, adopt
1164 and publish reasonable rules and regulations for the operation of
1165 the loan program established under this act. The rules and
1166 regulations shall govern the use of loan proceeds, terms of loans,
1167 loan interest rates and fees, the loan approval process and any
1168 other matters the authority considers appropriate. For purposes
1169 of the program established by this act, the authority shall be
1170 exempt from the Mississippi Administrative Procedures Law.

1171 **SECTION 7.** Section 57-10-513, Mississippi Code of 1972, is
1172 amended as follows:

1173 57-10-513. The planning and development districts and
1174 qualified entities are authorized, empowered and directed to
1175 deposit all grant funds received pursuant to this article in a
1176 revolving assistance fund and to provide assistance therefrom to
1177 small businesses in accordance with this article and the following
1178 criteria, terms and conditions:

1179 (a) To be eligible for assistance under this article,
1180 the small business and the project to be assisted must meet the
1181 following criteria:

1182 (i) Assistance must be in connection with an
1183 identifiable project or business plan, and the principal amount of
1184 all assistance may not exceed fifty percent (50%) of the total
1185 cost of said project or business plan;

1186 (ii) Assistance may be used in connection with the
1187 purchase or lease of land, buildings, equipment and inventory, and
1188 for working capital; provided, however, no more than one-third
1189 (1/3) of the total assistance to a small business pursuant to this
1190 article or Fifty Thousand Dollars (\$50,000.00), whichever is less,
1191 may be used for working capital;

1192 (iii) Assistance may not be provided for
1193 speculative land or real estate investments;

1194 (iv) Assistance may not be provided under the
1195 program to finance or satisfy any existing debt;

1196 (v) Assistance may not be provided to a small
1197 business unless at least sixty percent (60%) of the small business
1198 is owned, directly or indirectly, by individuals who have been
1199 residents of the State of Mississippi for two (2) years
1200 immediately prior to the application for assistance; and

1201 (vi) The project or business plan for which
1202 assistance is provided must create or retain full-time jobs, and
1203 the planning and development district or qualified entity must

1204 receive a certificate to that effect from the small business
1205 before any assistance is provided.

1206 (b) The interest rate on loans shall not be less than
1207 five percent (5%) per annum or more than four percent (4%) above
1208 the federal discount rate, plus the servicing fees established in
1209 this article.

1210 (c) As security for any loan under the program, the
1211 planning and development district or qualified entity shall take a
1212 security interest in assets of the small business and require
1213 personal guarantees of all persons and entities owning twenty
1214 percent (20%) or more of the small business. Such security
1215 interests may be subordinate to other security interests in such
1216 assets.

1217 (d) The maximum term of any loan under the program
1218 shall not exceed the following: fifteen (15) years if used to
1219 purchase or lease land or buildings, ten (10) years if used to
1220 purchase or lease equipment, five (5) years if used to provide
1221 working capital and three (3) years if used to purchase inventory.

1222 (e) In the event of a default by a small business on a
1223 loan under the program, the planning and development district or
1224 qualified entity shall foreclose and enforce its security
1225 interests and personal guarantees relating to such loan and take
1226 all necessary and appropriate action to recover all principal and
1227 interest owed, and all amounts so recovered shall be deposited in
1228 the revolving assistance fund administered by said planning and
1229 development district or qualified entity. Any small business
1230 which defaults on a loan under the program shall not be eligible
1231 for any other loan under the program.

1232 (f) A planning and development district or qualified
1233 entity may acquire, subscribe for, own, hold, sell, assign,
1234 transfer, mortgage or pledge an equity investment in a small
1235 business incorporated under the laws of the State of Mississippi,
1236 provided such equity investment constitutes less than fifty

1237 percent (50%) of the voting shares of the small business and does
1238 not exceed Fifty Thousand Dollars (\$50,000.00), and while the
1239 owner or holder thereof, the planning and development district or
1240 qualified entity may exercise all the rights, powers and
1241 privileges of ownership, including the right to vote thereon. Any
1242 such equity investment in a small business may be redeemed by such
1243 small business upon payment to the planning and development
1244 district or qualified entity of the principal amount of such
1245 equity investment, plus six percent (6%) interest, compounded
1246 annually from the date of such equity investment, provided such
1247 repayment is tendered within seven (7) years of the date of such
1248 equity investment.

