

By: Representative Watson

To: Ways and Means

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; AND FOR
 39 RELATED PURPOSES.

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

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

43 57-1-16. (1) As used in this section:

44 (a) "Extraordinary economic development opportunity"

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

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

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

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

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

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

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

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

82 (ii) A demonstration that the business or industry
83 is at an economic disadvantage by locating the new or expanded
84 project in the county;

85 (iii) A description, including the cost, of the
86 requested assistance;

87 (iv) A two-year business plan (which shall include
88 proforma balance sheets, income statements and monthly cash flow
89 statements);

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

94 (vi) Credit reports on all persons with a twenty
95 percent (20%) or greater interest in the business or industry; and

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

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

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

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

105 (c) Upon receipt of the application from a business or
106 industry, the local economic development entity may apply to the
107 MDA for assistance under this section. Such application must
108 contain evidence that the business or industry meets the
109 definition of an extraordinary economic development opportunity, a
110 demonstration that the business or industry is at an economic
111 disadvantage by locating the new or expanded project in the

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

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

122 (5) 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 57-61-9, Mississippi Code of 1972, is
131 amended as follows:

132 57-61-9. (1) Any private company desiring assistance from a
133 municipality shall submit to the municipality a letter of intent
134 to locate, expand or build a facility entirely or partially within
135 the municipality or on land the municipality is authorized to own
136 or otherwise acquire. The letter of intent shall include:

137 (a) Except for strategic investments, a commitment that
138 the proposed project will create and maintain a minimum of ten
139 (10) net new full-time equivalent jobs, will create and maintain
140 at least a five percent (5%) increase in full-time equivalent jobs
141 in the case of expansion of an enterprise already located at the
142 site or at least a twenty-five percent (25%) increase in full-time
143 equivalent jobs pursuant to subsection (9) of Section 57-61-15 and
144 will create and maintain at least one (1) net new full-time

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

218 (f) A proposed timetable for the provision of the
219 improvements.

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

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

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

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

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

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

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

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

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

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

273 (i) Dredging and deepening the access channel and
274 harbor basin of the port;

275 (ii) Effecting the enlargement of the land area of
276 the port by reclamation;

277 (iii) Construction and installation of piling,
278 bulkheads, docks, wharves, warehouses and appurtenances; and

279 (iv) Acquisition of facilities and equipment for
280 handling bulk and containerized cargo.

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

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

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

290 (iii) Increased channel and basin depths necessary
291 to accommodate modern shipping.

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

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

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

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

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

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

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

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

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

319 (iii) Impact on port revenues.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

396 (iii) Credit reports on all persons with a twenty
397 percent (20%) or greater interest in the private company;

398 (iv) Data supporting the expertise of the private
399 company's principals;

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

403 (vi) Any other information required by the
404 Mississippi Development Authority.

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

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

410 (ii) If such requirements are not met, all or a
411 portion of the funds provided under this chapter as determined by
412 the Mississippi Development Authority shall be repaid.

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

415 57-75-11. The authority, in addition to any and all powers
416 now or hereafter granted to it, is empowered and shall exercise
417 discretion and the use of these powers depending on the
418 circumstances of the project or projects:

419 (a) To maintain an office at a place or places within
420 the state.

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

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

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

432 (e) (i) To acquire by purchase, lease, gift, or in
433 other manner, including quick-take eminent domain, or obtain
434 options to acquire, and to own, maintain, use, operate and convey
435 any and all property of any kind, real, personal, or mixed, or any
436 interest or estate therein, within the project area, necessary for
437 the project or any facility related to the project. The
438 provisions of this paragraph that allow the acquisition of

439 property by quick-take eminent domain shall be repealed by
440 operation of law on July 1, 1994; and

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

448 (f) To acquire by purchase or lease any public lands
449 and public property, including sixteenth section lands and lieu
450 lands, within the project area, which are necessary for the
451 project. Sixteenth section lands or lieu lands acquired under
452 this act shall be deemed to be acquired for the purposes of
453 industrial development thereon and such acquisition will serve a
454 higher public interest in accordance with the purposes of this
455 act.

456 (g) If the authority identifies any land owned by the
457 state as being necessary, for the location or use of the project,
458 or any facility related to the project, to recommend to the
459 Legislature the conveyance of such land or any interest therein,
460 as the Legislature deems appropriate.

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

464 (i) From and after the date of notification to the
465 authority by the enterprise that the state has been finally
466 selected as the site of the project, to acquire by condemnation
467 and to own, maintain, use, operate and convey or otherwise dispose
468 of any and all property of any kind, real, personal or mixed, or
469 any interest or estate therein, within the project area, necessary
470 for the project or any facility related to the project, with the
471 concurrence of the affected public agency, and the exercise of the

472 powers granted by this act, according to the procedures provided
473 by Chapter 27, Title 11, Mississippi Code of 1972, except as
474 modified by this act.

