

**Pending
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

Senate Bill No. 2507

BY: Committee

**Amend by striking all after the enacting clause and inserting
in lieu thereof the following:**

9 **SECTION 1.** Section 57-1-16, Mississippi Code of 1972, is
10 amended as follows:

11 57-1-16. (1) As used in this section:

12 (a) "Extraordinary economic development opportunity"
13 means a new or expanded business or industry which maintains a
14 strong financial condition and minimal credit risk and creates
15 substantial employment, particularly in areas of high
16 unemployment.

17 (b) "Local economic development entities" means state
18 institutions of higher learning or public or private nonprofit



19 local economic development entities including, but not limited to,
20 chambers of commerce, local authorities, commissions or other
21 entities created by local and private legislation or districts
22 created pursuant to Section 19-5-99.

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

24 (2) (a) There is hereby created in the State Treasury a
25 special fund to be designated as the ACE Fund, which shall consist
26 of money from any public or private source designated for deposit
27 into such fund. Unexpended amounts remaining in the fund at the
28 end of a fiscal year shall not lapse into the State General Fund,
29 and any interest earned on amounts in the fund shall be deposited
30 to the credit of the fund. The purpose of the fund shall be to
31 assist in maximizing extraordinary economic development
32 opportunities related to any new or expanded business or industry
33 or to assist a local unit of government as authorized in
34 subsection (5) of this section. Such funds may be used to make
35 grants to local economic development entities to assist any new or
36 expanding business or industry that meets the criteria provided in
37 this section when such assistance aids the consummation of a
38 project within the State of Mississippi, including any federal
39 Indian reservation located within the geographical boundary of
40 Mississippi, or to make grants to a local unit of government as
41 authorized in subsection (5) of this section.

42 (b) Monies in the fund which are derived from the
43 proceeds of general obligation bonds may be used to reimburse



44 reasonable actual and necessary costs incurred by the MDA for the
45 administration of the various grant, loan and financial incentive
46 programs administered by the MDA. An accounting of actual costs
47 incurred for which reimbursement is sought shall be maintained by
48 the MDA. Reimbursement of reasonable actual and necessary costs
49 shall not exceed three percent (3%) of the proceeds of bonds
50 issued. Reimbursements made under this subsection shall satisfy
51 any applicable federal tax law requirements.

52 (3) The MDA shall establish a grant program to make grants
53 from the ACE Fund created under this section. Local economic
54 development entities may apply to the MDA for a grant under this
55 section in the manner provided for in subsection (4) of this
56 section. Local units of government may apply to the MDA for a
57 grant under this section in the manner provided in subsection (5)
58 of this section.

59 (4) (a) Any business or industry desiring assistance from a
60 local economic development entity under this section shall submit
61 an application to the local economic development entity which
62 shall include, at a minimum:

63 (i) Evidence that the business or industry meets
64 the definition of an extraordinary economic development
65 opportunity;

66 (ii) A demonstration that the business or industry
67 is at an economic disadvantage by locating the new or expanded
68 project in the county;



69 (iii) A description, including the cost, of the
70 requested assistance;
71 (iv) A description of the purpose for which the
72 assistance is requested;
73 (v) A two-year business plan;
74 (vi) Financial statements or tax returns for the
75 three (3) years immediately prior to the application;
76 (vii) Credit reports on all persons or entities
77 with a twenty percent (20%) or greater interest in the business or
78 industry; and
79 (viii) Any other information required by the MDA.

80 (b) The MDA shall require that binding commitments be
81 entered into requiring that:

82 (i) The minimum requirements of this section and
83 such other requirements as the MDA considers proper shall be met;
84 and

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

88 (c) Upon receipt of the application from a business or
89 industry, the local economic development entity may apply to the
90 MDA for assistance under this section. Such application must
91 contain evidence that the business or industry meets the
92 definition of an extraordinary economic development opportunity, a
93 demonstration that the business or industry is at an economic



94 disadvantage by locating the new or expanded project in the
95 county, a description, including the cost, of the requested
96 assistance, and a statement of what efforts have been made or are
97 being made by the business or industry for securing or qualifying
98 for other local, state, federal or private funds for the project.

