

By: Senator(s) Robertson

To: Finance

## SENATE BILL NO. 2946

1 AN ACT TO AMEND SECTIONS 57-69-3, 57-69-5 AND 57-69-7,  
2 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE CERTIFICATION OF  
3 MINORITY BUSINESS ENTERPRISE SUPPLIERS UNDER THE MINORITY BUSINESS  
4 ENTERPRISE ACT; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 57-69-3, Mississippi Code of 1972, is  
7 amended as follows:

8 57-69-3. Unless the context requires otherwise, the  
9 following words shall have the following meanings for the purposes  
10 of this chapter:

11 (a) "Class of contract basis" means an entire group of  
12 contracts having a common characteristic.

13 (b) "Commercially useful function" means being  
14 responsible for execution of a contract or a distinct element of  
15 the work under a contract by actually performing, managing, and  
16 supervising the work involved.

17 (c) "Contract" means all types of state agreements,  
18 regardless of what they may be called, for the purchase of  
19 supplies or services or for construction or major repairs.  
20 "Contract" includes the following:

21 (i) Awards and notices of award.

22 (ii) Contracts of a fixed price, cost,  
23 cost-plus-a-fixed-fee, or incentive types.

24 (iii) Contracts providing for the issuance of job  
25 or task orders.

26 (iv) Leases.

27 (v) Letter contracts.

28 (vi) Purchase orders.

29                   (vii) Any supplemental agreements with respect to  
30 (i) through (vi) of this subparagraph.

31                   (d) "Contracting base" means the dollar amount of  
32 contracts for public works and procurement of goods and services  
33 awarded by a state agency or a state educational institution  
34 during a fiscal year.

35                   (e) "Contract by contract basis" means a single  
36 contract within a specific class of contracts.

37                   (f) "Contractor" means a party who enters into a  
38 contract to provide a state or educational institution with goods  
39 or services, including construction, or a subcontractor or  
40 sublessee of such a party.

41                   (g) "Director" means the Executive Director of the  
42 Office of Minority Business Enterprises of the Mississippi  
43 Development Authority.

44                   (h) "Educational institutions" means the state  
45 universities, vocational institutions, and any other  
46 state-supported educational institutions.

47                   (i) "Joint venture" means an association of two (2) or  
48 more persons or businesses to carry out a single business  
49 enterprise for profit for which purpose they combine their  
50 property, capital, efforts, skills, and knowledge, and in which  
51 they exercise control and share in profits and losses in  
52 proportion to their contribution to the enterprise.

53                   (j) "Minority" means a person who is a citizen or  
54 lawful permanent resident of the United States and who is:

55                         (i) Black: having origins in any of the black  
56 racial groups of Africa.

57                         (ii) Hispanic: of Mexican, Puerto Rican, Cuban,  
58 Central or South American, or other Spanish or Portuguese culture  
59 or origin regardless of race.

(iii) Asian American: having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands.

(iv) American Indian or Alaskan Native: having origins in any of the original peoples of North America.

(v) Female.

(k) "Minority business enterprise" or "minority owned business" means a socially and economically disadvantaged small business concern organized for profit performing a commercially useful function which is owned and controlled by one or more individuals or minority business enterprises certified by the office, at least seventy-five percent (75%) of whom are resident citizens of the State of Mississippi. For purposes of this paragraph, the term "socially and economically disadvantaged small business concern" shall have the meaning ascribed to such term under the Small Business Act (15 USCS, Section 637(a)). Owned and controlled means a business in which one or more minorities or minority business enterprises certified by the office own at least fifty-one percent (51%) or in the case of a corporation at least fifty-one percent (51%) of the voting stock and control at least fifty-one percent (51%) of the management and daily business operations of the business.

(l) "Minority business enterprise supplier" means a socially and economically disadvantaged small business concern which is owned and controlled by one or more individuals, at least seventy-five percent (75%) of whom are resident citizens of the State of Mississippi. For purposes of this paragraph, the term "socially and economically disadvantaged small business concern" shall have the meaning ascribed to such term under the Small Business Act (15 USCS, Section 637(a)) except that the net worth of the business may not be greater than Seven Hundred Fifty Thousand Dollars (\$750,000.00). Owned and controlled means a business in which one or more minorities own at least fifty-one

93 percent (51%) or in the case of a corporation at least fifty-one  
94 percent (51%) of the voting stock and control at least fifty-one  
95 percent (51%) of the management and daily business operations of  
96 the business.

97           (m) "Office" means the Office of Minority Business  
98 Enterprises of the Mississippi Development Authority.

99           (n) "Procurement" means the purchase, lease, or rental  
100 of any goods or services.

101           (o) "Commodities" means the various items described in  
102 Section 31-7-1(e).

103           (p) "Professional services" means all personal service  
104 contracts utilized by state agencies and institutions.

105           (q) "Small business" means a small business as defined  
106 by the Small Business Administration of the United States  
107 government which for purposes of size eligibility or other factors  
108 meets the applicable criteria set forth in Part 121 of Title 13 of  
109 the Code of Federal Regulations as amended, and which has its  
110 principal place of business in Mississippi.

111           (r) "State agency" includes the State of Mississippi  
112 and all agencies, departments, offices, divisions, boards,  
113 commissions, and correctional and other types of institutions.  
114 "State agency" does not include the judicial or legislative  
115 branches of government except to the extent that procurement or  
116 public works for these branches is performed by a state agency.

