

By: Senator(s) Robertson

To: Finance

SENATE BILL NO. 2497

1 AN ACT TO AMEND SECTION 57-93-1, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE MISSISSIPPI DEVELOPMENT AUTHORITY TO PROVIDE LOANS
3 TO COUNTIES AND INCORPORATED MUNICIPALITIES UNDER THE EXISTING
4 INDUSTRY PRODUCTIVITY LOAN PROGRAM TO ASSIST CERTAIN EXISTING
5 INDUSTRIES IN DEPLOYING LONG-TERM FIXED ASSETS THAT THROUGH NEW
6 TECHNOLOGY WILL IMPROVE PRODUCTIVITY AND COMPETITIVENESS; TO
7 REQUIRE THAT REPAYMENTS OF LOANS AUTHORIZED UNDER THIS SECTION
8 SHALL BE UTILIZED TO PAY THE PRINCIPAL AND INTEREST ON BONDS USED
9 TO FUND SUCH LOANS; TO PROVIDE THE MANNER OF SECURING LOANS MADE
10 TO COUNTIES AND INCORPORATED MUNICIPALITIES UNDER THE PROGRAM; TO
11 AMEND SECTION 57-95-1, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE
12 MISSISSIPPI DEVELOPMENT AUTHORITY TO PROVIDE LOANS AND GRANTS TO
13 COUNTIES AND INCORPORATED MUNICIPALITIES UNDER THE MISSISSIPPI JOB
14 PROTECTION ACT TO PROVIDE ASSISTANCE TO AT-RISK INDUSTRIES TO BE
15 USED FOR JOB RETENTION AND TO IMPROVE PRODUCTIVITY AND
16 COMPETITIVENESS; TO REQUIRE THAT REPAYMENTS OF LOANS AUTHORIZED
17 UNDER THIS SECTION SHALL BE UTILIZED TO PAY THE PRINCIPAL AND
18 INTEREST ON BONDS USED TO FUND SUCH LOANS; TO PROVIDE THE MANNER
19 OF SECURING LOANS MADE TO COUNTIES AND INCORPORATED MUNICIPALITIES
20 UNDER THE ACT; AND FOR RELATED PURPOSES.

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

22 **SECTION 1.** Section 57-93-1, Mississippi Code of 1972, is
23 amended as follows:

24 57-93-1. (1) As used in this section:

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

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

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

32 (ii) Meet criteria established by the Mississippi
33 Development Authority.

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

35 (2) (a) There is established the Mississippi Existing

36 Industry Productivity Loan Program to be administered by the MDA
37 for the purpose of providing loans to:

38 (i) Existing industries to deploy long-term fixed
39 assets that through new technology will improve productivity and
40 competitiveness; and

41 (ii) Counties or incorporated municipalities to
42 assist existing industries in deploying long-term fixed assets
43 that through new technology will improve productivity and
44 competitiveness.

45 (b) (i) An existing industry that accepts a loan under
46 this program shall not reduce employment by more than twenty
47 percent (20%) through the use of the long-term fixed assets for
48 which the loan is granted.

49 (ii) An existing industry that accepts assistance
50 from a county or incorporated municipality through a loan made
51 under this program shall not reduce employment by more than twenty
52 percent (20%) through the use of the long-term fixed assets for
53 which the assistance is granted.

54 (c) An existing industry desiring a loan under this
55 section must submit an application to the MDA. The application
56 shall include:

57 (i) A description of the purpose for which the
58 loan is requested;

59 (ii) The amount of the loan requested;

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

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

62 (v) Financial statements or tax returns for the
63 existing industry for the two (2) years immediately prior to the
64 application;

65 (vi) Credit reports on all persons or entities
66 with a twenty percent (20%) or greater interest in the enterprise;
67 and

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

69 (d) A county or incorporated municipality desiring a
70 loan under this section must submit an application to the MDA.