1249 (g) A planning and development district or qualified
1250 entity shall not utilize more than one-third (1/3) of all grant
1251 funds received for equity investments in small businesses.

1252 (h) No small business shall receive assistance under
1253 the program in excess of Two Hundred Fifty Thousand Dollars
1254 (\$250,000.00).

1255 (i) All assistance applications must be reviewed by,
1256 and the terms and conditions of the assistance must be recommended
1257 to the planning and development district or qualified entity, by a
1258 small business assistance review board established by the planning
1259 and development district or qualified entity, consisting of the
1260 following members appointed by the planning and development
1261 district or qualified entity:

1262 (i) Two (2) individuals with current experience in
1263 banking or finance;

1264 (ii) Two (2) principal or majority owners of
1265 private, for-profit commercial enterprises qualifying as small
1266 businesses under this article;

1267 (iii) One (1) senior officer of a private,
1268 for-profit commercial enterprise not qualifying as a small

1269 business under this article or the executive director of an
1270 industrial or economic development foundation;

1271 (iv) One (1) individual who is a minority and who
1272 has current experience in banking or finance or who is the
1273 principal or majority owner of a private, for-profit commercial
1274 enterprise qualifying as a small business under this article; and

1275 (v) One (1) individual who is female and who has
1276 current experience in banking or finance or who is the principal
1277 or majority owner of a private, for-profit commercial enterprise
1278 qualifying as a small business under this article.

1279 As used in this paragraph, "minority" shall mean individuals
1280 who are Asian, Black, Hispanic or Native American as defined in
1281 Section 31-7-13(s), Mississippi Code of 1972.

1282 All members of such small business assistance review boards
1283 shall be residents of the area served by the planning and
1284 development district or qualified entity. Small business
1285 assistance review boards shall meet at least quarterly and shall
1286 meet anytime there are at least two (2) assistance applications
1287 pending that require review.

1288 (j) If the small business assistance review board
1289 recommends that assistance be provided, the planning and
1290 development district or qualified entity may either approve and
1291 provide the assistance on the exact terms and conditions
1292 recommended by the small business assistance review board or
1293 determine not to provide such assistance. Under no circumstances
1294 may the planning and development district or qualified entity
1295 provide such assistance on any terms or conditions not approved
1296 and recommended by the small business assistance review board. If
1297 the planning and development district or qualified entity
1298 determines not to provide the assistance that the small business
1299 assistance review board has recommended to be provided, the board
1300 of directors of such district or the governing body of such entity
1301 shall place in its minutes an explanation of the reasons for such

1302 refusal. If the small business assistance review board recommends
1303 against providing the assistance, the board of directors of the
1304 planning and development district or the governing body of the
1305 qualified entity may not determine to provide such assistance
1306 under any terms and conditions.

1307 (k) Any small business that has received a loan under
1308 this chapter may apply to the MDA to have the payments on the loan
1309 deferred if the deferral will play a significant role in improving
1310 the financial condition of the small business and assist the small
1311 business to succeed and remain a viable operation. A deferral
1312 granted under this paragraph (k) may not exceed four (4) years. A
1313 small business desiring assistance under this paragraph (k) must
1314 submit an application to the MDA. The application shall include:

1315 (i) The reason for which the deferral is
1316 requested;

1317 (ii) An explanation of how the deferral of loan
1318 payments will improve the financial condition of the small
1319 business and assist the small business;

1320 (iii) The outstanding balance of the loan for
1321 which a deferral is requested;

1322 (iv) Financial statements or tax returns for the
1323 two (2) years immediately prior to the application;

1324 (v) A business plan;

1325 (vi) Credit reports on all persons or entities
1326 with a twenty percent (20%) or greater interest in the small
1327 business; and

1328 (vii) Any other information required by the MDA.
1329 A small business that receives a deferral of payments under this
1330 paragraph (k) must submit on a semiannual basis information to the
1331 MDA for its review to determine whether the deferral of payments
1332 is necessary and should continue.