475 (i) Except as otherwise provided in subparagraph
476 (iii) of this paragraph (i), in acquiring lands by condemnation,
477 the authority shall not acquire minerals or royalties in minerals
478 unless a competent registered professional engineer shall have
479 certified that the acquisition of such minerals and royalties in
480 minerals is necessary for purposes of the project; provided that
481 limestone, clay, chalk, sand and gravel shall not be considered as
482 minerals for the purposes of subparagraphs (i) and (ii) of this
483 paragraph (i);

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

495 (iii) In acquiring lands by condemnation,
496 including the exercise of immediate possession, for a project, as
497 defined in Section 57-75-5(f)(iv)1, the authority may acquire
498 minerals or royalties in minerals.

499 (j) To negotiate the necessary relocation or rerouting
500 of roads and highways, railroad, telephone and telegraph lines and
501 properties, electric power lines, pipelines and related
502 facilities, or to require the anchoring or other protection of any
503 of these, provided due compensation is paid to the owners thereof
504 or agreement is had with such owners regarding the payment of the

505 cost of such relocation, and to acquire by condemnation or
506 otherwise easements or rights-of-way for such relocation or
507 rerouting and to convey the same to the owners of the facilities
508 being relocated or rerouted in connection with the purposes of
509 this act.

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

512 (l) To perform or have performed any and all acts and
513 make all payments necessary to comply with all applicable federal
514 laws, rules or regulations including, but not limited to, the
515 Uniform Relocation Assistance and Real Property Acquisition
516 Policies Act of 1970 (42 USCS 4601, 4602, 4621 to 4638, and 4651
517 to 4655) and relocation rules and regulations promulgated by any
518 agency or department of the federal government.

519 (m) To construct, extend, improve, maintain, and
520 reconstruct, to cause to be constructed, extended, improved,
521 maintained, and reconstructed, and to use and operate any and all
522 components of the project or any facility related to the project,
523 with the concurrence of the affected public agency, within the
524 project area, necessary to the project and to the exercise of such
525 powers, rights, and privileges granted the authority.

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

529 (o) (i) To lease, sell or convey any or all property
530 acquired by the authority under the provisions of this act to the
531 enterprise, its successors or assigns, and in connection therewith
532 to pay the costs of title search, perfection of title, title
533 insurance and recording fees as may be required. The authority
534 may provide in the instrument conveying such property a provision
535 that such property shall revert to the authority if, as and when
536 the property is declared by the enterprise to be no longer needed.

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

552 (p) To enter into contracts with any person or public
553 agency, including, but not limited to, contracts authorized by
554 Section 57-75-17, in furtherance of any of the purposes authorized
555 by this act upon such consideration as the authority and such
556 person or public agency may agree. Any such contract may extend
557 over any period of time, notwithstanding any rule of law to the
558 contrary, may be upon such terms as the parties thereto shall
559 agree, and may provide that it shall continue in effect until
560 bonds specified therein, refunding bonds issued in lieu of such
561 bonds, and all other obligations specified therein are paid or
562 terminated. Any such contract shall be binding upon the parties
563 thereto according to its terms. Such contracts may include an
564 agreement to reimburse the enterprise, its successors and assigns
565 for any assistance provided by the enterprise in the acquisition
566 of real property for the project or any facility related to the
567 project.

568 (q) To establish and maintain reasonable rates and
569 charges for the use of any facility within the project area owned

570 or operated by the authority, and from time to time, to adjust
571 such rates and to impose penalties for failure to pay such rates
572 and charges when due.

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

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

591 (t) To develop plans for technology transfer activities
592 to ensure private sector conduits for exchange of information,
593 technology and expertise related to the project to generate
594 opportunities for commercial development within the state.

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

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

602 (w) To consult with the Office of Minority Business
603 Enterprise Development and other public agencies for the purpose
604 of developing plans for technical assistance and loan programs to
605 maximize the economic impact related to the project for minority
606 business enterprises within the State of Mississippi.

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

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

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

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

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

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

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

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

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

633 (ii) To lease such surface water transmission
634 lines to a public agency or public utility to provide water to
635 such project and to certificated water providers.

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

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

644 (gg) To establish such guidelines, rules and
645 regulations as the authority may deem necessary and appropriate
646 from time to time in its sole discretion, to promote the purposes
647 of this act.

648 (hh) In connection with projects defined in Section
649 57-75-5(f)(ii):

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

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

656 (iii) To requisition money in the Mississippi
657 Major Economic Impact Authority Revolving Loan Fund in connection
658 with such loans.