99 (d) The MDA shall have sole discretion in the awarding
100 of ACE funds, provided that the business or industry and the local
101 economic development entity have met the statutory requirements of
102 this section. However, in making grants under this section, the
103 MDA shall attempt to provide for an equitable distribution of such
104 grants among each of the congressional districts of this state in
105 order to promote economic development across the entire state.

106 (5) (a) The MDA may make grants to local units of
107 government to assist the local unit of government in purchasing
108 real property for the benefit of an existing industry that commits
109 to maintain a minimum of one thousand three hundred (1,300) jobs
110 for a minimum of ten (10) years after the date the grant is made.

111 (b) Any local unit of government seeking a grant
112 authorized under this subsection shall apply to MDA. The
113 application shall contain such information as the MDA may require.

114 (c) The MDA shall require that binding commitments be
115 entered into requiring that:

116 (i) The minimum requirements of this subsection
117 and such other requirements as the MDA considers proper shall be
118 met; and



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

122 (6) The MDA shall promulgate rules and regulations, in
123 accordance with the Mississippi Administrative Procedures Law, for
124 the implementation of this section. However, before the
125 implementation of any such rules and regulations, they shall be
126 submitted to a committee consisting of five (5) members of the
127 Senate Finance Committee and five (5) members of the House of
128 Representatives Ways and Means Committee, appointed by the
129 respective committee chairmen.

130 **SECTION 2.** Section 57-1-221, Mississippi Code of 1972, is
131 amended as follows:

132 57-1-221. (1) As used in this section:

133 (a) "Approved business enterprise" means any project
134 that:

135 (i) Locates or expands in this state, including
136 any federal Indian reservation located within the geographical
137 boundary of this state, and creates a minimum of two hundred fifty
138 (250) new, full-time jobs with a total capital investment in the
139 state of a minimum of Thirty Million Dollars (\$30,000,000.00) in
140 Tier 1 or Tier 2 counties;

141 (ii) Locates or expands in this state, including
142 any federal Indian reservation located within the geographical
143 boundary of this state, and creates a minimum of one hundred fifty



144 (150) new, full-time jobs with a total capital investment in the
145 state of a minimum of Fifteen Million Dollars (\$15,000,000.00) in
146 areas federally designated as low-income census tracts;

147 (iii) Locates or expands in this state, including
148 any federal Indian reservation located within the geographical
149 boundary of this state, and creates a minimum of one thousand
150 (1,000) new, full-time jobs;

151 (iv) Is a manufacturer of high-end kitchen
152 appliances having at least four hundred (400) employees working at
153 its Mississippi facilities on January 1, 2015, and with a capital
154 investment of at least Five Million Dollars (\$5,000,000.00) made
155 after July 1, 2014, through four (4) years after July 1, 2015,
156 that expands in this state, including any federal Indian
157 reservation located within the geographical boundary of this
158 state, and retains a minimum of four hundred (400) jobs; or

159 (v) Locates or expands in this state, including
160 any federal Indian reservation located within the geographical
161 boundary of this state, with significant regional impact as
162 determined by MDA.

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

164 (c) "Facility related to the project" means and
165 includes any of the following, as they may pertain to the project:

166 (i) Facilities to provide potable and industrial
167 water supply systems, sewage and waste disposal systems and water,



168 natural gas and electric transmission systems to the site of the
169 project;

170 (ii) Building facilities and equipment necessary
171 to operate the facility;

172 (iii) Rail lines;

173 (iv) Airports, airfields, air terminals and port
174 facilities;

175 (v) Highways, streets and other roadways; and

176 (vi) Fire protection facilities, equipment and
177 elevated water tanks.

178 (d) "Project" means any industrial, commercial,
179 research and development, warehousing, distribution,
180 transportation, processing, mining, United States government or
181 tourism enterprise together with all real property required for
182 construction, maintenance and operation of the enterprise that is
183 approved by the MDA.

