

By: Representative Watson

To: Ways and Means

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1247

1 AN ACT TO AMEND SECTION 57-1-16, MISSISSIPPI CODE OF 1972,  
2 WHICH CREATES THE ACE FUND AND AUTHORIZES THE MISSISSIPPI  
3 DEVELOPMENT AUTHORITY TO ESTABLISH AN ASSISTANCE PROGRAM THROUGH  
4 WHICH TO ADMINISTER THE FUND; TO AMEND SECTION 57-61-9,  
5 MISSISSIPPI CODE OF 1972, WHICH PROVIDES GUIDELINES AND  
6 REQUIREMENTS FOR ASSISTANCE PROVIDED BY THE MISSISSIPPI  
7 DEVELOPMENT AUTHORITY UNDER THE MISSISSIPPI BUSINESS INVESTMENT  
8 ACT; TO AMEND SECTION 57-75-11, MISSISSIPPI CODE OF 1972, WHICH  
9 PROVIDES FOR THE POWERS AND DUTIES OF THE MISSISSIPPI MAJOR  
10 ECONOMIC IMPACT AUTHORITY UNDER THE MISSISSIPPI MAJOR ECONOMIC  
11 IMPACT ACT; TO AMEND SECTION 57-85-5, MISSISSIPPI CODE OF 1972,  
12 WHICH CREATES THE MISSISSIPPI RURAL IMPACT FUND AND AUTHORIZES THE  
13 MISSISSIPPI DEVELOPMENT AUTHORITY TO ESTABLISH AN ASSISTANCE  
14 PROGRAM THROUGH WHICH TO ADMINISTER THE FUND; TO AMEND SECTIONS  
15 65-4-7 AND 65-4-9, MISSISSIPPI CODE OF 1972, WHICH PROVIDES  
16 REQUIREMENTS REGARDING APPLICATIONS FOR ASSISTANCE UNDER THE  
17 ECONOMIC DEVELOPMENT HIGHWAY ACT; TO PROVIDE THAT APPLICATIONS FOR  
18 ASSISTANCE UNDER PROGRAMS PROVIDED FOR UNDER SUCH SECTIONS MUST  
19 CONTAIN CERTAIN INFORMATION; TO PROVIDE THAT THE MISSISSIPPI  
20 DEVELOPMENT AUTHORITY MUST REQUIRE CERTAIN COMMITMENTS FROM  
21 APPLICANTS UNDER SUCH PROGRAMS WHICH PROVIDE FOR THE REPAYMENT OF  
22 ASSISTANCE IF SUCH COMMITMENTS ARE NOT SATISFIED; TO AMEND SECTION  
23 69-2-13, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT APPLICATIONS  
24 FOR ASSISTANCE UNDER THE PROGRAM ADMINISTERED BY THE MISSISSIPPI  
25 DEVELOPMENT AUTHORITY THROUGH THE EMERGING CROPS FUND FOR THE  
26 PURPOSE OF FINANCING MINORITY ECONOMIC DEVELOPMENT MUST CONTAIN  
27 CERTAIN INFORMATION; TO PROVIDE THAT THE MISSISSIPPI DEVELOPMENT  
28 AUTHORITY MUST REQUIRE CERTAIN COMMITMENTS FROM APPLICANTS UNDER  
29 SUCH PROGRAM WHICH PROVIDE FOR THE REPAYMENT OF ASSISTANCE IF SUCH  
30 COMMITMENTS ARE NOT SATISFIED; TO AMEND SECTION 57-30-5,  
31 MISSISSIPPI CODE OF 1972, WHICH AUTHORIZES THE MISSISSIPPI  
32 DEVELOPMENT AUTHORITY TO ESTABLISH AN INCENTIVE PROGRAM THROUGH  
33 WHICH TO ADMINISTER THE SALES TAX INCENTIVE FUND; TO PROVIDE THAT  
34 APPLICATIONS FOR ASSISTANCE UNDER THE PROGRAM MUST CONTAIN CERTAIN  
35 INFORMATION; TO PROVIDE THAT THE MISSISSIPPI DEVELOPMENT AUTHORITY  
36 MUST REQUIRE CERTAIN COMMITMENTS FROM APPLICANTS UNDER THE PROGRAM  
37 WHICH PROVIDE FOR THE REPAYMENT OF INCENTIVE PAYMENTS PROVIDED  
38 UNDER THE PROGRAM IF SUCH COMMITMENTS ARE NOT SATISFIED; TO EXTEND  
39 THE REPEALER ON THE INCENTIVE PAYMENT PROGRAM UNDER THE SALES TAX  
40 INCENTIVE FUND; AND FOR RELATED PURPOSES.

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

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

44 57-1-16. (1) As used in this section:

45 (a) "Extraordinary economic development opportunity"

46 means a new or expanded business or industry which maintains a

47 strong financial condition and minimal credit risk and creates  
48 substantial employment, particularly in areas of high  
49 unemployment.

50 (b) "Local economic development entities" means public  
51 or private nonprofit local economic development entities  
52 including, but not limited to, chambers of commerce, local  
53 authorities, commissions or other entities created by local and  
54 private legislation or districts created pursuant to Section  
55 19-5-99.

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

57 (2) There is hereby created in the State Treasury a special  
58 fund to be designated as the ACE Fund, which shall consist of  
59 money from any public or private source designated for deposit  
60 into such fund. Unexpended amounts remaining in the fund at the  
61 end of a fiscal year shall not lapse into the State General Fund,  
62 and any interest earned on amounts in the fund shall be deposited  
63 to the credit of the fund. The purpose of the fund shall be to  
64 assist in maximizing extraordinary economic development  
65 opportunities related to any new or expanded business or industry.  
66 Such funds may be used to make grants to local economic  
67 development entities to assist any new or expanding business or  
68 industry that meets the criteria provided in this section when  
69 such assistance aids the consummation of a project within the  
70 State of Mississippi.

71 (3) The MDA shall establish a grant program to make grants  
72 from the ACE Fund created under this section. Local economic  
73 development entities may apply to the MDA for a grant under this  
74 section in the manner provided for in subsection (4) of this  
75 section.

76 (4) (a) Any business or industry desiring assistance from a  
77 local economic development entity under this section shall submit  
78 an application to the local economic development entity which  
79 shall include, at a minimum:

80                   (i) Evidence that the business or industry meets  
81 the definition of an extraordinary economic development  
82 opportunity;

83                   (ii) A description, including the cost, of the  
84 requested assistance;

85                   (iii) A two-year business plan (which shall  
86 include proforma balance sheets, income statements and monthly  
87 cash flow statements);

88                   (iv) Financial statements or tax returns for the  
89 three (3) years immediately prior to the application (if the  
90 business or industry is a new company or enterprise, personal  
91 financial statements or tax returns will be required);

92                   (v) Credit reports on all persons or entities with  
93 a twenty percent (20%) or greater interest in the business or  
94 industry; and

95                   (vi) Any other information required by the MDA.

96                   (b) The MDA shall require that binding commitments be  
97 entered into requiring that:

98                   (i) The minimum requirements of this section and  
99 such other requirements as the MDA considers proper shall be met;  
100 and

101                   (ii) If the agreed upon commitments are not met,  
102 all or a portion of the funds provided under this section as  
103 determined by the MDA shall be repaid.

104                   (c) Where appropriate, in the discretion of MDA, MDA  
105 shall acquire a security interest in or other lien upon any  
106 applicable collateral.

107                   (d) Upon receipt of the application from a business or  
108 industry, the local economic development entity may apply to the  
109 MDA for assistance under this section. Such application must  
110 contain evidence that the business or industry meets the  
111 definition of an extraordinary economic development opportunity, a  
112 demonstration that the business or industry is at an economic

113 disadvantage by locating the new or expanded project in the  
114 county, a description, including the cost, of the requested  
115 assistance, other information required in the business or  
116 industry's application under paragraph (a) of this subsection and  
117 a statement of what efforts have been made or are being made by  
118 the business or industry for securing or qualifying for other  
119 local, state, federal or private funds for the project.

120           (e) The MDA shall have sole discretion in the awarding  
121 of ACE funds, provided that the business or industry and the local  
122 economic development entity have met the statutory requirements of  
123 this section.