659 (ii) In connection with projects defined under Section
660 57-75-5(f)(xiv):

661 (i) To provide grant funds or loans to an
662 enterprise owning, leasing or operating a project defined in
663 Section 57-75-5(f)(xiv); however, the amount of any such loan
664 under this paragraph (ii) shall not exceed Eight Million Dollars
665 (\$8,000,000.00) and the amount of any such grant under this

666 paragraph (ii) shall not exceed Two Million Dollars
667 (\$2,000,000.00);

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

670 (iii) Notwithstanding any provision of this act to
671 the contrary, such loans shall be for a term not to exceed twenty
672 (20) years as may be determined by the authority, shall bear
673 interest at such rates as may be determined by the authority,
674 shall, in the sole discretion of the authority, be secured in an
675 amount and a manner as may be determined by the authority.

676 (jj) (i) In addition to any other requirements or
677 conditions under this chapter, the authority shall require that
678 any application for assistance regarding a project under this
679 chapter include, at a minimum:

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

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

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

689 4. Data supporting the expertise of the
690 project's principals;

691 5. A cost benefit analysis of the project
692 performed by a state institution of higher learning or other
693 entity selected by the authority; and

694 6. Any other information required by the
695 authority.

696 (ii) The authority shall require that binding
697 commitments be entered into requiring that:

698 1. The applicable minimum requirements of
699 this chapter and such other requirements as the authority
700 considers proper shall be met; and

701 2. If such requirements are not met, all or a
702 portion of the funds provided under this chapter as determined by
703 the authority shall be repaid.

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

706 57-85-5. (1) For the purposes of this section, the
707 following words and phrases shall have the meanings ascribed in
708 this section unless the context clearly indicates otherwise:

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

710 (b) "Project" means construction, rehabilitation or
711 repair of buildings; sewer systems and transportation directly
712 affecting the site of the proposed rural business; sewer
713 facilities, acquisition of real property, development of real
714 property, improvements to real property, and any other project
715 approved by the Mississippi Development Authority.

716 (c) "Rural business" means a new or existing business
717 located or to be located in a rural community or a business or
718 industry located or to be located within five (5) miles of a rural
719 community. "Rural business" does not include gaming businesses or
720 utility businesses.

721 (d) "Rural community" means a county in the State of
722 Mississippi that meets the population criteria for the term
723 "limited population county" as provided in Section 57-1-18.
724 "Rural community" also means a municipality in the State of
725 Mississippi that meets the population criteria for the term "small
726 municipality" as provided in Section 57-1-18.

727 (2) (a) There is created in the State Treasury a special
728 fund to be designated as the "Mississippi Rural Impact Fund,"
729 which shall consist of funds appropriated or otherwise made
730 available by the Legislature in any manner and funds from any

731 other source designated for deposit into such fund. Unexpended
732 amounts remaining in the fund at the end of a fiscal year shall
733 not lapse into the State General Fund, and any investment earnings
734 or interest earned on amounts in the fund shall be deposited to
735 the credit of the fund. Monies in the fund shall be used to make
736 grants and loans to rural communities and loan guaranties on
737 behalf of rural businesses to assist in completing projects under
738 this section.

739 (b) Monies in the fund which are derived from proceeds
740 of bonds issued after the effective date of this act, may be used
741 to reimburse reasonable actual and necessary costs incurred by the
742 MDA in providing assistance related to a project for which funding
743 is provided under this section from the use of proceeds of such
744 bonds. An accounting of actual costs incurred for which
745 reimbursement is sought shall be maintained for each project by
746 the MDA. Reimbursement of reasonable actual and necessary costs
747 for a project shall not exceed three percent (3%) of the proceeds
748 of bonds issued for such project. Monies authorized for a
749 particular project may not be used to reimburse administrative
750 costs for unrelated projects. Reimbursements under this paragraph
751 (b) shall satisfy any applicable federal tax law requirements.

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

757 (3) The MDA shall establish a program to make grants and
758 loans to rural communities and loan guaranties on behalf of rural
759 businesses from the Mississippi Rural Impact Fund. A rural
760 community may apply to the MDA for a grant or loan under this
761 section in the manner provided for in this section. A rural
762 business may apply to the MDA for a loan guaranty under this
763 section in the manner provided in this section.

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

767 (i) A description of the project for which
768 assistance is requested;

769 (ii) The cost of the project for which assistance
770 is requested;

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

774 (iv) Financial statements or tax returns for the
775 three (3) years immediately prior to the application (if the
776 project is a new company or enterprise, personal financial
777 statements or tax returns will be required);

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

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

781 A rural business desiring assistance under this section must
782 submit an application to the MDA. The application must include,
783 at a minimum:

784 (i) A description of the purpose for which
785 assistance is requested;

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

789 (iii) Financial statements or tax returns for the
790 three (3) years immediately prior to the application (if the
791 project is a new company or enterprise, personal financial
792 statements or tax returns will be required);

793 (iv) Credit reports on all persons with a twenty
794 percent (20%) or greater interest in the project; and

795 (v) Any other information required by the MDA.

796 The MDA may waive any requirements of the program established

797 under this section in order to expedite funding for unique
798 projects.