184 (2) (a) There is created a special fund in the State
185 Treasury to be known as the Mississippi Industry Incentive
186 Financing Revolving Fund which shall consist of monies from any
187 source designated for deposit into the fund. Unexpended amounts
188 remaining in the fund at the end of a fiscal year shall not lapse
189 into the State General Fund, and any interest earned on amounts in
190 the fund shall be deposited to the credit of the fund. Except as
191 otherwise provided, monies in the fund shall be disbursed by the
192 Mississippi Development Authority for the purposes authorized in



193 subsection (3) of this section. The Mississippi Development
194 Authority shall allocate and disburse Thirty Million Dollars
195 (\$30,000,000.00) from the fund as a grant to Mississippi State
196 University for the construction, furnishing and equipping of a
197 high-performance computing data center that is home to federally
198 designated centers of computing excellence. The disbursement of
199 such funds shall not be subject to any requirements of this
200 section relating to grants and loans made by the Mississippi
201 Development Authority under this section.

202 (b) Monies in the fund that are derived from the
203 proceeds of general obligation bonds may be used to reimburse
204 reasonable actual and necessary costs incurred by the MDA for the
205 administration of the various grant, loan and financial incentive
206 programs administered by the MDA. An accounting of actual costs
207 incurred for which reimbursement is sought shall be maintained by
208 the MDA. Reimbursement of reasonable actual and necessary costs
209 shall not exceed three percent (3%) of the proceeds of bonds
210 issued. Reimbursements made under this subsection shall satisfy
211 any applicable federal tax law requirements.

212 (3) The MDA shall establish a program to make grants or
213 loans from the Mississippi Industry Incentive Financing Revolving
214 Fund to local governments, including, but not limited to,
215 counties, municipalities, industrial development authorities and
216 economic development districts, and approved business enterprises
217 to construct or otherwise provide facilities related to the



218 project. Local governments are authorized to accept grants and
219 enter into loans authorized under the program, and to sell, lease
220 or otherwise dispose of a project or any property related to the
221 project in whole or in part.

222 (4) (a) Except as otherwise provided in this section, any
223 business enterprise or local government desiring a grant or loan
224 under this section shall submit an application to the MDA which
225 shall include, at a minimum:

226 (i) Evidence that the business or industry meets
227 the definition of an approved business enterprise;

228 (ii) A description, including the cost, of the
229 requested assistance;

230 (iii) A description of the purpose for which the
231 assistance is requested; and

232 (iv) Any other information required by the MDA.

233 (b) Except as otherwise provided in this section, the
234 MDA shall require that binding commitments be entered into
235 requiring that:

236 (i) The minimum requirements of this section and
237 such other requirements as the MDA considers proper shall be met;
238 and

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



242 (c) Upon receipt of the application from a business
243 enterprise or local government for a grant or loan under this
244 section, the MDA shall determine whether the enterprise meets the
245 definition of an approved business enterprise and determine
246 whether to provide the assistance requested in the form of a grant
247 or a loan.

248 (d) Except as otherwise provided in subsection (2) (a)
249 of this section, the MDA shall have sole discretion in providing
250 grants or loans under this section. The terms of a grant or loan
251 provided under this section and the manner of repayment of any
252 loan shall be within the discretion of the MDA. Repayments of
253 loans made under this section shall be deposited to the credit of
254 the Mississippi Industry Incentive Financing Revolving Fund until
255 the uncommitted balance in the fund reaches Fifty Million Dollars
256 (\$50,000,000.00). Once the uncommitted balance in the fund
257 reaches Fifty Million Dollars (\$50,000,000.00), repayments of
258 loans under this section shall be deposited to the credit of Fund
259 No. 3951 in the State Treasury to pay debt service on bonds until
260 such time as the uncommitted balance in the fund falls below Fifty
261 Million Dollars (\$50,000,000.00).

262 (e) The MDA shall notify the Chairman of the Senate
263 Finance Committee and the Chairman of the House Ways and Means
264 Committee of the approval of any grant or loan application thirty
265 (30) days prior to the disbursement of any monies for the loan or
266 grant from the Mississippi Industry Incentive Financing Revolving



267 Fund. The notification shall identify the applicant and the
268 purposes for which the loan or grant is made.

269 (5) (a) Contracts, by local governments, including, but not
270 limited to, design and construction contracts, for the
271 acquisition, purchase, construction or installation of a project
272 shall be exempt from the provisions of Section 31-7-13 if:

273 (i) The MDA finds and records such finding on its
274 minutes, that because of availability or the particular nature of
275 a project, it would not be in the public interest or would less
276 effectively achieve the purposes of this section to enter into
277 such contracts on the basis of Section 31-7-13; and

278 (ii) The approved business enterprise that is
279 involved in the project concurs in such finding.