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

132           **SECTION 2.** Section 57-61-9, Mississippi Code of 1972, is  
133 amended as follows:

134           57-61-9. (1) Any private company desiring assistance from a  
135 municipality shall submit to the municipality a letter of intent  
136 to locate, expand or build a facility entirely or partially within  
137 the municipality or on land the municipality is authorized to own  
138 or otherwise acquire. The letter of intent shall include:

139           (a) Except for strategic investments, a commitment that  
140 the proposed project will create and maintain a minimum of ten  
141 (10) net new full-time equivalent jobs, will create and maintain  
142 at least a five percent (5%) increase in full-time equivalent jobs  
143 in the case of expansion of an enterprise already located at the  
144 site or at least a twenty-five percent (25%) increase in full-time  
145 equivalent jobs pursuant to subsection (9) of Section 57-61-15 and

146 will create and maintain at least one (1) net new full-time  
147 equivalent job for every Fifteen Thousand Dollars (\$15,000.00)  
148 either loaned or granted for the project. The commitment required  
149 by this paragraph (a) shall include any jobs created prior to the  
150 effective date of this chapter resulting from contracts entered  
151 into contingent upon assistance being made available under this  
152 chapter. All jobs required to be maintained by this paragraph (a)  
153 shall be maintained until such time as any loan made under this  
154 chapter for the benefit of a private company is repaid.

155 (b) A statement that the specific improvements are  
156 necessary for the efficient and cost-effective operation of the  
157 private company, together with supporting financial and  
158 engineering documentation.

159 (c) Any commitment to pay rental on, or to make loan  
160 repayments related to, the improvements to be made with funds  
161 loaned to a municipality under this chapter.

162 (d) If required by the Mississippi Development  
163 Authority, a notarized statement of willingness to grant a lien on  
164 the facility for which the improvement is being provided, in an  
165 amount and a manner to be determined by the Mississippi  
166 Development Authority, which lien may be foreclosed in the event  
167 that the private company fails to operate in the facility  
168 according to the terms of the agreement and/or to collateralize  
169 the loan made for the benefit of the private company for which the  
170 improvement is being provided in an amount and manner to be  
171 determined by the Mississippi Development Authority. In the event  
172 the contractual agreement is to be entered into with a department  
173 or subsidiary of the United States government, the Mississippi  
174 Development Authority shall determine that the governmental unit  
175 will operate the proposed project for a sufficient number of years  
176 to retire the loan based on increased revenue estimates by the  
177 University Research Center and any agreement entered into shall  
178 reflect that the interest paid on any loan for such purpose shall

179 be included in Mississippi's contributory value in the project.  
180 In the event the private company requesting the assistance is a  
181 subsidiary of another corporation, if required by the Mississippi  
182 Development Authority, any contractual agreement entered into  
183 shall also require the parent company to unconditionally warrant  
184 the performance of the subsidiary in carrying out the terms of the  
185 agreement or it shall require the subsidiary and/or the parent  
186 company to pledge assets in an amount and a manner to be  
187 determined by the Mississippi Development Authority and/or to  
188 collateralize the loan in an amount and a manner to be determined  
189 by the Mississippi Development Authority to ensure the performance  
190 of the terms of the contract.

191 (2) Upon receipt of the letter of intent from a private  
192 company, the municipality may apply to the Mississippi Development  
193 Authority for a loan or grant. The application from the  
194 municipality shall include, but not be limited to:

195 (a) A statement of the purpose of the proposed loan or  
196 grant, including a list of eligible items and the cost of each.

197 (b) A statement showing the sources of funding for the  
198 entire project, including the private company's or governmental  
199 unit's investment in the project and any public and other private  
200 sources of funding.

201 (c) A certified copy of the signed letter of intent  
202 from a private company or governmental unit, as specified in this  
203 section.

204 (d) Evidence that there will be a private match of at  
205 least Three Dollars (\$3.00) for every One Dollar (\$1.00) of state  
206 assistance, except:

207 (i) In the case of ports the private match will be  
208 at least Two Dollars (\$2.00) for every One Dollar (\$1.00) of state  
209 assistance; and

210 (ii) In the case where the Mississippi Development  
211 Authority determines that a private company is a high technology

212 enterprise the private match will be at least Two Dollars (\$2.00)  
213 for every One Dollar (\$1.00) of state assistance.

214 The Mississippi Development Authority shall establish  
215 criteria for determining whether a private company is a high  
216 technology enterprise.

217 (e) Demonstration that the private company is  
218 financially sound and is likely to fulfill the commitments made in  
219 its letter of intent.

220 (f) A proposed timetable for the provision of the  
221 improvements.

222 (g) Evidence that the project will be expeditiously  
223 carried out and completed as planned.

224 (h) A demonstration that insufficient local capital  
225 improvement funds at reasonable rates and terms are available  
226 within the necessary time to provide the needed improvement on  
227 public property. This includes local funds available through  
228 issuance of bonds or other means, state funds available through  
229 existing programs, and available federal program funds such as  
230 community development block grant funds, urban development action  
231 grant funds, and economic development administration funds.

232 (i) A demonstration that insufficient private funds are  
233 available at reasonable rates and terms within the necessary time  
234 to fund improvement on property owned by the private company.

235 (3) The Mississippi Development Authority shall consider  
236 grant and loan applications based on the following criteria:

237 (a) The number of net new full-time equivalent jobs  
238 that will be provided and the amount of additional state and local  
239 tax revenue estimated by the University Research Center to be  
240 directly generated by the private company's new investment, and  
241 additionally, as to loan applications by state agencies, the  
242 extent to which shipping through the port will be increased by the  
243 proposed port development projects, the degree to which jobs will  
244 be increased in the port area and the impact on port revenues.

245           (b) The ability to repay the principal and interest, in  
246 the case of a loan, based on increased revenue estimates and any  
247 revenue-producing provision of a contractual agreement.

248           (c) The increase in the employment base of the state.

249           The Mississippi Development Authority and the University  
250 Research Center may use the resources and capabilities of the  
251 planning and development districts in carrying out the provisions  
252 of this chapter.

253           (4) No loan shall be made in excess of the amounts which can  
254 be repaid with the increased revenues estimated by the University  
255 Research Center, provided that this subsection (4) shall not apply  
256 to loans in connection with a United States Navy home port.

257           (5) (a) Notwithstanding anything contained in this chapter,  
258 an agency of the State of Mississippi operating a state-owned  
259 port, and hereinabove identified as a "municipality" and  
260 "governmental unit" for purposes of this chapter, may make  
261 application for a loan or grant under the terms and provisions of  
262 this chapter. In addition, a public agency operating a port  
263 bordering on the Gulf of Mexico, which shall be considered to be a  
264 "municipality" or a "governmental unit" for the purposes of this  
265 chapter, may make application for a loan or grant under the terms  
266 and provisions of this chapter from funds other than those funds  
267 authorized for a state-owned port under paragraph (e)(iii) of  
268 Section 57-61-11. The application shall be initiated by  
269 submission of a letter of intent to engage in a project or  
270 projects for the purpose of effecting enlargement and improvement  
271 in all facilities used and useful in attracting international and  
272 foreign commerce through the port. Projects eligible for  
273 inclusion in the letter of intent may include, but not be  
274 restricted to:

275                       (i) Dredging and deepening the access channel and  
276 harbor basin of the port;



277 (ii) Effecting the enlargement of the land area of  
278 the port by reclamation;

279 (iii) Construction and installation of piling,  
280 bulkheads, docks, wharves, warehouses and appurtenances; and

281 (iv) Acquisition of facilities and equipment for  
282 handling bulk and containerized cargo.

283 (b) With respect to a state-owned port bordering on the  
284 Gulf of Mexico, the letter of intent shall include the following  
285 information and any other information required by the Mississippi  
286 Development Authority:

287 (i) Present and future annual tonnages expected as  
288 a result of the improvements.

289 (ii) Reasons why present facilities are inadequate  
290 to enable the port to compete, including limitations imposed by  
291 insufficient depth of channel and basin.

292 (iii) Increased channel and basin depths necessary  
293 to accommodate modern shipping.

294 (iv) Comparison of the percentage of the world's  
295 cargo shipping that can now be accommodated with what could be  
296 accommodated with project improvements.

297 (v) Economic contribution to the region and state  
298 resulting from increased shipping activity.

299 (vi) Statement of degree to which port revenues  
300 are expected to be increased as a result of projects.

301 (vii) Financial data of port activities, including  
302 cost of project, degree of federal funding available and required  
303 local participation.

304 On or before January 1, 1989, a state-owned port described in  
305 this paragraph (b) shall submit to the Senate Finance Committee  
306 and the House Ways and Means Committee of the Mississippi  
307 Legislature a comprehensive, written report updating for each  
308 committee the information listed in items (i) through (vii) of  
309 this paragraph (b) with particular emphasis on the economic

310 contribution to the region and state by shipping activity at the  
311 port; on financial data with respect to the degree of federal  
312 funding available and local participation in funding port  
313 activities; and on progress made in dredging and completing other  
314 improvements necessary to accommodate modern shipping.