799 (b) The MDA shall require that binding commitments be
800 entered into requiring that:

801 (i) The minimum requirements of this section and
802 such other requirements as the MDA considers proper shall be met;
803 and

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

807 (5) The MDA shall have all powers necessary to implement and
808 administer the program established under this section, and the MDA
809 shall promulgate rules and regulations, in accordance with the
810 Mississippi Administrative Procedures Law, necessary for the
811 implementation of this section.

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

814 65-4-7. Any political subdivision desiring the assistance of
815 the state in order to construct or improve any highways or highway
816 segments, the primary purpose of such construction or improvement
817 being to encourage a private company to engage in a high economic
818 benefit project within the geographic boundaries of the political
819 subdivision, may apply to the board for such approval and
820 assistance. The application from the political subdivision shall
821 include, but not be limited to:

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

824 (b) A certified resolution from the governing
825 authorities of the political subdivision detailing the source and
826 amount of funds which the political subdivision has committed or
827 is willing to commit for construction or improvement of such
828 highways or highway segments;

829 (c) A certified copy of a signed letter of intent from
830 the private company to the political subdivision describing in
831 detail the high economic benefit project in which it is committed
832 to engage upon construction or improvement of the highways or
833 highway segments within the political subdivision and the proposed
834 timetable for completion of such project;

835 (d) Demonstration that the private company is
836 financially sound and is likely to fulfill the commitments made in
837 its letter of intent; * * *

838 (e) An estimate by the private company of the number,
839 size and weight of motor vehicles and the frequency of travel of
840 such vehicles upon the highways or highway segments requested to
841 be constructed or improved after completion of the project by the
842 private company;

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

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

850 (h) Credit reports on all persons with a twenty percent
851 (20%) or greater interest in the private company.

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

854 65-4-9. Upon receipt of an application by a political
855 subdivision as provided under Section 65-4-7, Mississippi Code of
856 1972, the board shall review the application and may approve the
857 application if it determines:

858 (a) The highways or highway segments for which the
859 political subdivision is requesting assistance in constructing or
860 improving are necessary and essential to ensure adequate and
861 appropriate access to the proposed project for the purpose of

862 encouraging its location within the geographical boundaries of the
863 political subdivision;

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

867 (c) The private company has demonstrated financial
868 soundness and appears to have such assets and credit worthiness as
869 to permit it to secure necessary funds to complete the project
870 according to its commitments; * * *

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

875 (e) The private company enters in binding commitments
876 with the board requiring that:

877 (i) The applicable minimum requirements of this
878 chapter and such other requirements as the board considers proper
879 shall be met; and

880 (ii) If such requirements are not met, all or a
881 portion of the funds provided under this chapter as determined by
882 the board shall be repaid.

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

885 69-2-13. (1) There is hereby established in the State
886 Treasury a fund to be known as the "Emerging Crops Fund," which
887 shall be used to pay the interest on loans made to farmers for
888 nonland capital costs of establishing production of emerging crops
889 on land in Mississippi, and to make loans and grants which are
890 authorized under this section to be made from the fund. The fund
891 shall be administered by the Mississippi Development Authority. A
892 board comprised of the directors of the authority, the Mississippi
893 Cooperative Extension Service, the Mississippi Small Farm
894 Development Center and the Mississippi Agricultural and Forestry

895 Experiment Station, or their designees, shall develop definitions,
896 guidelines and procedures for the implementation of this chapter.
897 Funds for the Emerging Crops Fund shall be provided from the
898 issuance of bonds or notes under Sections 69-2-19 through 69-2-37
899 and from repayment of interest loans made from the fund.

900 (2) (a) The Mississippi Development Authority shall develop
901 a program which gives fair consideration to making loans for the
902 processing and manufacturing of goods and services by
903 agribusiness, greenhouse production horticulture, and small
904 business concerns. It is the policy of the State of Mississippi
905 that the Mississippi Development Authority shall give due
906 recognition to and shall aid, counsel, assist and protect, insofar
907 as is possible, the interests of agribusiness, greenhouse
908 production horticulture, and small business concerns. To ensure
909 that the purposes of this subsection are carried out, the
910 Mississippi Development Authority shall loan not more than One
911 Million Dollars (\$1,000,000.00) to finance any single
912 agribusiness, greenhouse production horticulture, or small
913 business concern. Loans made pursuant to this subsection shall be
914 made in accordance with the criteria established in Section
915 57-71-11.

916 (b) The Mississippi Development Authority may, out of
917 the total amount of bonds authorized to be issued under this
918 chapter, make available funds to any planning and development
919 district in accordance with the criteria established in Section
920 57-71-11. Planning and development districts which receive monies
921 pursuant to this provision shall use such monies to make loans to
922 private companies for purposes consistent with this subsection.

923 (c) The Mississippi Development Authority is hereby
924 authorized to engage legal services, financial advisors,
925 appraisers and consultants if needed to review and close loans
926 made hereunder and to establish and assess reasonable fees,
927 including, but not limited to, liquidation expenses.