280 (b) When the requirements of paragraph (a) of this
281 subsection are met:

282 (i) The requirements of Section 31-7-13 shall not
283 apply to such contracts; and

284 (ii) The contracts may be entered into on the
285 basis of negotiation.

286 (6) It is the policy of the MDA and the MDA is authorized to
287 accommodate and support any enterprise that receives a loan under
288 this section for a project defined in Section 17-25-23 that wishes
289 to have a program of diversity in contracting, and/or that wishes
290 to do business with or cause its prime contractor to do business
291 with Mississippi companies, including those companies that are



292 small business concerns owned and controlled by socially and
293 economically disadvantaged individuals. The term "socially and
294 economically disadvantaged individuals" shall have the meaning
295 ascribed to such term under Section 8(d) of the Small Business Act
296 (15 USCS 637(d)) and relevant subcontracting regulations
297 promulgated pursuant thereto; except that women shall be presumed
298 to be socially and economically disadvantaged individuals for the
299 purposes of this subsection.

300 (7) The MDA shall promulgate rules and regulations, in
301 accordance with the Mississippi Administrative Procedures Law, for
302 the implementation of this section.

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

305 57-93-1. (1) As used in this section:

306 (a) "Existing industry" means a manufacturing
307 enterprise that has been operating in this state, including any
308 federal Indian reservation located within the geographical
309 boundary of this state, for not less than two (2) consecutive
310 years that meets minimum criteria established by the Mississippi
311 Development Authority.

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

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

315 (ii) Meet criteria established by the Mississippi
316 Development Authority.



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

318 (2) (a) There is established the Mississippi Existing
319 Industry Productivity Loan Program to be administered by the MDA
320 for the purpose of providing loans to:

321 (i) Existing industries to deploy long-term fixed
322 assets that through new technology will improve productivity and
323 competitiveness;

324 (ii) Existing industries for the purchase or
325 refinancing of land, buildings or equipment; and

326 (iii) Counties or incorporated municipalities to
327 assist existing industries in deploying long-term fixed assets
328 that through new technology will improve productivity and
329 competitiveness and to assist existing industries through the
330 purchase of land, buildings and equipment.

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

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



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

343 (i) A description of the purpose for which the
344 loan is requested;

345 (ii) The amount of the loan requested;

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

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

348 (v) Financial statements or tax returns for the
349 existing industry for the two (2) years immediately prior to the
350 application;

351 (vi) Credit reports on all persons or entities
352 with a twenty percent (20%) or greater interest in the enterprise;
353 and

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

355 (d) A county or incorporated municipality desiring a
356 loan under this section must submit an application to the MDA.
357 The application shall 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 statement showing the sources of funding
363 for the project;

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



365 (vi) Financial statements or tax returns for the
366 existing industry for the two (2) years immediately prior to the
367 application;

368 (vii) Credit reports on all persons or entities
369 with a twenty percent (20%) or greater interest in the existing
370 industry;

371 (viii) Any commitment by the existing industry to
372 pay rental on, or to make loan repayments related to, the
373 assistance; and

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

375 (e) The MDA shall require that binding commitments be
376 entered into requiring that:

377 (i) The minimum requirements of this section and
378 such other requirements as the MDA considers proper shall be met;
379 and

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

383 (f) The rate of interest on loans under this section
384 shall be set by the MDA.

385 (g) The MDA shall have all powers necessary to
386 implement and administer the program established under this
387 section, and the MDA shall promulgate rules and regulations, in
388 accordance with the Mississippi Administrative Procedures Law,
389 necessary for the implementation of this section. However, in



390 making loans under this section, the MDA shall attempt to provide
391 for an equitable distribution of such loans among each of the
392 congressional districts of this state in order to promote economic
393 development across the entire state.

394 (3) (a) There is created in the State Treasury a special
395 fund to be designated as the "Mississippi Existing Industry
396 Productivity Loan Fund," which shall consist of funds appropriated
397 or otherwise made available by the Legislature in any manner and
398 funds from any other source designated for deposit into such fund.
399 Unexpended amounts remaining in the fund at the end of a fiscal
400 year shall not lapse into the State General Fund, and any
401 investment earnings or interest earned on amounts in the fund
402 shall be deposited to the credit of the fund. Monies in the fund
403 shall be used by the MDA for the purposes described in this
404 section.