1333 (l) Any small business that has received a loan under
1334 this chapter and may apply to the MDA to have the payments on the

1335 loan deferred if a public highway or road construction or
1336 improvement project has had a substantially adverse impact on its
1337 operations and level of business activity. A deferral granted
1338 under this Paragraph (k) may not exceed the period of time during
1339 which the small business experiences a substantially adverse
1340 impact on its business. A small business desiring assistance
1341 under this paragraph (k) must submit an application to the MDA.
1342 The application shall include:

1343 (i) The reason for which the deferral is
1344 requested;

1345 (ii) A description of the public highway or road
1346 project that has had a substantially adverse impact on the small
1347 business's business and how the project has adversely affected the
1348 applicant's business;

1349 (iii) An explanation of how the deferral of loan
1350 payments will assist the small business during the period for
1351 which the highway or road project is ongoing;

1352 (iv) The outstanding balance of the loan for which
1353 the deferral is requested;

1354 (v) Financial statements or tax returns for the
1355 two (2) years immediately prior to the application;

1356 (vi) A business plan;

1357 (vii) Credit reports on all persons or entities
1358 with a twenty percent (20%) or greater interest in the small
1359 business; and

1360 (viii) Any other information required by the MDA.

1361 A small business that receives a deferral of payments under this
1362 paragraph (l) must submit on a semiannual basis information to the
1363 MDA for its review to determine whether the deferral of payments
1364 is necessary and should continue.

1365 **SECTION 8.** Any enterprise that is granted a deferral of loan
1366 payments by the Mississippi Development Authority under Section
1367 57-61-11(g) or (h), 57-61-34(4) or (5), 57-93-1(2)(f) or (g),

1368 57-95-1(2)(e) or (f), 69-2-13(3)(c) or (d), Section 3(4) or (5),
1369 Chapter 14, Laws of Fifth Extraordinary Session of 2005, or
1370 57-10-513(k) or (l), shall be allowed a deferral of ad valorem
1371 taxes for a period corresponding with the deferral of loan
1372 payments.

1373 **SECTION 9.** Section 27-41-1, Mississippi Code of 1972, is
1374 amended as follows:

1375 27-41-1. Except as may otherwise be provided in Section
1376 27-41-2 or Section 8 of House Bill No. _____, 2006 Regular Session,
1377 all state, county, school, road, levee and other taxing districts
1378 and municipal ad valorem taxes, except ad valorem taxes levied for
1379 county or district or municipal bonds and other evidences of
1380 indebtedness for money borrowed, and interest thereon, heretofore
1381 or hereafter assessed or levied shall be due, payable and
1382 collectible by the tax collector and shall be paid on or before
1383 the first day of February next succeeding the date of the
1384 assessment and levying of such taxes. All taxes levied for county
1385 and district and municipal bonds and interest thereon, or
1386 betterment or improvement assessments, shall be paid by each
1387 person assessed therewith on or before the first day of February
1388 next succeeding the date of the assessment and levying of the
1389 same, at the time of payment of the state and county ad valorem
1390 taxes, except as otherwise hereinafter provided in this chapter.
1391 The tax collector shall begin to accept payment for such ad
1392 valorem taxes or assessments not later than December 26 of the
1393 year prior to the year in which such taxes are required to be
1394 paid.

1395 Any county may, by an order spread upon the minutes of the
1396 board of supervisors, allow the acceptance of partial payments for
1397 ad valorem taxes. Any municipality wherein municipal taxes are
1398 not collected by the county may, by an order spread upon the
1399 minutes of the governing authority of said municipality, allow the
1400 acceptance of partial payments for ad valorem taxes. If said

1401 partial payments are allowed by the county or municipality, said
1402 partial payments shall be made as follows:

1403 (a) One-half (1/2) of all ad valorem taxes due shall be
1404 paid on or before February 1.

1405 (b) One-fourth (1/4) of all ad valorem taxes, interest
1406 and penalty due shall be paid on or before May 1.

1407 (c) One-fourth (1/4) of all ad valorem taxes, interest
1408 and penalty due shall be paid on or before July 1.

1409 If any unpaid balance exists on August 1, then the lands
1410 shall be sold at the land sale on the last Monday in August for
1411 said unpaid balance.

1412 All ad valorem taxes, however, assessed against motor
1413 vehicles as prescribed by the Motor Vehicle Ad Valorem Tax Law of
1414 1958, for any and all purposes and in any and all jurisdictions,
1415 shall be paid in full on the date such taxes are due and payable.

1416 **SECTION 10.** This act shall take effect and be in force from
1417 and after July 1, 2006.