928 (3) (a) The Mississippi Development Authority shall, in
929 addition to the other programs described in this section, provide
930 for a program of loans to be made to agribusiness or greenhouse
931 production horticulture enterprises for the purpose of encouraging
932 thereby the extension of conventional financing and the issuance
933 of letters of credit to such agribusiness or greenhouse production
934 horticulture enterprises by private institutions. Monies to make
935 such loans by the Mississippi Development Authority shall be drawn
936 from the Emerging Crops Fund. The amount of a loan to any single
937 agribusiness or greenhouse production horticulture enterprise
938 under this paragraph (a) shall not exceed twenty percent (20%) of
939 the total cost of the project for which financing is sought or Two
940 Hundred Thousand Dollars (\$200,000.00), whichever is less. No
941 interest shall be charged on such loans, and only the amount
942 actually loaned shall be required to be repaid. Repayments shall
943 be deposited into the Emerging Crops Fund.

944 (b) The Mississippi Development Authority shall, in
945 addition to the other programs described in this section, provide
946 for a program of loans or loan guaranties, or both, to be made to
947 or on behalf of any agribusiness enterprise engaged in beef
948 processing for the purpose of encouraging thereby the extension of
949 conventional financing and the issuance of letters of credit to
950 such agribusiness enterprises by private institutions. Monies to
951 make such loans or loan guaranties, or both, by the Mississippi
952 Development Authority shall be drawn from the Emerging Crops Fund
953 and shall not exceed Thirty-five Million Dollars (\$35,000,000.00)
954 in the aggregate. The amount of a loan to any single agribusiness
955 enterprise or loan guaranty on behalf of such agribusiness
956 enterprise, or both, under this paragraph (b) shall not exceed the
957 total cost of the project for which financing is sought or
958 Thirty-five Million Dollars (\$35,000,000.00), whichever is less.
959 The interest charged on a loan made under this paragraph (b) shall
960 be at a rate determined by the Mississippi Development Authority.

961 All repayments of any loan made under this paragraph (b) shall be
962 deposited into the Emerging Crops Fund. Assistance received by an
963 agribusiness enterprise under this paragraph (b) shall not
964 disqualify the agribusiness enterprise from obtaining any other
965 assistance under this chapter.

966 (4) (a) Through June 30, 2006, the Mississippi Development
967 Authority may loan or grant to qualified planning and development
968 districts, and to small business investment corporations,
969 bank-based community development corporations, the Recruitment and
970 Training Program, Inc., the City of Jackson Business Development
971 Loan Fund, the Lorman Southwest Mississippi Development
972 Corporation, the West Jackson Community Development Corporation,
973 the East Mississippi Development Corporation, and other entities
974 meeting the criteria established by the Mississippi Development
975 Authority (all referred to hereinafter as "qualified entities"),
976 funds for the purpose of establishing loan revolving funds to
977 assist in providing financing for minority economic development.
978 The monies loaned or granted by the Mississippi Development
979 Authority shall be drawn from the Emerging Crops Fund and shall
980 not exceed Twenty-six Million Dollars (\$26,000,000.00) in the
981 aggregate. Planning and development districts or qualified
982 entities which receive monies pursuant to this provision shall use
983 such monies to make loans to minority business enterprises
984 consistent with criteria established by the Mississippi
985 Development Authority. Such criteria shall include, at a minimum,
986 the following:

987 (i) The business enterprise must be a private,
988 for-profit enterprise.

989 (ii) If the business enterprise is a
990 proprietorship, the borrower must be a resident citizen of the
991 State of Mississippi; if the business enterprise is a corporation
992 or partnership, at least fifty percent (50%) of the owners must be
993 resident citizens of the State of Mississippi.

994 (iii) The borrower must have at least five percent
995 (5%) equity interest in the business enterprise.

996 (iv) The borrower must demonstrate ability to
997 repay the loan.

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

1000 (vi) The business enterprise and/or borrower must
1001 provide a two-year business plan (which shall include proforma
1002 balance sheets, income statements and monthly cash flow
1003 statements).

1004 (vii) The business enterprise and/or borrower must
1005 provide financial statements or tax returns for the three (3)
1006 years immediately prior to the proposed loan (in the case of a new
1007 company or enterprise, personal financial statements or tax
1008 returns will be required).

1009 (viii) Credit reports on all persons with a twenty
1010 percent (20%) or greater interest in the business enterprise
1011 and/or borrower.

1012 (ix) Loan proceeds may be used for financing all
1013 project costs associated with development or expansion of a new
1014 small business, including fixed assets, working capital, start-up
1015 costs, rental payments, interest expense during construction and
1016 professional fees related to the project.