315 (c) The Mississippi Development Authority shall  
316 consider grant and loan applications based on the following:

317 (i) The extent to which shipping through the port  
318 will be increased by the proposed projects.

319 (ii) The degree to which jobs will be increased in  
320 the port area.

321 (iii) Impact on port revenues.

322 (iv) The ability of the port to repay interest and  
323 principal in the case of a loan.

324 (6) A municipality may apply to the Mississippi Development  
325 Authority for a grant under the terms and provisions of this  
326 chapter, and the Mississippi Development Authority may award  
327 grants to a municipality subject to limitations contained in this  
328 chapter. The application shall be initiated by submission of a  
329 letter of intent to engage in a project or projects for the  
330 purpose of providing improvements necessary to accommodate a  
331 United States Navy home port.

332 (7) The Legislature hereby finds and determines that  
333 financing facilities necessary to accommodate a Navy home port  
334 serves a valid public purpose in that a Navy home port will  
335 significantly contribute to the employment base of the state which  
336 is in great need of assistance; provided, that in the event such  
337 facilities are no longer required for use by the Navy as a home  
338 port, such facilities shall revert as provided in Section 59-9-21.

339 (8) Notwithstanding any provision or requirement of this  
340 chapter to the contrary, a municipality may make application for a  
341 loan under this chapter, in an amount not to exceed Five Million  
342 Dollars (\$5,000,000.00), for the purpose of acquiring and

343 developing land to be used as a technology/industrial park for  
344 which there is a binding commitment by one or more private  
345 companies to create and maintain not less than an aggregate of  
346 three hundred (300) jobs meeting minimum criteria established by  
347 the Mississippi Development Authority. Such a commitment by a  
348 private company shall not disqualify the private company from  
349 obtaining assistance under this section. The match requirements  
350 of this section shall not apply to any loan made pursuant to this  
351 subsection (8).

352 (9) Notwithstanding any provision or requirement of this  
353 chapter to the contrary, a municipality operating a county-owned  
354 port or municipally owned port may make application for a loan  
355 under this chapter, in an amount not to exceed Three Million  
356 Dollars (\$3,000,000.00), for the purpose of acquiring land,  
357 buildings and other improvements and for repairing, renovating,  
358 maintaining and improving such a port.

359 (10) (a) A municipality is authorized to negotiate a  
360 contract for the acquisition, construction and erection of a  
361 project or any portion of a project hereunder where a municipality  
362 finds that, because of the particular nature of a project or any  
363 portion thereof, it would be in the best public interest of the  
364 municipality to negotiate.

365 (b) Contracts by a private company for the acquisition,  
366 construction or erection of a project which receives assistance  
367 under this chapter shall be effected in the manner prescribed by  
368 law for public contracts, unless the Mississippi Development  
369 Authority makes a written finding that, because of special  
370 circumstances with respect to the projects or any portion thereof,  
371 it would better serve the public interest or more effectively  
372 achieve the purposes of this chapter to enter into such contracts  
373 based on negotiation.

374 (11) A municipality is authorized upon such terms and  
375 conditions as the municipality may deem advisable, provided such

376 terms and conditions shall not be in conflict with the provisions  
377 of this chapter, to (a) acquire, whether by construction,  
378 purchase, gift or lease, all of or any portion of a project  
379 hereunder; (b) to lease or sell to others all of or any portion of  
380 a project hereunder; and (c) to lend to the private company the  
381 proceeds of the loan from the board to such municipality.

382 (12) All agreements between a municipality and a private  
383 company related directly or indirectly to a project or a portion  
384 of a project to be funded in whole or in part under this chapter  
385 are subject to approval by the Mississippi Development Authority.

386 (13) (a) In addition to any other requirements or  
387 conditions under this section or elsewhere in this chapter, the  
388 Mississippi Development Authority shall require that any  
389 application for assistance regarding a private company include, at  
390 a minimum:

391 (i) A two-year business plan (which shall include  
392 proforma balance sheets, income statements and monthly cash flow  
393 statements);

394 (ii) Financial statements or tax returns for the  
395 three (3) years immediately prior to the application (if the  
396 private company is a new company or enterprise, personal financial  
397 statements or tax returns will be required);

398 (iii) Credit reports on all persons or entities  
399 with a twenty percent (20%) or greater interest in the private  
400 company;

401 (iv) Data supporting the expertise of the private  
402 company's principals;

403 (v) A cost benefit analysis of the project  
404 performed by a state institution of higher learning or other  
405 entity selected by the Mississippi Development Authority; and

406 (vi) Any other information required by the  
407 Mississippi Development Authority.

408           (b) The Mississippi Development Authority shall require  
409 that binding commitments be entered into requiring that:

410                   (i) The applicable minimum requirements of this  
411 chapter and such other requirements as the Mississippi Development  
412 Authority considers proper shall be met; and

413                   (ii) If the agreed upon commitments are not met,  
414 all or a portion of the funds provided under this chapter as  
415 determined by the Mississippi Development Authority shall be  
416 repaid.

417                   (c) Where appropriate, in the discretion of the  
418 Mississippi Development Authority, the Mississippi Development  
419 Authority shall acquire a security interest in or other lien upon  
420 any applicable collateral.

421           **SECTION 3.** Section 57-75-11, Mississippi Code of 1972, is  
422 amended as follows:

423           57-75-11. The authority, in addition to any and all powers  
424 now or hereafter granted to it, is empowered and shall exercise  
425 discretion and the use of these powers depending on the  
426 circumstances of the project or projects:

427                   (a) To maintain an office at a place or places within  
428 the state.

429                   (b) To employ or contract with architects, engineers,  
430 attorneys, accountants, construction and financial experts and  
431 such other advisors, consultants and agents as may be necessary in  
432 its judgment and to fix and pay their compensation.

433                   (c) To make such applications and enter into such  
434 contracts for financial assistance as may be appropriate under  
435 applicable federal or state law.

436                   (d) To apply for, accept and utilize grants, gifts and  
437 other funds or aid from any source for any purpose contemplated by  
438 the act, and to comply, subject to the provisions of this act,  
439 with the terms and conditions thereof.

440           (e) (i) To acquire by purchase, lease, gift, or in  
441 other manner, including quick-take eminent domain, or obtain  
442 options to acquire, and to own, maintain, use, operate and convey  
443 any and all property of any kind, real, personal, or mixed, or any  
444 interest or estate therein, within the project area, necessary for  
445 the project or any facility related to the project. The  
446 provisions of this paragraph that allow the acquisition of  
447 property by quick-take eminent domain shall be repealed by  
448 operation of law on July 1, 1994; and

449           (ii) Notwithstanding any other provision of this  
450 paragraph (e), from and after November 6, 2000, to exercise the  
451 right of immediate possession pursuant to the provisions of  
452 Sections 11-27-81 through 11-27-89 for the purpose of acquiring  
453 land, property and/or rights-of-way in the county in which a  
454 project as defined in Section 57-75-5(f)(iv)1 is located, that are  
455 necessary for such project or any facility related to the project.

456           (f) To acquire by purchase or lease any public lands  
457 and public property, including sixteenth section lands and lieu  
458 lands, within the project area, which are necessary for the  
459 project. Sixteenth section lands or lieu lands acquired under  
460 this act shall be deemed to be acquired for the purposes of  
461 industrial development thereon and such acquisition will serve a  
462 higher public interest in accordance with the purposes of this  
463 act.

464           (g) If the authority identifies any land owned by the  
465 state as being necessary, for the location or use of the project,  
466 or any facility related to the project, to recommend to the  
467 Legislature the conveyance of such land or any interest therein,  
468 as the Legislature deems appropriate.

469           (h) To make or cause to be made such examinations and  
470 surveys as may be necessary to the planning, design, construction  
471 and operation of the project.

472           (i) From and after the date of notification to the  
473 authority by the enterprise that the state has been finally  
474 selected as the site of the project, to acquire by condemnation  
475 and to own, maintain, use, operate and convey or otherwise dispose  
476 of any and all property of any kind, real, personal or mixed, or  
477 any interest or estate therein, within the project area, necessary  
478 for the project or any facility related to the project, with the  
479 concurrence of the affected public agency, and the exercise of the  
480 powers granted by this act, according to the procedures provided  
481 by Chapter 27, Title 11, Mississippi Code of 1972, except as  
482 modified by this act.