71 The application shall include:

72 (i) A description of the purpose for which the
73 loan is requested;

74 (ii) The amount of the loan requested;

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

76 (iv) A statement showing the sources of funding
77 for the project;

78 (v) A two-year business plan for the project;

79 (vi) Financial statements or tax returns for the
80 existing industry for the two (2) years immediately prior to the
81 application;

82 (vii) Credit reports on all persons or entities
83 with a twenty percent (20%) or greater interest in the existing
84 industry;

85 (viii) Any commitment by the existing industry to
86 pay rental on, or to make loan repayments related to, the
87 assistance; and

88 (ix) Any other information required by the MDA.

89 (e) The MDA shall require that binding commitments be
90 entered into requiring that:

91 (i) The minimum requirements of this section and
92 such other requirements as the MDA considers proper shall be met;
93 and

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

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

100 (g) The rate of interest on loans under this section
101 shall be at the true interest cost on the most recent issue of

102 twenty-year state general obligation bonds occurring prior to the
103 date the loan is made.

104 (h) The MDA shall have all powers necessary to
105 implement and administer the program established under this
106 section, and the MDA shall promulgate rules and regulations, in
107 accordance with the Mississippi Administrative Procedures Law,
108 necessary for the implementation of this section. However, in
109 making loans under this section, the MDA shall attempt to provide
110 for an equitable distribution of such loans among each of the
111 congressional districts of this state in order to promote economic
112 development across the entire state.

113 (3) (a) There is created in the State Treasury a special
114 fund to be designated as the "Mississippi Existing Industry
115 Productivity Loan Fund," which shall consist of funds appropriated
116 or otherwise made available by the Legislature in any manner and
117 funds from any other source designated for deposit into such fund.
118 Unexpended amounts remaining in the fund at the end of a fiscal
119 year shall not lapse into the State General Fund, and any
120 investment earnings or interest earned on amounts in the fund
121 shall be deposited to the credit of the fund. Monies in the fund
122 shall be used by the MDA for the purposes described in this
123 section.

124 (b) Monies in the fund which are derived from the
125 proceeds of general obligation bonds may be used to reimburse
126 reasonable actual and necessary costs incurred by the MDA in
127 providing loans under this section through the use of general
128 obligation bonds. An accounting of actual costs incurred for
129 which reimbursement is sought shall be maintained for each loan by
130 the MDA. Reimbursement of reasonable actual and necessary costs
131 shall not exceed three percent (3%) of the proceeds of bonds
132 issued under Sections 2 through 17 of Chapter 1, Laws of 2005
133 Third Extraordinary Session. Monies authorized for a particular
134 loan may not be used to reimburse administrative costs for

135 unrelated loans. Reimbursements made under this subsection shall
136 satisfy any applicable federal tax law requirements.

137 (c) (i) There is hereby created the Mississippi
138 Existing Industry Productivity Loan Program Bond Sinking Fund from
139 which the principal and interest on bonds whose proceeds are
140 deposited into the Mississippi Existing Industry Productivity Loan
141 Fund and utilized to provide loans authorized under this section,
142 shall be repaid. Unexpended amounts remaining in the bond sinking
143 fund at the end of a fiscal year shall not lapse into the State
144 General Fund, and any interest earned or investment earnings on
145 amounts in the bond sinking fund shall be deposited into the bond
146 sinking fund. At any time when the funds required to pay the
147 principal and interest on bonds whose proceeds are deposited into
148 the Mississippi Existing Industry Productivity Loan Fund and are
149 utilized to provide loans under this section are more than the
150 amount available in the bond sinking fund, the Legislature shall
151 appropriate the balance of the funds necessary to pay the
152 principal and interest on such bonds.

153 (ii) Money repaid on loans authorized under this
154 section that are derived from the proceeds of bonds deposited into
155 the Mississippi Existing Industry Productivity Loan Fund shall be
156 deposited into the Mississippi Existing Industry Productivity Loan
157 Program Bond Sinking Fund.

