

By: Senator(s) Carmichael, Burton

To: Economic Development and  
Tourism; Finance

SENATE BILL NO. 2824

1 AN ACT TO CREATE THE ALABAMA-MISSISSIPPI JOINT ECONOMIC  
 2 DEVELOPMENT AUTHORITY FOR THE PURPOSE OF SECURING THE LOCATION OF  
 3 MAJOR ECONOMIC IMPACT PROJECTS WITHIN THE AREA ALONG THE BORDER OF  
 4 THE STATE OF ALABAMA AND THE STATE OF MISSISSIPPI; TO DEFINE THE  
 5 TYPES OF PROJECTS THAT FALL WITHIN THE PURVIEW OF THE AUTHORITY;  
 6 TO CREATE A BOARD OF DIRECTORS TO GOVERN THE AUTHORITY TO BE  
 7 COMPOSED OF THE DIRECTOR OF THE ALABAMA DEVELOPMENT OFFICE AND THE  
 8 EXECUTIVE DIRECTOR OF THE MISSISSIPPI DEVELOPMENT AUTHORITY; TO  
 9 PROVIDE FOR THE POWERS AND DUTIES OF THE AUTHORITY AND THE BOARD  
 10 OF DIRECTORS; TO PROVIDE FOR THE DETERMINATION OF A PROJECT'S  
 11 STATE TAX LIABILITY; TO PROVIDE FOR THE FUNDING OF THE PROJECT;  
 12 AND FOR RELATED PURPOSES.

13  
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

15 **SECTION 1. Title.** This act shall be known and may be cited  
16 as the "Alabama-Mississippi Joint Economic Development Act."

17 **SECTION 2. Findings.** The Legislature hereby finds and  
18 declares the following:

19 (a) There exists in the State of Alabama and in the  
20 State of Mississippi a continuing need for gainful employment for  
21 the citizens of both states.

22 (b) There are significant advantages that will be  
23 realized from a cooperative approach between the two states with  
24 respect to economic development of the area in each state along  
25 the border of the State of Alabama and the State of Mississippi.

26 (c) In order to increase the gainful employment  
27 opportunities of the citizens of both states residing in such  
28 area, the Alabama-Mississippi Joint Economic Development Authority  
29 is hereby created with the purpose of securing the location of  
30 major economic impact projects within the area along the border of  
31 the State of Alabama and the State of Mississippi.

32 (d) In order to accomplish this purpose, the authority  
33 shall be authorized by this agreement and by operation of other

34 appropriate statutes, to act by cooperative endeavor with the  
35 State of Alabama, the State of Mississippi and with agencies and  
36 persons with such states to secure the economic development and  
37 welfare of the region.

38 **SECTION 3. Definitions.** As used in this act, the following  
39 words and phrases shall have the meanings ascribed to them in this  
40 section, unless the context clearly indicates a different meaning:

41 (a) "Act" means the provisions of this act.

42 (b) "Authority" means the Alabama-Mississippi Joint  
43 Economic Development Authority created pursuant to this act.

44 (c) "Board of Directors" means the board of directors  
45 of the authority.

46 (d) "Designated Geographic Area" means:

47 (i) Those counties in the State of Alabama that  
48 share a common border with any county in the State of Mississippi;  
49 and

50 (ii) Those counties in the State of Mississippi  
51 that share a common border with any county in the State of  
52 Alabama.

53 (e) "Herein", "hereby", "hereunder", "hereof" and other  
54 equivalent words refer to this act as an entirety and not solely  
55 to the particular section or portion thereof in which any such  
56 word is used.

57 (f) "Project" means:

58 (i) Any industrial, commercial, research and  
59 development, warehousing, distribution, transportation,  
60 processing, mining, United States government or tourism enterprise  
61 together with all real property required for construction,  
62 maintenance and operation of the enterprise:

63 1. With an initial capital investment of not  
64 less than Three Hundred Million Dollars (\$300,000,000.00) from  
65 private or United States government sources together with all  
66 buildings, and other supporting land and facilities, structures or

67 improvements of whatever kind required or useful for construction,  
68 maintenance and operation of the enterprise; or

69                   2. With an initial capital investment of not  
70 less than One Hundred Fifty Million Dollars (\$150,000,000.00) from  
71 private or United States government sources together with all  
72 buildings and other supporting land and facilities, structures or  
73 improvements of whatever kind required or useful for construction,  
74 maintenance and operation of the enterprise and which creates at  
75 least one thousand (1,000) net new full-time jobs; or

76                   3. Which creates at least one thousand  
77 (1,000) net new full-time jobs which provide an average hourly  
78 wage of not less than two hundred percent (200%) of the federal  
79 minimum wage in effect on the date the Project is placed in  
80 service.