1017 (x) Loan proceeds shall not be used to pay off
1018 existing debt for loan consolidation purposes; to finance the
1019 acquisition, construction, improvement or operation of real
1020 property which is to be held primarily for sale or investment; to
1021 provide for, or free funds, for speculation in any kind of
1022 property; or as a loan to owners, partners or stockholders of the
1023 applicant which do not change ownership interest by the applicant.
1024 However, this does not apply to ordinary compensation for services
1025 rendered in the course of business.

1026 (xi) The maximum amount that may be loaned to any
1027 one (1) borrower shall be Two Hundred Fifty Thousand Dollars
1028 (\$250,000.00).

1029 (xii) The Mississippi Development Authority shall
1030 review each loan before it is made, and no loan shall be made to
1031 any borrower until the loan has been reviewed and approved by the
1032 Mississippi Development Authority.

1033 (b) For the purpose of this subsection, the term
1034 "minority business enterprise" means a socially and economically
1035 disadvantaged small business concern, organized for profit,
1036 performing a commercially useful function which is owned and
1037 controlled by one or more minorities or minority business
1038 enterprises certified by the Mississippi Development Authority, at
1039 least fifty percent (50%) of whom are resident citizens of the
1040 State of Mississippi. For purposes of this subsection, the term
1041 "socially and economically disadvantaged small business concern"
1042 shall have the meaning ascribed to such term under the Small
1043 Business Act (15 USCS, Section 637(a)), or women, and the term
1044 "owned and controlled" means a business in which one or more
1045 minorities or minority business enterprises certified by the
1046 Mississippi Development Authority own sixty percent (60%) or, in
1047 the case of a corporation, sixty percent (60%) of the voting
1048 stock, and control sixty percent (60%) of the management and daily
1049 business operations of the business.

1050 From and after July 1, 2006, monies not loaned or granted by
1051 the Mississippi Development Authority to planning and development
1052 districts or qualified entities under this subsection, and monies
1053 not loaned by planning and development districts or qualified
1054 entities, shall be deposited to the credit of the sinking fund
1055 created and maintained in the State Treasury for the retirement of
1056 bonds issued under Section 69-2-19.

1057 (c) Notwithstanding any other provision of this
1058 subsection to the contrary, if federal funds are not available for

1059 commitments made by a planning and development district to provide
1060 assistance under any federal loan program administered by the
1061 planning and development district in coordination with the
1062 Appalachian Regional Commission or Economic Development
1063 Administration, or both, a planning and development district may
1064 use funds in its loan revolving fund, which have not been
1065 committed otherwise to provide assistance, for the purpose of
1066 providing temporary funding for such commitments. If a planning
1067 and development district uses uncommitted funds in its loan
1068 revolving fund to provide such temporary funding, the district
1069 shall use funds repaid to the district under the temporarily
1070 funded federal loan program to replenish the funds used to provide
1071 the temporary funding. Funds used by a planning and development
1072 district to provide temporary funding under this paragraph (c)
1073 must be repaid to the district's loan revolving fund no later than
1074 twelve (12) months after the date the district provides the
1075 temporary funding. A planning and development district may not
1076 use uncommitted funds in its loan revolving fund to provide
1077 temporary funding under this paragraph (c) on more than two (2)
1078 occasions during a calendar year. A planning and development
1079 district may provide temporary funding for multiple commitments on
1080 each such occasion. The maximum aggregate amount of uncommitted
1081 funds in a loan revolving fund that may be used for such purposes
1082 during a calendar year shall not exceed seventy percent (70%) of
1083 the uncommitted funds in the loan revolving fund on the date the
1084 district first provides temporary funding during the calendar
1085 year.

1086 (d) If the Mississippi Development Authority determines
1087 that a planning and development district or qualified entity has
1088 provided loans to minority businesses in a manner inconsistent
1089 with the provisions of this subsection, then the amount of such
1090 loans so provided shall be withheld by the Mississippi Development
1091 Authority from any additional grant funds to which the planning

1092 and development district or qualified entity becomes entitled
1093 under this subsection. If the Mississippi Development Authority
1094 determines, after notifying such planning and development district
1095 or qualified entity twice in writing and providing such planning
1096 and development district or qualified entity a reasonable
1097 opportunity to comply, that a planning and development district or
1098 qualified entity has consistently failed to comply with this
1099 subsection, the Mississippi Development Authority may declare such
1100 planning and development district or qualified entity in default
1101 under this subsection and, upon receipt of notice thereof from the
1102 Mississippi Development Authority, such planning and development
1103 district or qualified entity shall immediately cease providing
1104 loans under this subsection, shall refund to the Mississippi
1105 Development Authority for distribution to other planning and
1106 development districts or qualified entities all funds held in its
1107 revolving loan fund and, if required by the Mississippi
1108 Development Authority, shall convey to the Mississippi Development
1109 Authority, all administrative and management control of loans
1110 provided by it under this subsection.