158 (4) (a) A county that receives a loan under this section
159 shall pledge for repayment of the loan any part of the homestead
160 exemption annual tax loss reimbursement to which it may be
161 entitled under Section 27-33-77. An incorporated municipality
162 that receives a loan under this section shall pledge for repayment
163 of the loan any part of the sales tax revenue distribution to
164 which it may be entitled under Section 27-65-75. Each loan
165 agreement shall provide for monthly payments, semiannual payments
166 or other periodic payments, the annual total of which shall not
167 exceed the annual total for any other year of the loan by more

168 than fifteen percent (15%). The loan agreement shall provide for
169 the repayment of all funds received within not more than twenty
170 (20) years from the date of project completion.

171 (b) The State Auditor, upon request of the MDA, shall
172 audit the receipts and expenditures of a county or an incorporated
173 municipality whose loan payments appear to be in arrears, and if
174 he finds that the county or municipality is in arrears in such
175 payments, he shall immediately notify the Executive Director of
176 the Department of Finance and Administration who shall withhold
177 all future payments to the county of homestead exemption
178 reimbursements under Section 27-33-77 and all sums allocated to
179 the county or the municipality under Section 27-65-75 until such
180 time as the county or the municipality is again current in its
181 loan payments as certified by the MDA.

182 (c) Evidences of indebtedness which are issued pursuant
183 to this chapter shall not be deemed indebtedness within the
184 meaning specified in Section 21-33-303 with regard to cities or
185 incorporated towns, and in Section 19-9-5 with regard to counties.

186 **SECTION 2.** Section 57-95-1, Mississippi Code of 1972, is
187 amended as follows:

188 57-95-1. (1) As used in this section:

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

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

194 (c) "Outsource" means to send out work or jobs of a
195 certain provider or manufacturer of the State of Mississippi to an
196 overseas provider or manufacturer or a provider or manufacturer
197 located outside the boundaries of the United States or any
198 territory of the United States.

199 (2) (a) There is established the Mississippi Job Protection
200 Act to be administered by the MDA for the purpose of providing
201 grants and loans to:

202 (i) At-risk industries to be used for job
203 retention and to improve productivity and competitiveness; and

204 (ii) Counties and incorporated municipalities to
205 provide assistance to at-risk industries to be used for job
206 retention and to improve productivity and competitiveness.

207 (b) (i) An at-risk industry that accepts a grant or
208 loan under this program shall not reduce employment by more than
209 twenty percent (20%).

210 (ii) An at-risk industry that accepts assistance
211 from a county or incorporated municipality through a loan or grant
212 made under this section shall not reduce employment by more than
213 twenty percent (20%).

214 (c) An at-risk industry desiring a grant or loan under
215 this section must submit an application to the MDA. The
216 application shall include:

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

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

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

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

222 (v) Financial statements or tax returns for the
223 at-risk industry for the two (2) years immediately prior to the
224 application;

225 (vi) Credit reports on all persons or entities
226 with a twenty percent (20%) or greater interest in the at-risk
227 industry; and

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

229 (d) A county or incorporated municipality desiring a
230 grant or loan under this section must submit an application to the
231 MDA. The application shall include:

232 (i) A description of the purpose for which the
233 loan is requested;

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

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

236 (iv) A statement showing the sources of funding
237 for the project;

238 (v) A two-year business plan for the project;

239 (vi) Financial statements or tax returns for the
240 at-risk industry for the two (2) years immediately prior to the
241 application;

242 (vii) Credit reports on all persons or entities
243 with a twenty percent (20%) or greater interest in the at-risk
244 industry;

245 (viii) Any commitment by the at-risk industry to
246 pay rental on, or to make loan repayments related to, the
247 assistance; and

248 (ix) Any other information required by the MDA.

249 (e) The MDA shall require that binding commitments be
250 entered into requiring that:

251 (i) The minimum requirements of this section and
252 such other requirements as the MDA considers proper shall be met;
253 and

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

257 (f) The amount of a grant or loan under this section
258 shall not exceed fifty percent (50%) of the total cost of the
259 project.

260 (g) The MDA shall have all powers necessary to
261 implement and administer the program established under this
262 section, and the MDA shall promulgate rules and regulations, in
263 accordance with the Mississippi Administrative Procedures Law,
264 necessary for the implementation of this section.

265 (3) Grants * * * under this section shall not exceed Two
266 Hundred Thousand Dollars (\$200,000.00).