81                   (ii) Any addition to, or expansion of, any  
82 existing enterprise as described in this paragraph if the addition  
83 or expansion:

84                   1. Has an initial capital investment of not  
85 less than Three Hundred Million Dollars (\$300,000,000.00) from  
86 private or United States government sources;

87                   2. Has an initial capital investment of not  
88 less than One Hundred Fifty Million Dollars (\$150,000,000.00) from  
89 private or United States government sources together with all  
90 buildings and other supporting land and facilities, structures or  
91 improvements of whatever kind required or useful for construction,  
92 maintenance and operation of the enterprise and which creates at  
93 least one thousand (1,000) net new full-time jobs; or

94                   3. Creates at least one thousand (1,000) net  
95 new full-time jobs which provide an average hourly wage of not  
96 less than two hundred percent (200%) of the federal minimum wage  
97 in effect on the date the project is placed in service.

98                   (iii) Any development with an initial capital  
99 investment from private sources of not less than Seven Hundred

100 Fifty Million Dollars (\$750,000,000.00) which will create at least  
101 three thousand (3,000) net new full-time jobs satisfying criteria  
102 to be established by the Authority.

103 In addition to meeting the other requirements of this  
104 paragraph, in order to fall within the definition of the term  
105 "project":

106 (i) The enterprise or development must be located  
107 within the Designated Geographic Area; and

108 (ii) Each state must provide funds or in kind  
109 contributions equal to at least one-third (1/3) of the total costs  
110 of the project to the states.

111 (g) "Project Agreement" means an agreement, approved by  
112 the legislature of the states, setting forth certain obligations,  
113 responsibilities, benefits, administrative matters and any other  
114 matters with respect to a specific project that are not  
115 inconsistent with the terms of this act as the legislatures of the  
116 states deem appropriate with respect to a specific project.

117 (h) "Project Tax Revenues" means:

118 (i) All of the following state and local taxes  
119 paid directly to a state or a local government by the project:  
120 income taxes, ad valorem taxes on real and personal property,  
121 sales and use taxes, franchise taxes, license taxes, excise taxes  
122 and severance taxes; and

123 (ii) All state and local personal income tax and  
124 occupational tax withholdings from employees of the project  
125 attributable to employment at the project.

126 (i) "States" means the State of Alabama and the State  
127 of Mississippi collectively.

128 **SECTION 4. Creation; governance; authority to act.** (1) The  
129 Alabama-Mississippi Joint Economic Development Authority is hereby  
130 created by the states for the performance of essential public  
131 functions.

132           (2) The authority shall be governed by a board of directors  
133 consisting of the Director of the Alabama Development Office and  
134 the Executive Director of the Mississippi Major Economic Impact  
135 Authority. The Board of Directors shall administer, manage and  
136 direct the affairs and business of the authority. The board of  
137 directors shall act by unanimous consent in exercising the powers  
138 now or hereafter granted to the authority and in administering,  
139 managing and directing the affairs and business of the authority.  
140 The board of directors may delegate the performance of any  
141 administrative functions to such persons or public agencies of  
142 either of the states as the board of directors deems appropriate.

143           (3) The board of directors may enter into an administrative  
144 agreement setting forth any provision regarding:

145                   (a) The management and operation of the authority;

146                   (b) The terms, conditions or manner in which the  
147 authority will engage in projects; and

148                   (c) Any other matters not inconsistent with the terms  
149 or purposes of this act.

150           (4) The Board of Directors may negotiate and enter into a  
151 project agreement setting forth any provisions relating to a  
152 specific project that are not inconsistent with the terms or  
153 purposes of this act.