483           (i) Except as otherwise provided in subparagraph  
484 (iii) of this paragraph (i), in acquiring lands by condemnation,  
485 the authority shall not acquire minerals or royalties in minerals  
486 unless a competent registered professional engineer shall have  
487 certified that the acquisition of such minerals and royalties in  
488 minerals is necessary for purposes of the project; provided that  
489 limestone, clay, chalk, sand and gravel shall not be considered as  
490 minerals for the purposes of subparagraphs (i) and (ii) of this  
491 paragraph (i);

492           (ii) Unless minerals or royalties in minerals have  
493 been acquired by condemnation or otherwise, no person or persons  
494 owning the drilling rights or the right to share in production of  
495 minerals shall be prevented from exploring, developing, or  
496 producing oil or gas with necessary rights-of-way for ingress and  
497 egress, pipelines and other means of transporting interests on any  
498 land or interest therein of the authority held or used for the  
499 purposes of this act; but any such activities shall be under such  
500 reasonable regulation by the authority as will adequately protect  
501 the project contemplated by this act as provided in paragraph (r)  
502 of this section; and

503           (iii) In acquiring lands by condemnation,  
504 including the exercise of immediate possession, for a project, as

505 defined in Section 57-75-5(f)(iv)1, the authority may acquire  
506 minerals or royalties in minerals.

507 (j) To negotiate the necessary relocation or rerouting  
508 of roads and highways, railroad, telephone and telegraph lines and  
509 properties, electric power lines, pipelines and related  
510 facilities, or to require the anchoring or other protection of any  
511 of these, provided due compensation is paid to the owners thereof  
512 or agreement is had with such owners regarding the payment of the  
513 cost of such relocation, and to acquire by condemnation or  
514 otherwise easements or rights-of-way for such relocation or  
515 rerouting and to convey the same to the owners of the facilities  
516 being relocated or rerouted in connection with the purposes of  
517 this act.

518 (k) To negotiate the necessary relocation of graves and  
519 cemeteries and to pay all reasonable costs thereof.

520 (l) To perform or have performed any and all acts and  
521 make all payments necessary to comply with all applicable federal  
522 laws, rules or regulations including, but not limited to, the  
523 Uniform Relocation Assistance and Real Property Acquisition  
524 Policies Act of 1970 (42 USCS 4601, 4602, 4621 to 4638, and 4651  
525 to 4655) and relocation rules and regulations promulgated by any  
526 agency or department of the federal government.

527 (m) To construct, extend, improve, maintain, and  
528 reconstruct, to cause to be constructed, extended, improved,  
529 maintained, and reconstructed, and to use and operate any and all  
530 components of the project or any facility related to the project,  
531 with the concurrence of the affected public agency, within the  
532 project area, necessary to the project and to the exercise of such  
533 powers, rights, and privileges granted the authority.

534 (n) To incur or defray any designated portion of the  
535 cost of any component of the project or any facility related to  
536 the project acquired or constructed by any public agency.



537           (o) (i) To lease, sell or convey any or all property  
538 acquired by the authority under the provisions of this act to the  
539 enterprise, its successors or assigns, and in connection therewith  
540 to pay the costs of title search, perfection of title, title  
541 insurance and recording fees as may be required. The authority  
542 may provide in the instrument conveying such property a provision  
543 that such property shall revert to the authority if, as and when  
544 the property is declared by the enterprise to be no longer needed.

545           (ii) To lease, sell, transfer or convey on any  
546 terms agreed upon by the authority any or all real and personal  
547 property, improvements, leases, funds and contractual obligations  
548 of a project as defined in Section 57-75-5(f)(vi) and conveyed to  
549 the State of Mississippi by a Quitclaim Deed from the United  
550 States of America dated February 23, 1996, filed of record at  
551 pages 511 to 524, Deed Book Number B179, Chancery Clerk's Office,  
552 Tishomingo County, Mississippi, to any governmental authority  
553 located within the geographic boundaries of the county wherein  
554 such project exists upon agreement of such governmental authority  
555 to undertake and assume from the State of Mississippi all  
556 obligations and responsibilities in connection with ownership and  
557 operation of the project. Property leased, sold, transferred or  
558 otherwise conveyed by the authority under this paragraph (o) shall  
559 be used only for economic development purposes.

560           (p) To enter into contracts with any person or public  
561 agency, including, but not limited to, contracts authorized by  
562 Section 57-75-17, in furtherance of any of the purposes authorized  
563 by this act upon such consideration as the authority and such  
564 person or public agency may agree. Any such contract may extend  
565 over any period of time, notwithstanding any rule of law to the  
566 contrary, may be upon such terms as the parties thereto shall  
567 agree, and may provide that it shall continue in effect until  
568 bonds specified therein, refunding bonds issued in lieu of such  
569 bonds, and all other obligations specified therein are paid or

570 terminated. Any such contract shall be binding upon the parties  
571 thereto according to its terms. Such contracts may include an  
572 agreement to reimburse the enterprise, its successors and assigns  
573 for any assistance provided by the enterprise in the acquisition  
574 of real property for the project or any facility related to the  
575 project.

576 (q) To establish and maintain reasonable rates and  
577 charges for the use of any facility within the project area owned  
578 or operated by the authority, and from time to time, to adjust  
579 such rates and to impose penalties for failure to pay such rates  
580 and charges when due.

581 (r) To adopt and enforce with the concurrence of the  
582 affected public agency all necessary and reasonable rules and  
583 regulations to carry out and effectuate the implementation of the  
584 project and any land use plan or zoning classification adopted for  
585 the project area, including, but not limited to, rules,  
586 regulations, and restrictions concerning mining, construction,  
587 excavation or any other activity the occurrence of which may  
588 endanger the structure or operation of the project. Such rules  
589 may be enforced within the project area and without the project  
590 area as necessary to protect the structure and operation of the  
591 project. The authority is authorized to plan or replan, zone or  
592 rezone, and make exceptions to any regulations, whether local or  
593 state, with the concurrence of the affected public agency which  
594 are inconsistent with the design, planning, construction or  
595 operation of the project and facilities related to the project.

596 (s) To plan, design, coordinate and implement measures  
597 and programs to mitigate impacts on the natural environment caused  
598 by the project or any facility related to the project.

599 (t) To develop plans for technology transfer activities  
600 to ensure private sector conduits for exchange of information,  
601 technology and expertise related to the project to generate  
602 opportunities for commercial development within the state.

603           (u) To consult with the State Department of Education  
604 and other public agencies for the purpose of improving public  
605 schools and curricula within the project area.

606           (v) To consult with the State Board of Health and other  
607 public agencies for the purpose of improving medical centers,  
608 hospitals and public health centers in order to provide  
609 appropriate health care facilities within the project area.

610           (w) To consult with the Office of Minority Business  
611 Enterprise Development and other public agencies for the purpose  
612 of developing plans for technical assistance and loan programs to  
613 maximize the economic impact related to the project for minority  
614 business enterprises within the State of Mississippi.

615           (x) To deposit into the "Yellow Creek Project Area  
616 Fund" created pursuant to Section 57-75-31:

617                 (i) Any funds or aid received as authorized in  
618 this section for the project described in Section 57-75-5(f)(vi),  
619 and

620                 (ii) Any funds received from the sale or lease of  
621 property from the project described in Section 57-75-5(f)(vi)  
622 pursuant to the powers exercised under this section.

623           (y) To manage and develop the project described in  
624 Section 57-75-5(f)(vi).

625           (z) To promulgate rules and regulations necessary to  
626 effectuate the purposes of this act.

627           (aa) To negotiate a fee-in-lieu with the owners of the  
628 project.

629           (bb) To enter into contractual agreements to warrant  
630 any site work for a project defined in Section 57-75-5(f)(iv)1;  
631 provided, however, that the aggregate amount of such warranties  
632 shall not exceed Fifteen Million Dollars (\$15,000,000.00).

633           (cc) To provide grant funds to an enterprise operating  
634 a project defined in Section 57-75-5(f)(iv)1 in an amount not to  
635 exceed Thirty-nine Million Dollars (\$39,000,000.00).

636 (dd) (i) To own surface water transmission lines  
637 constructed with the proceeds of bonds issued pursuant to this act  
638 and in connection therewith to purchase and provide water to any  
639 project defined in Section 57-75-5(f)(iv) and to certificated  
640 water providers; and

641 (ii) To lease such surface water transmission  
642 lines to a public agency or public utility to provide water to  
643 such project and to certificated water providers.

644 (ee) To provide grant funds to an enterprise operating  
645 a project defined in Section 57-75-5(f)(v) or, in connection with  
646 a facility related to such a project, for job training, recruiting  
647 and infrastructure.

648 (ff) To enter into negotiations with persons proposing  
649 projects defined in Section 57-75-5(f)(xi) and execute acquisition  
650 options and conduct planning, design and environmental impact  
651 studies with regard to such project.

652 (gg) To establish such guidelines, rules and  
653 regulations as the authority may deem necessary and appropriate  
654 from time to time in its sole discretion, to promote the purposes  
655 of this act.