267 (4) (a) There is created in the State Treasury a special
268 fund to be designated as the "Mississippi Job Protection Act
269 Fund," which shall consist of funds appropriated or otherwise made
270 available by the Legislature in any manner and funds from any
271 other source designated for deposit into such fund. Unexpended
272 amounts remaining in the fund at the end of a fiscal year shall
273 not lapse into the State General Fund, and any investment earnings
274 or interest earned on amounts in the fund shall be deposited to
275 the credit of the fund. Monies in the fund shall be used by the
276 MDA for the purposes described in this section.

277 (b) Monies in the fund which are derived from the
278 proceeds of general obligation bonds may be used to reimburse
279 reasonable actual and necessary costs incurred by the MDA in
280 providing grants or loans under this section through the use of
281 general obligation bonds. An accounting of actual costs incurred
282 for which reimbursement is sought shall be maintained for each
283 grant or loan by the MDA. Reimbursement of reasonable actual and
284 necessary costs shall not exceed three percent (3%) of the
285 proceeds of bonds issued under Sections 40 through 55 of Chapter
286 1, Laws of Third Extraordinary Session of 2005. Monies authorized
287 for a particular grant or loan may not be used to reimburse
288 administrative costs for unrelated grants or loans.
289 Reimbursements made under this subsection shall satisfy any
290 applicable federal tax law requirements.

291 (c) (i) There is hereby created the Mississippi Job
292 Protection Act Sinking Bond Fund from which the principal and
293 interest on bonds whose proceeds are deposited into the
294 Mississippi Job Protection Act Fund and utilized to provide loans
295 authorized under this section, shall be repaid. Unexpended
296 amounts remaining in the bond sinking fund at the end of a fiscal
297 year shall not lapse into the State General Fund, and any interest

298 earned or investment earnings on amounts in the bond sinking fund
299 shall be deposited into the bond sinking fund. At any time when
300 the funds required to pay the principal and interest on bonds
301 whose proceeds are deposited into the Mississippi Job Protection
302 Act Fund and are utilized to provide loans under this section are
303 more than the amount available in the bond sinking fund, the
304 Legislature shall appropriate the balance of the funds necessary
305 to pay the principal and interest on such bonds.

306 (ii) Money repaid on loans authorized under this
307 section that are derived from the proceeds of bonds deposited into
308 the Mississippi Job Protection Act Fund shall be deposited into
309 the Mississippi Job Protection Act Bond Sinking Fund.

310 (5) (a) A county that receives a loan under this section
311 shall pledge for repayment of the loan any part of the homestead
312 exemption annual tax loss reimbursement to which it may be
313 entitled under Section 27-33-77. An incorporated municipality
314 that receives a loan under this section shall pledge for repayment
315 of the loan any part of the sales tax revenue distribution to
316 which it may be entitled under Section 27-65-75. Each loan
317 agreement shall provide for monthly payments, semiannual payments
318 or other periodic payments, the annual total of which shall not
319 exceed the annual total for any other year of the loan by more
320 than fifteen percent (15%). The loan agreement shall provide for
321 the repayment of all funds received within not more than twenty
322 (20) years from the date of project completion.

323 (b) The State Auditor, upon request of the MDA, shall
324 audit the receipts and expenditures of a county or an incorporated
325 municipality whose loan payments appear to be in arrears, and if
326 he finds that the county or municipality is in arrears in such
327 payments, he shall immediately notify the Executive Director of
328 the Department of Finance and Administration who shall withhold
329 all future payments to the county of homestead exemption
330 reimbursements under Section 27-33-77 and all sums allocated to

331 the county or the municipality under Section 27-65-75 until such
332 time as the county or the municipality is again current in its
333 loan payments as certified by the MDA.

334 (c) Evidences of indebtedness which are issued pursuant
335 to this section shall not be deemed indebtedness within the
336 meaning specified in Section 21-33-303 with regard to cities or
337 incorporated towns, and in Section 19-9-5 with regard to counties.

338 **SECTION 3.** This act shall take effect and be in force from
339 and after July 1, 2007.