154           (5) The authority, through its board of directors, is hereby  
155 authorized, designated and empowered to:

156                   (a) Promulgate rules and regulations consistent with  
157 this act concerning such matters as the authority deems  
158 appropriate;

159                   (b) Take all steps necessary or appropriate to effect  
160 the siting, development and operation of a project within the  
161 designated geographic area;

162                   (c) Act on behalf of the states in submitting site and  
163 incentive proposals for any project. Notwithstanding anything in  
164 this act to the contrary, no proposal shall be binding upon the

165 authority or the states until after the project agreement, and the  
166 incentives contained in the agreement with respect to the Project,  
167 have been approved by the legislatures of both states as required  
168 under the laws of each state;

169 (d) To employ or contract with architects, engineers,  
170 attorneys, accountants, construction and financial experts and  
171 such other advisors, consultants and agents as may be necessary in  
172 its judgment and to fix and pay their compensation;

173 (e) To make applications and enter into any contracts  
174 for financial assistance as may be appropriate under applicable  
175 federal law or the laws of either state;

176 (f) To apply for, accept and utilize grants, gifts and  
177 other funds or aid from any source for any purpose contemplated by  
178 this act, and to comply, subject to the provisions of this act,  
179 with the terms and conditions thereof; and

180 (g) To acquire by purchase, lease, gift, or in other  
181 manner, or obtain options to acquire and to own, maintain, use,  
182 operate and convey any and all property of any kind, public or  
183 private, real, personal, or mixed, or any interest or estate  
184 therein, within the designated geographic area necessary for the  
185 project or any facility related and necessary to the Project.

186 (6) If an area within the designated geographic area is  
187 selected as the preferred project site for a project and the  
188 legislatures of the states have approved a project agreement with  
189 respect to the project, the authority is hereby designated and  
190 empowered to coordinate fully the development of the project with  
191 private business, the United States government and public agencies  
192 and/or political subdivisions of both states.

193 (7) The authority shall create a separate account for money  
194 that it receives from sources other than the states and shall  
195 account for such monies separate from appropriations and other  
196 monies from the States.

197           **SECTION 5. Taxation; incentives; allocation; distribution.**

198       (1) A project shall be subject to taxation in the state in which  
199 the project is located. A project shall be subject to all state  
200 and local taxes in the state in which the project is located that  
201 are levied on other enterprises of similar nature in the state.

202       (2) For purposes of determining an entity's state tax  
203 liability with respect to a project, an entity engaging in a  
204 project located in the designated geographic area may request tax  
205 incentives offered by the state in which the project is located.  
206 Tax incentives and modifications to implement more favorable  
207 incentives may be offered to the project at the discretion of the  
208 authority. No such incentives are final without approval of the  
209 legislatures of the states.

210           **SECTION 6. Cross-border activities.** All public agencies and  
211 political subdivisions of the States of Alabama and Mississippi  
212 are hereby authorized to perform for the benefit of any project  
213 any functions, activities or services that such agencies are  
214 otherwise permitted by law to perform regardless of where the  
215 project is located.

216           **SECTION 7. Funding.** The authority shall submit annually to  
217 the executive head or designated officer or officers of each state  
218 a budget of its estimated expenditures for such year as may be  
219 required by the laws of that state for presentation to the  
220 legislature thereof. The total amount of the authority 's budget  
221 of estimated expenditures shall be apportioned among the states in  
222 equal shares. Subject to appropriation by the legislatures of the  
223 states, the authority shall be provided with such funds by each of  
224 the states as are necessary to enable the authority to fulfill the  
225 powers and duties imposed upon and entrusted to it.

226           **SECTION 8. Severability; construction.** The provisions of  
227 this act shall be severable and if any phrase, clause, sentence or  
228 provision of this act is declared unconstitutional or the  
229 application thereof to any agency, person or circumstance is held

230 invalid, the constitutionality of the remainder of this act and  
231 the applicability thereof to any other agency, person or  
232 circumstance shall not be affected thereby. It is the legislative  
233 intent that the provisions of the act be reasonably and liberally  
234 construed so as to accomplish the purposes set forth in Section 2  
235 of this act.

236         **SECTION 9.** This act shall take effect and be in force from  
237 and after its passage.