117           **SECTION 2.** Section 57-69-5, Mississippi Code of 1972, is  
118 amended as follows:

119           57-69-5. (1) There is hereby created the Office of Minority  
120 Business Enterprises of the Mississippi Development Authority  
121 under the Mississippi Development Authority. The Executive  
122 Director of the Mississippi Development Authority shall appoint an  
123 executive director for the office. The executive director may  
124 employ a staff subject to approval of the Executive Director of

the Mississippi Development Authority as necessary to carry out the purposes of this office.

(2) The office shall perform the following:

(a) Develop, plan and implement programs to provide an opportunity for participation by qualified minority owned businesses in public works and the process by which goods and services are procured by state agencies and educational institutions from the private sector;

(b) Develop a comprehensive plan encouraging that qualified minority owned businesses are provided an opportunity to participate in public contracts for public works and commodities and services;

(c) Identify barriers to equal participation by qualified minority owned businesses in all state agency and educational institution contracts;

(d) Develop and maintain a central minority business enterprise certification list for all state agencies and educational institutions;

(e) Adopt rules for the implementation of this chapter;

(f) Develop and maintain a central minority business enterprise certification program;

(g) Develop and maintain a central minority business enterprise supplier certification program;

(h) Submit an annual report to the Governor and the Legislature outlining the progress and economic impact on the public and private sectors of implementing this chapter;

(i) Increase efforts to inform minority businesses of state government procurement procedures and policies;

(j) Serve as the principal advocate in the state on behalf of minority business enterprises and minority business enterprise suppliers and provide advice in the consideration of administrative requirements and legislation that affect minority business enterprises and minority business enterprise suppliers;

(k) Evaluate the effectiveness of efforts of state agencies and other entities to assist minority business enterprises and minority business enterprise suppliers and make appropriate recommendations to assist the development and strengthening of minority business enterprises and minority business enterprise suppliers;

(l) Determine the availability of financial and other resources to minority business enterprises and minority business enterprise suppliers and recommend methods for:

(i) Increasing the availability of equity capital and other forms of financial assistance to minority business enterprises and minority business enterprise suppliers;

(ii) Generating markets for the goods and services of minority business enterprises and minority business enterprise suppliers;

(iii) Providing more effective education, training and management and technical assistance to minority business enterprises and minority business enterprise suppliers; and

(iv) Providing assistance to minority business enterprises and minority business enterprise suppliers in complying with federal, state and local laws;

(m) Serve as a focal point for receiving complaints and suggestions concerning state government policies and activities that affect minority business enterprises and minority business enterprise suppliers;

(n) Develop and advocate proposals for changes in state policies and activities that adversely affect minority business enterprises and minority business enterprise suppliers;

(o) Provide to legislative committees and state agencies information on the effects of proposed policies or actions that affect minority business enterprises and minority business enterprise suppliers;

190           (p) Enlist the assistance of public and private  
191 agencies, businesses and other organizations in disseminating  
192 information about state programs and services that benefit  
193 minority business enterprises and minority business enterprise  
194 suppliers and information regarding means by which minority  
195 business enterprises and minority business enterprise suppliers  
196 can use those programs and services;

197           (q) Identify sources of financial assistance for  
198 minority business enterprises, match minority business enterprises  
199 and minority business enterprise suppliers with sources of  
200 financial assistance, and assist minority business enterprises and  
201 minority business enterprise suppliers with the preparation of  
202 applications for loans from governmental or private sources;

203           (r) Sponsor meetings, to the extent practicable in  
204 cooperation with public and private educational institutions, to  
205 provide training and disseminate information beneficial to  
206 minority business enterprises and minority business enterprise  
207 suppliers;

208           (s) Assist minority business enterprises and minority  
209 business enterprise suppliers in their dealings with federal,  
210 state and local governmental agencies and provide information  
211 regarding governmental requirements affecting minority business  
212 enterprises and minority business enterprise suppliers;

213           (t) Develop and implement programs to encourage  
214 governmental agencies, public sector business associations and  
215 other organizations to provide useful services to minority  
216 business enterprises and minority business enterprise suppliers;

217           (u) Use available resources within the state, such as  
218 minority business enterprise development centers, educational  
219 institutions and nonprofit associations, to coordinate the  
220 provision of management and technical assistance to minority  
221 business enterprises and minority business enterprise suppliers in  
222 a systematic manner;

223           (v) Publish newsletters, brochures and other documents  
224 containing information useful to minority business enterprises and  
225 minority business enterprise suppliers;

226           (w) Identify successful minority business enterprise  
227 assistance programs provided by other states and determine the  
228 feasibility of adapting those programs for implementation in  
229 Mississippi;

230           (x) Establish an outreach program to make the existence  
231 of the office known to minority business enterprises, minority  
232 business enterprise suppliers and potential clients throughout the  
233 state; and

234           (y) Identify potential business opportunities for  
235 minority business enterprises and minority business enterprise  
236 suppliers and develop programs to maximize those opportunities.

237       **SECTION 3.** Section 57-69-7, Mississippi Code of 1972, is  
238 amended as follows:

239       57-69-7. (1) The Executive Director of the Mississippi  
240 Development Authority shall certify minority business enterprises  
241 that qualify as such. The director shall establish criteria by  
242 which minority business enterprises may qualify for certification.

243       (2) The Executive Director of the Mississippi Development  
244 Authority shall certify minority business enterprise suppliers  
245 that qualify as such. The director shall establish criteria by  
246 which minority business enterprise suppliers may qualify for  
247 certification.

248       **SECTION 4.** This act shall take effect and be in force from  
249 and after July 1, 2006.