1111 (e) If the Mississippi Development Authority
1112 determines, after notifying a planning and development district or
1113 qualified entity twice in writing and providing copies of such
1114 notification to each member of the Legislature in whose district
1115 or in a part of whose district such planning and development
1116 district or qualified entity is located and providing such
1117 planning and development district or qualified entity a reasonable
1118 opportunity to take corrective action, that a planning and
1119 development district or qualified entity administering a revolving
1120 loan fund under the provisions of this subsection is not actively
1121 engaged in lending as defined by the rules and regulations of the
1122 Mississippi Development Authority, the Mississippi Development
1123 Authority may declare such planning and development district or
1124 qualified entity in default under this subsection and, upon

1125 receipt of notice thereof from the Mississippi Development
1126 Authority, such planning and development district or qualified
1127 entity shall immediately cease providing loans under this
1128 subsection, shall refund to the Mississippi Development Authority
1129 for distribution to other planning and development districts or
1130 qualified entities all funds held in its revolving loan fund and,
1131 if required by the Mississippi Development Authority, shall convey
1132 to the Mississippi Development Authority all administrative and
1133 management control of loans provided by it under this subsection.

1134 (5) The Mississippi Development Authority shall develop a
1135 program which will assist minority business enterprises by
1136 guaranteeing bid, performance and payment bonds which such
1137 minority businesses are required to obtain in order to contract
1138 with federal agencies, state agencies or political subdivisions of
1139 the state. Monies for such program shall be drawn from the monies
1140 allocated under subsection (4) of this section to assist the
1141 financing of minority economic development and shall not exceed
1142 Three Million Dollars (\$3,000,000.00) in the aggregate. The
1143 Mississippi Development Authority may promulgate rules and
1144 regulations for the operation of the program established pursuant
1145 to this subsection. For the purpose of this subsection (5) the
1146 term "minority business enterprise" has the meaning assigned such
1147 term in subsection (4) of this section.

1148 (6) The Mississippi Development Authority may loan or grant
1149 to public entities and to nonprofit corporations funds to defray
1150 the expense of financing (or to match any funds available from
1151 other public or private sources for the expense of financing)
1152 projects in this state which are devoted to the study, teaching
1153 and/or promotion of regional crafts and which are deemed by the
1154 authority to be significant tourist attractions. The monies
1155 loaned or granted shall be drawn from the Emerging Crops Fund and
1156 shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00)
1157 in the aggregate.

1158 (7) Through June 30, 2006, the Mississippi Development
1159 Authority shall make available to the Mississippi Department of
1160 Agriculture and Commerce funds for the purpose of establishing
1161 loan revolving funds and other methods of financing for
1162 agribusiness programs administered under the Mississippi
1163 Agribusiness Council Act of 1993. The monies made available by
1164 the Mississippi Development Authority shall be drawn from the
1165 Emerging Crops Fund and shall not exceed One Million Two Hundred
1166 Thousand Dollars (\$1,200,000.00) in the aggregate. The
1167 Mississippi Department of Agriculture and Commerce shall establish
1168 control and auditing procedures for use of these funds. These
1169 funds will be used primarily for quick payment to farmers for
1170 vegetable and fruit crops processed and sold through vegetable
1171 processing plants associated with the Department of Agriculture
1172 and Commerce and the Mississippi State Extension Service.

1173 (8) From and after July 1, 1996, the Mississippi Development
1174 Authority shall make available to the Mississippi Small Farm
1175 Development Center One Million Dollars (\$1,000,000.00) to be used
1176 by the center to assist small entrepreneurs as provided in Section
1177 37-101-25, Mississippi Code of 1972. The monies made available by
1178 the Mississippi Development Authority shall be drawn from the
1179 Emerging Crops Fund.

1180 (9) The Mississippi Development Authority shall make
1181 available to the Agribusiness and Natural Resource Development
1182 Center through Alcorn State University an amount not to exceed Two
1183 Hundred Fifty Thousand Dollars (\$250,000.00) in fiscal year 2001
1184 and Two Hundred Fifty Thousand Dollars (\$250,000.00) in fiscal
1185 year 2002 from the cash balance of the Emerging Crops Fund to
1186 support the development of a cooperative program for agribusiness
1187 development, marketing and natural resources development. This
1188 subsection (9) shall stand repealed on June 30, 2006.

1189 (10) The Mississippi Development Authority shall make
1190 available to the Small Farm Development Center at Alcorn State

1191 University funds in an aggregate amount not to exceed Three
1192 Hundred Thousand Dollars (\$300,000.00), to be drawn from the cash
1193 balance of the Emerging Crops Fund. The Small Farm Development
1194 Center at Alcorn State University shall use such funds to make
1195 loans to producers of sweet potatoes and cooperatives anywhere in
1196 the State of Mississippi owned by sweet potato producers to assist
1197 in the planting of sweet potatoes and the purchase of sweet potato
1198 production and harvesting equipment. A report of the loans made
1199 under this subsection shall be furnished by January 15 of each
1200 year to the Chairman of the Senate Agriculture Committee and the
1201 Chairman of the House Agriculture Committee.