656 (hh) In connection with projects defined in Section  
657 57-75-5(f)(ii):

658 (i) To provide grant funds or loans to a public  
659 agency or an enterprise owning, leasing or operating a project  
660 defined in Section 57-75-5(f)(ii) in amounts not to exceed the  
661 amount authorized in Section 57-75-15(3)(b);

662 (ii) To supervise the use of all such grant funds  
663 or loans; and

664 (iii) To requisition money in the Mississippi  
665 Major Economic Impact Authority Revolving Loan Fund in connection  
666 with such loans.

667 (ii) In connection with projects defined under Section  
668 57-75-5(f)(xiv):

669 (i) To provide grant funds or loans to an  
670 enterprise owning, leasing or operating a project defined in  
671 Section 57-75-5(f)(xiv); however, the amount of any such loan  
672 under this paragraph (ii) shall not exceed Eight Million Dollars  
673 (\$8,000,000.00) and the amount of any such grant under this  
674 paragraph (ii) shall not exceed Two Million Dollars  
675 (\$2,000,000.00);

676 (ii) To supervise the use of all such grant funds  
677 or loans; and

678 (iii) Notwithstanding any provision of this act to  
679 the contrary, such loans shall be for a term not to exceed twenty  
680 (20) years as may be determined by the authority, shall bear  
681 interest at such rates as may be determined by the authority,  
682 shall, in the sole discretion of the authority, be secured in an  
683 amount and a manner as may be determined by the authority.

684 (jj) (i) In addition to any other requirements or  
685 conditions under this chapter, the authority shall require that  
686 any application for assistance regarding a project under this  
687 chapter include, at a minimum:

688 1. A two-year business plan (which shall  
689 include proforma balance sheets, income statements and monthly  
690 cash flow statements);

691 2. Financial statements or tax returns for  
692 the three (3) years immediately prior to the application (if the  
693 project is a new company or enterprise, personal financial  
694 statements or tax returns will be required);

695 3. Credit reports on all persons or entities  
696 with a twenty percent (20%) or greater interest in the project;

697 4. Data supporting the expertise of the  
698 project's principals;

699 5. A cost benefit analysis of the project  
700 performed by a state institution of higher learning or other  
701 entity selected by the authority; and

702 6. Any other information required by the  
703 authority.

704 (ii) The authority shall require that binding  
705 commitments be entered into requiring that:

706 1. The applicable minimum requirements of  
707 this chapter and such other requirements as the authority  
708 considers proper shall be met; and

709 2. If the agreed upon commitments are not  
710 met, all or a portion of the funds provided under this chapter as  
711 determined by the authority shall be repaid.

712 (iii) Where appropriate, in the discretion of the  
713 authority, the authority shall acquire a security interest in or  
714 other lien upon any applicable collateral.

715 **SECTION 4.** Section 57-85-5, Mississippi Code of 1972, is  
716 amended as follows:

717 57-85-5. (1) For the purposes of this section, the  
718 following words and phrases shall have the meanings ascribed in  
719 this section unless the context clearly indicates otherwise:

720 (a) "MDA" means the Mississippi Development Authority.

721 (b) "Project" means construction, rehabilitation or  
722 repair of buildings; sewer systems and transportation directly  
723 affecting the site of the proposed rural business; sewer  
724 facilities, acquisition of real property, development of real  
725 property, improvements to real property, and any other project  
726 approved by the Mississippi Development Authority.

727 (c) "Rural business" means a new or existing business  
728 located or to be located in a rural community or a business or  
729 industry located or to be located within five (5) miles of a rural  
730 community. "Rural business" does not include gaming businesses or  
731 utility businesses.

732 (d) "Rural community" means a county in the State of  
733 Mississippi that meets the population criteria for the term  
734 "limited population county" as provided in Section 57-1-18.

735 "Rural community" also means a municipality in the State of  
736 Mississippi that meets the population criteria for the term "small  
737 municipality" as provided in Section 57-1-18.

738 (2) (a) There is created in the State Treasury a special  
739 fund to be designated as the "Mississippi Rural Impact Fund,"  
740 which shall consist of funds appropriated or otherwise made  
741 available by the Legislature in any manner and funds from any  
742 other source designated for deposit into such fund. Unexpended  
743 amounts remaining in the fund at the end of a fiscal year shall  
744 not lapse into the State General Fund, and any investment earnings  
745 or interest earned on amounts in the fund shall be deposited to  
746 the credit of the fund. Monies in the fund shall be used to make  
747 grants and loans to rural communities and loan guaranties on  
748 behalf of rural businesses to assist in completing projects under  
749 this section.

750 (b) Monies in the fund which are derived from proceeds  
751 of bonds issued after the effective date of this act, may be used  
752 to reimburse reasonable actual and necessary costs incurred by the  
753 MDA in providing assistance related to a project for which funding  
754 is provided under this section from the use of proceeds of such  
755 bonds. An accounting of actual costs incurred for which  
756 reimbursement is sought shall be maintained for each project by  
757 the MDA. Reimbursement of reasonable actual and necessary costs  
758 for a project shall not exceed three percent (3%) of the proceeds  
759 of bonds issued for such project. Monies authorized for a  
760 particular project may not be used to reimburse administrative  
761 costs for unrelated projects. Reimbursements under this paragraph  
762 (b) shall satisfy any applicable federal tax law requirements.

763 (c) The MDA may use monies in the fund to pay for the  
764 services of architects, engineers, attorneys and such other  
765 advisors, consultants and agents that the MDA determines are  
766 necessary to review loan and grant applications and to implement  
767 and administer the program established under this section.

768           (3) The MDA shall establish a program to make grants and  
769 loans to rural communities and loan guaranties on behalf of rural  
770 businesses from the Mississippi Rural Impact Fund. A rural  
771 community may apply to the MDA for a grant or loan under this  
772 section in the manner provided for in this section. A rural  
773 business may apply to the MDA for a loan guaranty under this  
774 section in the manner provided in this section.

775           (4) (a) A rural community desiring assistance under this  
776 section must submit an application to the MDA. The application  
777 must include, at a minimum:

778                   (i) A description of the project for which  
779 assistance is requested;

780                   (ii) The cost of the project for which assistance  
781 is requested;

782                   (iii) A two-year business plan for the project  
783 (which shall include proforma balance sheets, income statements  
784 and monthly cash flow statements);

785                   (iv) Financial statements or tax returns for the  
786 three (3) years immediately prior to the application (if the  
787 project is a new company or enterprise, personal financial  
788 statements or tax returns will be required);

789                   (v) Credit reports on all persons or entities with  
790 a twenty percent (20%) or greater interest in the project; and

791                   (vi) Any other information required by the MDA.

792           A rural business desiring assistance under this section must  
793 submit an application to the MDA. The application must include,  
794 at a minimum:

795                   (i) A description of the purpose for which  
796 assistance is requested;

797                   (ii) A two-year business plan for the project  
798 (which shall include at least proforma balance sheets, income  
799 statements and monthly cash flow statements);



800                   (iii) Financial statements or tax returns for the  
801 three (3) years immediately prior to the application (if the  
802 project is a new company or enterprise, personal financial  
803 statements or tax returns will be required);

804                   (iv) Credit reports on all persons or entities  
805 with a twenty percent (20%) or greater interest in the project;  
806 and

807                   (v) Any other information required by the MDA.  
808 The MDA may waive any requirements of the program established  
809 under this section in order to expedite funding for unique  
810 projects.

811                   (b) The MDA shall require that binding commitments be  
812 entered into requiring that:

813                   (i) The minimum requirements of this section and  
814 such other requirements as the MDA considers proper shall be met;  
815 and

816                   (ii) If the agreed upon commitments are not met,  
817 all or a portion of the funds provided under this section as  
818 determined by the MDA shall be repaid.

819                   (c) Where appropriate, in the discretion of MDA, MDA  
820 shall acquire a security interest in or other lien upon any  
821 applicable collateral.

822           (5) The MDA shall have all powers necessary to implement and  
823 administer the program established under this section, and the MDA  
824 shall promulgate rules and regulations, in accordance with the  
825 Mississippi Administrative Procedures Law, necessary for the  
826 implementation of this section.