405 (b) Monies in the fund which are derived from the
406 proceeds of general obligation bonds may be used to reimburse
407 reasonable actual and necessary costs incurred by the MDA for the
408 administration of the various grant, loan and financial incentive
409 programs administered by the MDA. An accounting of actual costs
410 incurred for which reimbursement is sought shall be maintained by
411 the MDA. Reimbursement of reasonable actual and necessary costs
412 shall not exceed three percent (3%) of the proceeds of bonds that
413 are deposited into the fund. Reimbursements made under this



414 subsection shall satisfy any applicable federal tax law
415 requirements.

416 (c) (i) There is hereby created the Mississippi
417 Existing Industry Productivity Loan Program Bond Sinking Fund from
418 which the principal and interest on bonds whose proceeds are
419 deposited into the Mississippi Existing Industry Productivity Loan
420 Fund and utilized to provide loans authorized under this section,
421 shall be repaid. Unexpended amounts remaining in the bond sinking
422 fund at the end of a fiscal year shall not lapse into the State
423 General Fund, and any interest earned or investment earnings on
424 amounts in the bond sinking fund shall be deposited into the bond
425 sinking fund. At any time when the funds required to pay the
426 principal and interest on bonds whose proceeds are deposited into
427 the Mississippi Existing Industry Productivity Loan Fund and are
428 utilized to provide loans under this section are more than the
429 amount available in the bond sinking fund, the Legislature shall
430 appropriate the balance of the funds necessary to pay the
431 principal and interest on such bonds.

432 (ii) Money repaid on loans authorized under this
433 section that are derived from the proceeds of bonds deposited into
434 the Mississippi Existing Industry Productivity Loan Fund shall be
435 deposited into the Mississippi Existing Industry Productivity Loan
436 Program Bond Sinking Fund.

437 (4) (a) A county that receives a loan under this section
438 shall pledge for repayment of the loan any part of the homestead



439 exemption annual tax loss reimbursement to which it may be
440 entitled under Section 27-33-77. An incorporated municipality
441 that receives a loan under this section shall pledge for repayment
442 of the loan any part of the sales tax revenue distribution to
443 which it may be entitled under Section 27-65-75. Each loan
444 agreement shall provide for monthly payments, semiannual payments
445 or other periodic payments, the annual total of which shall not
446 exceed the annual total for any other year of the loan by more
447 than fifteen percent (15%). The loan agreement shall provide for
448 the repayment of all funds received within not more than twenty
449 (20) years from the date of project completion.

450 (b) The State Auditor, upon request of the MDA, shall
451 audit the receipts and expenditures of a county or an incorporated
452 municipality whose loan payments appear to be in arrears, and if
453 he finds that the county or municipality is in arrears in such
454 payments, he shall immediately notify the Executive Director of
455 the Department of Finance and Administration who shall withhold
456 all future payments to the county of homestead exemption
457 reimbursements under Section 27-33-77 and all sums allocated to
458 the county or the municipality under Section 27-65-75 until such
459 time as the county or the municipality is again current in its
460 loan payments as certified by the MDA. In addition, the State
461 Auditor may conduct performance and compliance audits under this
462 chapter according to Section 7-7-211(o) and may bill the oversight
463 agency.



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

468 **SECTION 4.** This act shall take effect and be in force from
469 and after July 1, 2021, and shall stand repealed on June 30, 2021.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTIONS 57-1-16, 57-1-221 AND 57-93-1,
2 MISSISSIPPI CODE OF 1972, TO ALLOW BUSINESSES LOCATED ON TRIBAL
3 LANDS WITHIN THE GEOGRAPHICAL BOUNDARY OF MISSISSIPPI TO BE
4 ELIGIBLE FOR MISSISSIPPI DEVELOPMENT AUTHORITY DISCRETIONARY
5 PROGRAMS THROUGH THE ACE FUND, THE INDUSTRY INCENTIVE FINANCING
6 REVOLVING FUND AND THE EXISTING INDUSTRY PRODUCTIVITY LOAN FUND;
7 AND FOR RELATED PURPOSES.