1202 (11) The Mississippi Development Authority shall make
1203 available to the Mississippi Department of Agriculture and
1204 Commerce "Make Mine Mississippi" program an amount not to exceed
1205 One Hundred Fifty Thousand Dollars (\$150,000.00) to be drawn from
1206 the cash balance of the Emerging Crops Fund.

1207 (12) The Mississippi Development Authority shall make
1208 available to the Mississippi Department of Agriculture and
1209 Commerce an amount not to exceed One Hundred Fifty Thousand
1210 Dollars (\$150,000.00) to be drawn from the cash balance of the
1211 Emerging Crops Fund to be used for the rehabilitation and
1212 maintenance of the Mississippi Farmers Central Market in Jackson,
1213 Mississippi.

1214 (13) The Mississippi Development Authority shall make
1215 available to the Mississippi Department of Agriculture and
1216 Commerce an amount not to exceed Twenty-five Thousand Dollars
1217 (\$25,000.00) to be drawn from the cash balance of the Emerging
1218 Crops Fund to be used for advertising purposes related to the
1219 Mississippi Farmers Central Market in Jackson, Mississippi.

1220 (14) (a) The Mississippi Development Authority shall, in
1221 addition to the other programs described in this section, provide
1222 for a program of loan guaranties to be made on behalf of any
1223 nonprofit entity qualified under Section 501(c)(3) of the Internal

1224 Revenue Code and certified by the United States Department of the
1225 Treasury as a community development financial institution for the
1226 purpose of encouraging the extension of financing to such an
1227 entity which financing the entity will use to make funds available
1228 to other entities for the purpose of making loans available in
1229 low-income communities in Mississippi. Monies to make such loan
1230 guaranties by the Mississippi Development Authority shall be drawn
1231 from the Emerging Crops Fund and shall not exceed Two Million
1232 Dollars (\$2,000,000.00) in the aggregate. The amount of a loan
1233 guaranty on behalf of such an entity under this subsection (14)
1234 shall not exceed Two Million Dollars (\$2,000,000.00). Assistance
1235 received by an entity under this subsection (14) shall not
1236 disqualify the entity from obtaining any other assistance under
1237 this chapter.

1238 (b) An entity desiring assistance under this subsection
1239 (14) must submit an application to the Mississippi Development
1240 Authority. The application must include any information required
1241 by the Mississippi Development Authority.

1242 (c) The Mississippi Development Authority shall have
1243 all powers necessary to implement and administer the program
1244 established under this subsection (14), and the Mississippi
1245 Development Authority shall promulgate rules and regulations, in
1246 accordance with the Mississippi Administrative Procedures Law,
1247 necessary for the implementation of this subsection (14).

1248 **SECTION 8.** Section 57-30-5, Mississippi Code of 1972, is
1249 amended as follows:

1250 57-30-5. (1) The MDA shall develop, implement and
1251 administer the incentive program authorized in this chapter and
1252 shall promulgate rules and regulations necessary for the
1253 development, implementation and administration of such program.

1254 (2) A person, corporation or other entity desiring to
1255 participate in the incentive payment program authorized in this
1256 chapter must submit an application to the MDA. Such application

1257 must contain (a) plans for the proposed project; (b) a detailed
1258 description of the proposed project; (c) the method of financing
1259 the proposed project and the terms of such financing; (d) a
1260 two-year business plan for the project (which shall include at a
1261 minimum proforma balance sheets, income statements and monthly
1262 cash flow statements); (e) financial statements or tax returns for
1263 the three (3) years immediately prior to the application (if the
1264 project is a new company or enterprise, personal financial
1265 statements or tax returns will be required); (f) credit reports on
1266 all persons with a twenty percent (20%) or greater interest in the
1267 project; and (g) any other information required by the MDA. In
1268 addition, the MDA shall require that binding commitments be
1269 entered into requiring that: (a) the applicable minimum
1270 requirements of this chapter and such other requirements as the
1271 MDA considers proper shall be met; and (b) if such requirements
1272 are not met, all or a portion of the funds provided under this
1273 chapter as determined by the MDA shall be repaid. The Executive
1274 Director of the MDA shall review the application and determine
1275 whether it qualifies as a project. If the executive director
1276 determines the proposed project qualifies as a project, he shall
1277 issue a certificate to the person, corporation or other entity
1278 designating such person, corporation or other entity as an
1279 approved participant and authorizing the approved participant to
1280 participate in the incentive payment program provided for in this
1281 chapter; however, no certificates shall be issued after July 1,
1282 2004, for projects that pertain to facilities whose primary
1283 purpose is the retail sale of tangible personal property.

1284 (3) This section shall stand repealed from and after July 1,
1285 2005.

1286 **SECTION 9.** This act shall take effect and be in force from
1287 and after July 1, 2005.