827           **SECTION 5.** Section 65-4-7, Mississippi Code of 1972, is  
828 amended as follows:

829           65-4-7. Any political subdivision desiring the assistance of  
830 the state in order to construct or improve any highways or highway  
831 segments, the primary purpose of such construction or improvement  
832 being to encourage a private company to engage in a high economic

833 benefit project within the geographic boundaries of the political  
834 subdivision, may apply to the board for such approval and  
835 assistance. The application from the political subdivision shall  
836 include, but not be limited to:

837 (a) A description of the highways or highway segments  
838 requested to be constructed or improved;

839 (b) A certified resolution from the governing  
840 authorities of the political subdivision detailing the source and  
841 amount of funds which the political subdivision has committed or  
842 is willing to commit for construction or improvement of such  
843 highways or highway segments;

844 (c) A certified copy of a signed letter of intent from  
845 the private company to the political subdivision describing in  
846 detail the high economic benefit project in which it is committed  
847 to engage upon construction or improvement of the highways or  
848 highway segments within the political subdivision and the proposed  
849 timetable for completion of such project;

850 (d) Demonstration that the private company is  
851 financially sound and is likely to fulfill the commitments made in  
852 its letter of intent; \* \* \*

853 (e) An estimate by the private company of the number,  
854 size and weight of motor vehicles and the frequency of travel of  
855 such vehicles upon the highways or highway segments requested to  
856 be constructed or improved after completion of the project by the  
857 private company;

858 (f) A two-year business plan for the private company  
859 (which shall include proforma balance sheets, income statements  
860 and monthly cash flow statements);

861 (g) Financial statements or tax returns for the three  
862 (3) years immediately prior to the application (if the private  
863 company is a new company or enterprise, personal financial  
864 statements or tax returns will be required); and

865           (h) Credit reports on all persons or entities with a  
866 twenty percent (20%) or greater interest in the private company.

867           **SECTION 6.** Section 65-4-9, Mississippi Code of 1972, is  
868 amended as follows:

869           65-4-9. (1) Upon receipt of an application by a political  
870 subdivision as provided under Section 65-4-7, Mississippi Code of  
871 1972, the board shall review the application and may approve the  
872 application if it determines:

873           (a) The highways or highway segments for which the  
874 political subdivision is requesting assistance in constructing or  
875 improving are necessary and essential to ensure adequate and  
876 appropriate access to the proposed project for the purpose of  
877 encouraging its location within the geographical boundaries of the  
878 political subdivision;

879           (b) The project proposed by the private company meets  
880 the definition of a "high economic benefit project" as such term  
881 is defined in Section 65-4-5, Mississippi Code of 1972;

882           (c) The private company has demonstrated financial  
883 soundness and appears to have such assets and credit worthiness as  
884 to permit it to secure necessary funds to complete the project  
885 according to its commitments; \* \* \*

886           (d) The costs for the construction or improvement of  
887 such highways or highway segments to be funded hereunder will not  
888 exceed the funds available in the Economic Development Highway  
889 Fund created by Section 65-4-15, Mississippi Code of 1972; and

890           (e) The private company and/or political subdivision  
891 enters in binding commitments with the board requiring that:

892           (i) The applicable minimum requirements of this  
893 chapter and such other requirements as the board considers proper  
894 shall be met; and

895           (ii) If the agreed upon commitments are not met,  
896 all or a portion of the funds provided under this chapter as  
897 determined by the board shall be repaid.

898       (2) Where appropriate, in the discretion of the board, the  
899 board shall acquire a security interest in or other lien upon any  
900 applicable collateral.

901       **SECTION 7.** Section 69-2-13, Mississippi Code of 1972, is  
902 amended as follows:

903       69-2-13. (1) There is hereby established in the State  
904 Treasury a fund to be known as the "Emerging Crops Fund," which  
905 shall be used to pay the interest on loans made to farmers for  
906 nonland capital costs of establishing production of emerging crops  
907 on land in Mississippi, and to make loans and grants which are  
908 authorized under this section to be made from the fund. The fund  
909 shall be administered by the Mississippi Development Authority. A  
910 board comprised of the directors of the authority, the Mississippi  
911 Cooperative Extension Service, the Mississippi Small Farm  
912 Development Center and the Mississippi Agricultural and Forestry  
913 Experiment Station, or their designees, shall develop definitions,  
914 guidelines and procedures for the implementation of this chapter.  
915 Funds for the Emerging Crops Fund shall be provided from the  
916 issuance of bonds or notes under Sections 69-2-19 through 69-2-37  
917 and from repayment of interest loans made from the fund.

918       (2) (a) The Mississippi Development Authority shall develop  
919 a program which gives fair consideration to making loans for the  
920 processing and manufacturing of goods and services by  
921 agribusiness, greenhouse production horticulture, and small  
922 business concerns. It is the policy of the State of Mississippi  
923 that the Mississippi Development Authority shall give due  
924 recognition to and shall aid, counsel, assist and protect, insofar  
925 as is possible, the interests of agribusiness, greenhouse  
926 production horticulture, and small business concerns. To ensure  
927 that the purposes of this subsection are carried out, the  
928 Mississippi Development Authority shall loan not more than One  
929 Million Dollars (\$1,000,000.00) to finance any single  
930 agribusiness, greenhouse production horticulture, or small

931 business concern. Loans made pursuant to this subsection shall be  
932 made in accordance with the criteria established in Section  
933 57-71-11.

934 (b) The Mississippi Development Authority may, out of  
935 the total amount of bonds authorized to be issued under this  
936 chapter, make available funds to any planning and development  
937 district in accordance with the criteria established in Section  
938 57-71-11. Planning and development districts which receive monies  
939 pursuant to this provision shall use such monies to make loans to  
940 private companies for purposes consistent with this subsection.

941 (c) The Mississippi Development Authority is hereby  
942 authorized to engage legal services, financial advisors,  
943 appraisers and consultants if needed to review and close loans  
944 made hereunder and to establish and assess reasonable fees,  
945 including, but not limited to, liquidation expenses.

946 (3) (a) The Mississippi Development Authority shall, in  
947 addition to the other programs described in this section, provide  
948 for a program of loans to be made to agribusiness or greenhouse  
949 production horticulture enterprises for the purpose of encouraging  
950 thereby the extension of conventional financing and the issuance  
951 of letters of credit to such agribusiness or greenhouse production  
952 horticulture enterprises by private institutions. Monies to make  
953 such loans by the Mississippi Development Authority shall be drawn  
954 from the Emerging Crops Fund. The amount of a loan to any single  
955 agribusiness or greenhouse production horticulture enterprise  
956 under this paragraph (a) shall not exceed twenty percent (20%) of  
957 the total cost of the project for which financing is sought or Two  
958 Hundred Thousand Dollars (\$200,000.00), whichever is less. No  
959 interest shall be charged on such loans, and only the amount  
960 actually loaned shall be required to be repaid. Repayments shall  
961 be deposited into the Emerging Crops Fund.

962 (b) The Mississippi Development Authority shall, in  
963 addition to the other programs described in this section, provide

964 for a program of loans or loan guaranties, or both, to be made to  
965 or on behalf of any agribusiness enterprise engaged in beef  
966 processing for the purpose of encouraging thereby the extension of  
967 conventional financing and the issuance of letters of credit to  
968 such agribusiness enterprises by private institutions. Monies to  
969 make such loans or loan guaranties, or both, by the Mississippi  
970 Development Authority shall be drawn from the Emerging Crops Fund  
971 and shall not exceed Thirty-five Million Dollars (\$35,000,000.00)  
972 in the aggregate. The amount of a loan to any single agribusiness  
973 enterprise or loan guaranty on behalf of such agribusiness  
974 enterprise, or both, under this paragraph (b) shall not exceed the  
975 total cost of the project for which financing is sought or  
976 Thirty-five Million Dollars (\$35,000,000.00), whichever is less.  
977 The interest charged on a loan made under this paragraph (b) shall  
978 be at a rate determined by the Mississippi Development Authority.  
979 All repayments of any loan made under this paragraph (b) shall be  
980 deposited into the Emerging Crops Fund. Assistance received by an  
981 agribusiness enterprise under this paragraph (b) shall not  
982 disqualify the agribusiness enterprise from obtaining any other  
983 assistance under this chapter.

984 (4) (a) Through June 30, 2006, the Mississippi Development  
985 Authority may loan or grant to qualified planning and development  
986 districts, and to small business investment corporations,  
987 bank-based community development corporations, the Recruitment and  
988 Training Program, Inc., the City of Jackson Business Development  
989 Loan Fund, the Lorman Southwest Mississippi Development  
990 Corporation, the West Jackson Community Development Corporation,  
991 the East Mississippi Development Corporation, and other entities  
992 meeting the criteria established by the Mississippi Development  
993 Authority (all referred to hereinafter as "qualified entities"),  
994 funds for the purpose of establishing loan revolving funds to  
995 assist in providing financing for minority economic development.  
996 The monies loaned or granted by the Mississippi Development

997 Authority shall be drawn from the Emerging Crops Fund and shall  
998 not exceed Twenty-six Million Dollars (\$26,000,000.00) in the  
999 aggregate. Planning and development districts or qualified  
1000 entities which receive monies pursuant to this provision shall use  
1001 such monies to make loans to minority business enterprises  
1002 consistent with criteria established by the Mississippi  
1003 Development Authority. Such criteria shall include, at a minimum,  
1004 the following:

1005 (i) The business enterprise must be a private,  
1006 for-profit enterprise.

1007 (ii) If the business enterprise is a  
1008 proprietorship, the borrower must be a resident citizen of the  
1009 State of Mississippi; if the business enterprise is a corporation  
1010 or partnership, at least fifty percent (50%) of the owners must be  
1011 resident citizens of the State of Mississippi.

1012 (iii) The borrower must have at least five percent  
1013 (5%) equity interest in the business enterprise.

1014 (iv) The borrower must demonstrate ability to  
1015 repay the loan.

1016 (v) The borrower must not be in default of any  
1017 previous loan from the state or federal government.

1018 (vi) The business enterprise and/or borrower must  
1019 provide a two-year business plan (which shall include proforma  
1020 balance sheets, income statements and monthly cash flow  
1021 statements).

1022 (vii) The business enterprise and/or borrower must  
1023 provide financial statements or tax returns for the three (3)  
1024 years immediately prior to the proposed loan (in the case of a new  
1025 company or enterprise, personal financial statements or tax  
1026 returns will be required).

1027 (viii) Credit reports on all persons or entities  
1028 with a twenty percent (20%) or greater interest in the business  
1029 enterprise and/or borrower.

1030                    (ix) Loan proceeds may be used for financing all  
1031 project costs associated with development or expansion of a new  
1032 small business, including fixed assets, working capital, start-up  
1033 costs, rental payments, interest expense during construction and  
1034 professional fees related to the project.

1035                    (x) Loan proceeds shall not be used to pay off  
1036 existing debt for loan consolidation purposes; to finance the  
1037 acquisition, construction, improvement or operation of real  
1038 property which is to be held primarily for sale or investment; to  
1039 provide for, or free funds, for speculation in any kind of  
1040 property; or as a loan to owners, partners or stockholders of the  
1041 applicant which do not change ownership interest by the applicant.  
1042 However, this does not apply to ordinary compensation for services  
1043 rendered in the course of business.

1044                    (xi) The maximum amount that may be loaned to any  
1045 one (1) borrower shall be Two Hundred Fifty Thousand Dollars  
1046 (\$250,000.00).

1047                    (xii) Where appropriate, in the discretion of the  
1048 Mississippi Development Authority, the Mississippi Development  
1049 Authority shall acquire a security interest in or other lien upon  
1050 any applicable collateral.

1051                    (xiii) The Mississippi Development Authority shall  
1052 review each loan before it is made, and no loan shall be made to  
1053 any borrower until the loan has been reviewed and approved by the  
1054 Mississippi Development Authority.

1055                    (b) For the purpose of this subsection, the term  
1056 "minority business enterprise" means a socially and economically  
1057 disadvantaged small business concern, organized for profit,  
1058 performing a commercially useful function which is owned and  
1059 controlled by one or more minorities or minority business  
1060 enterprises certified by the Mississippi Development Authority, at  
1061 least fifty percent (50%) of whom are resident citizens of the  
1062 State of Mississippi. For purposes of this subsection, the term



1063 "socially and economically disadvantaged small business concern"  
1064 shall have the meaning ascribed to such term under the Small  
1065 Business Act (15 USCS, Section 637(a)), or women, and the term  
1066 "owned and controlled" means a business in which one or more  
1067 minorities or minority business enterprises certified by the  
1068 Mississippi Development Authority own sixty percent (60%) or, in  
1069 the case of a corporation, sixty percent (60%) of the voting  
1070 stock, and control sixty percent (60%) of the management and daily  
1071 business operations of the business.

1072 From and after July 1, 2006, monies not loaned or granted by  
1073 the Mississippi Development Authority to planning and development  
1074 districts or qualified entities under this subsection, and monies  
1075 not loaned by planning and development districts or qualified  
1076 entities, shall be deposited to the credit of the sinking fund  
1077 created and maintained in the State Treasury for the retirement of  
1078 bonds issued under Section 69-2-19.

1079 (c) Notwithstanding any other provision of this  
1080 subsection to the contrary, if federal funds are not available for  
1081 commitments made by a planning and development district to provide  
1082 assistance under any federal loan program administered by the  
1083 planning and development district in coordination with the  
1084 Appalachian Regional Commission or Economic Development  
1085 Administration, or both, a planning and development district may  
1086 use funds in its loan revolving fund, which have not been  
1087 committed otherwise to provide assistance, for the purpose of  
1088 providing temporary funding for such commitments. If a planning  
1089 and development district uses uncommitted funds in its loan  
1090 revolving fund to provide such temporary funding, the district  
1091 shall use funds repaid to the district under the temporarily  
1092 funded federal loan program to replenish the funds used to provide  
1093 the temporary funding. Funds used by a planning and development  
1094 district to provide temporary funding under this paragraph (c)  
1095 must be repaid to the district's loan revolving fund no later than

1096 twelve (12) months after the date the district provides the  
1097 temporary funding. A planning and development district may not  
1098 use uncommitted funds in its loan revolving fund to provide  
1099 temporary funding under this paragraph (c) on more than two (2)  
1100 occasions during a calendar year. A planning and development  
1101 district may provide temporary funding for multiple commitments on  
1102 each such occasion. The maximum aggregate amount of uncommitted  
1103 funds in a loan revolving fund that may be used for such purposes  
1104 during a calendar year shall not exceed seventy percent (70%) of  
1105 the uncommitted funds in the loan revolving fund on the date the  
1106 district first provides temporary funding during the calendar  
1107 year.

1108 (d) If the Mississippi Development Authority determines  
1109 that a planning and development district or qualified entity has  
1110 provided loans to minority businesses in a manner inconsistent  
1111 with the provisions of this subsection, then the amount of such  
1112 loans so provided shall be withheld by the Mississippi Development  
1113 Authority from any additional grant funds to which the planning  
1114 and development district or qualified entity becomes entitled  
1115 under this subsection. If the Mississippi Development Authority  
1116 determines, after notifying such planning and development district  
1117 or qualified entity twice in writing and providing such planning  
1118 and development district or qualified entity a reasonable  
1119 opportunity to comply, that a planning and development district or  
1120 qualified entity has consistently failed to comply with this  
1121 subsection, the Mississippi Development Authority may declare such  
1122 planning and development district or qualified entity in default  
1123 under this subsection and, upon receipt of notice thereof from the  
1124 Mississippi Development Authority, such planning and development  
1125 district or qualified entity shall immediately cease providing  
1126 loans under this subsection, shall refund to the Mississippi  
1127 Development Authority for distribution to other planning and  
1128 development districts or qualified entities all funds held in its

1129 revolving loan fund and, if required by the Mississippi  
1130 Development Authority, shall convey to the Mississippi Development  
1131 Authority, all administrative and management control of loans  
1132 provided by it under this subsection.

1133 (e) If the Mississippi Development Authority  
1134 determines, after notifying a planning and development district or  
1135 qualified entity twice in writing and providing copies of such  
1136 notification to each member of the Legislature in whose district  
1137 or in a part of whose district such planning and development  
1138 district or qualified entity is located and providing such  
1139 planning and development district or qualified entity a reasonable  
1140 opportunity to take corrective action, that a planning and  
1141 development district or qualified entity administering a revolving  
1142 loan fund under the provisions of this subsection is not actively  
1143 engaged in lending as defined by the rules and regulations of the  
1144 Mississippi Development Authority, the Mississippi Development  
1145 Authority may declare such planning and development district or  
1146 qualified entity in default under this subsection and, upon  
1147 receipt of notice thereof from the Mississippi Development  
1148 Authority, such planning and development district or qualified  
1149 entity shall immediately cease providing loans under this  
1150 subsection, shall refund to the Mississippi Development Authority  
1151 for distribution to other planning and development districts or  
1152 qualified entities all funds held in its revolving loan fund and,  
1153 if required by the Mississippi Development Authority, shall convey  
1154 to the Mississippi Development Authority all administrative and  
1155 management control of loans provided by it under this subsection.

1156 (5) The Mississippi Development Authority shall develop a  
1157 program which will assist minority business enterprises by  
1158 guaranteeing bid, performance and payment bonds which such  
1159 minority businesses are required to obtain in order to contract  
1160 with federal agencies, state agencies or political subdivisions of  
1161 the state. Monies for such program shall be drawn from the monies

1162 allocated under subsection (4) of this section to assist the  
1163 financing of minority economic development and shall not exceed  
1164 Three Million Dollars (\$3,000,000.00) in the aggregate. The  
1165 Mississippi Development Authority may promulgate rules and  
1166 regulations for the operation of the program established pursuant  
1167 to this subsection. For the purpose of this subsection (5) the  
1168 term "minority business enterprise" has the meaning assigned such  
1169 term in subsection (4) of this section.

1170 (6) The Mississippi Development Authority may loan or grant  
1171 to public entities and to nonprofit corporations funds to defray  
1172 the expense of financing (or to match any funds available from  
1173 other public or private sources for the expense of financing)  
1174 projects in this state which are devoted to the study, teaching  
1175 and/or promotion of regional crafts and which are deemed by the  
1176 authority to be significant tourist attractions. The monies  
1177 loaned or granted shall be drawn from the Emerging Crops Fund and  
1178 shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00)  
1179 in the aggregate.

1180 (7) Through June 30, 2006, the Mississippi Development  
1181 Authority shall make available to the Mississippi Department of  
1182 Agriculture and Commerce funds for the purpose of establishing  
1183 loan revolving funds and other methods of financing for  
1184 agribusiness programs administered under the Mississippi  
1185 Agribusiness Council Act of 1993. The monies made available by  
1186 the Mississippi Development Authority shall be drawn from the  
1187 Emerging Crops Fund and shall not exceed One Million Two Hundred  
1188 Thousand Dollars (\$1,200,000.00) in the aggregate. The  
1189 Mississippi Department of Agriculture and Commerce shall establish  
1190 control and auditing procedures for use of these funds. These  
1191 funds will be used primarily for quick payment to farmers for  
1192 vegetable and fruit crops processed and sold through vegetable  
1193 processing plants associated with the Department of Agriculture  
1194 and Commerce and the Mississippi State Extension Service.

1195           (8) From and after July 1, 1996, the Mississippi Development  
1196 Authority shall make available to the Mississippi Small Farm  
1197 Development Center One Million Dollars (\$1,000,000.00) to be used  
1198 by the center to assist small entrepreneurs as provided in Section  
1199 37-101-25, Mississippi Code of 1972. The monies made available by  
1200 the Mississippi Development Authority shall be drawn from the  
1201 Emerging Crops Fund.

1202           (9) The Mississippi Development Authority shall make  
1203 available to the Agribusiness and Natural Resource Development  
1204 Center through Alcorn State University an amount not to exceed Two  
1205 Hundred Fifty Thousand Dollars (\$250,000.00) in fiscal year 2001  
1206 and Two Hundred Fifty Thousand Dollars (\$250,000.00) in fiscal  
1207 year 2002 from the cash balance of the Emerging Crops Fund to  
1208 support the development of a cooperative program for agribusiness  
1209 development, marketing and natural resources development. This  
1210 subsection (9) shall stand repealed on June 30, 2006.

1211           (10) The Mississippi Development Authority shall make  
1212 available to the Small Farm Development Center at Alcorn State  
1213 University funds in an aggregate amount not to exceed Three  
1214 Hundred Thousand Dollars (\$300,000.00), to be drawn from the cash  
1215 balance of the Emerging Crops Fund. The Small Farm Development  
1216 Center at Alcorn State University shall use such funds to make  
1217 loans to producers of sweet potatoes and cooperatives anywhere in  
1218 the State of Mississippi owned by sweet potato producers to assist  
1219 in the planting of sweet potatoes and the purchase of sweet potato  
1220 production and harvesting equipment. A report of the loans made  
1221 under this subsection shall be furnished by January 15 of each  
1222 year to the Chairman of the Senate Agriculture Committee and the  
1223 Chairman of the House Agriculture Committee.

1224           (11) The Mississippi Development Authority shall make  
1225 available to the Mississippi Department of Agriculture and  
1226 Commerce "Make Mine Mississippi" program an amount not to exceed

1227 One Hundred Fifty Thousand Dollars (\$150,000.00) to be drawn from  
1228 the cash balance of the Emerging Crops Fund.

1229 (12) The Mississippi Development Authority shall make  
1230 available to the Mississippi Department of Agriculture and  
1231 Commerce an amount not to exceed One Hundred Fifty Thousand  
1232 Dollars (\$150,000.00) to be drawn from the cash balance of the  
1233 Emerging Crops Fund to be used for the rehabilitation and  
1234 maintenance of the Mississippi Farmers Central Market in Jackson,  
1235 Mississippi.

1236 (13) The Mississippi Development Authority shall make  
1237 available to the Mississippi Department of Agriculture and  
1238 Commerce an amount not to exceed Twenty-five Thousand Dollars  
1239 (\$25,000.00) to be drawn from the cash balance of the Emerging  
1240 Crops Fund to be used for advertising purposes related to the  
1241 Mississippi Farmers Central Market in Jackson, Mississippi.

1242 (14) (a) The Mississippi Development Authority shall, in  
1243 addition to the other programs described in this section, provide  
1244 for a program of loan guaranties to be made on behalf of any  
1245 nonprofit entity qualified under Section 501(c)(3) of the Internal  
1246 Revenue Code and certified by the United States Department of the  
1247 Treasury as a community development financial institution for the  
1248 purpose of encouraging the extension of financing to such an  
1249 entity which financing the entity will use to make funds available  
1250 to other entities for the purpose of making loans available in  
1251 low-income communities in Mississippi. Monies to make such loan  
1252 guaranties by the Mississippi Development Authority shall be drawn  
1253 from the Emerging Crops Fund and shall not exceed Two Million  
1254 Dollars (\$2,000,000.00) in the aggregate. The amount of a loan  
1255 guaranty on behalf of such an entity under this subsection (14)  
1256 shall not exceed Two Million Dollars (\$2,000,000.00). Assistance  
1257 received by an entity under this subsection (14) shall not  
1258 disqualify the entity from obtaining any other assistance under  
1259 this chapter.

1260 (b) An entity desiring assistance under this subsection  
1261 (14) must submit an application to the Mississippi Development  
1262 Authority. The application must include any information required  
1263 by the Mississippi Development Authority.

1264 (c) The Mississippi Development Authority shall have  
1265 all powers necessary to implement and administer the program  
1266 established under this subsection (14), and the Mississippi  
1267 Development Authority shall promulgate rules and regulations, in  
1268 accordance with the Mississippi Administrative Procedures Law,  
1269 necessary for the implementation of this subsection (14).

1270 **SECTION 8.** Section 57-30-5, Mississippi Code of 1972, is  
1271 amended as follows:

1272 57-30-5. (1) The MDA shall develop, implement and  
1273 administer the incentive program authorized in this chapter and  
1274 shall promulgate rules and regulations necessary for the  
1275 development, implementation and administration of such program.

1276 (2) A person, corporation or other entity desiring to  
1277 participate in the incentive payment program authorized in this  
1278 chapter must submit an application to the MDA. Such application  
1279 must contain (a) plans for the proposed project; (b) a detailed  
1280 description of the proposed project; (c) the method of financing  
1281 the proposed project and the terms of such financing; (d) a  
1282 two-year business plan for the project (which shall include at a  
1283 minimum proforma balance sheets, income statements and monthly  
1284 cash flow statements); (e) financial statements or tax returns for  
1285 the three (3) years immediately prior to the application (if the  
1286 project is a new company or enterprise, personal financial  
1287 statements or tax returns will be required); (f) credit reports on  
1288 all persons or entities with a twenty percent (20%) or greater  
1289 interest in the project; and (g) any other information required by  
1290 the MDA. In addition, the MDA shall require that binding  
1291 commitments be entered into requiring that: (a) the applicable  
1292 minimum requirements of this chapter and such other requirements

1293 as the MDA considers proper shall be met; and (b) if the agreed  
1294 upon commitments are not met, all or a portion of the funds  
1295 provided under this chapter as determined by the MDA shall be  
1296 repaid. Where appropriate, in the discretion of MDA, MDA shall  
1297 acquire a security interest in or other lien upon any applicable  
1298 collateral. The Executive Director of the MDA shall review the  
1299 application and determine whether it qualifies as a project. If  
1300 the executive director determines the proposed project qualifies  
1301 as a project, he shall issue a certificate to the person,  
1302 corporation or other entity designating such person, corporation  
1303 or other entity as an approved participant and authorizing the  
1304 approved participant to participate in the incentive payment  
1305 program provided for in this chapter; however, no certificates  
1306 shall be issued after July 1, 2004, for projects that pertain to  
1307 facilities whose primary purpose is the retail sale of tangible  
1308 personal property.

1309 (3) This section shall stand repealed from and after July 1,  
1310 2006.

1311 **SECTION 9.** This act shall take effect and be in force from  
1312 and after July 1, 2005.