MISSISSIPPI LEGISLATURE REGULAR SESSION 2011

By: Senator(s) Davis To: Appropriations

SENATE BILL NO. 2913
(As Passed the Senate)

AN ACT TO DIRECT THE STATE FISCAL OFFICER TO TRANSFER CERTAIN AMOUNTS TO THE BUDGET CONTINGENCY FUND FROM THE STATE GENERAL FUND AND CERTAIN SPECIAL FUNDS DURING FISCAL YEAR 2011 AND FISCAL YEAR 2012; TO AMEND SECTION 43-13-407, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IN FISCAL YEAR 2012 CERTAIN ADDITIONAL SUMS SHALL BE TRANSFERRED FROM THE HEALTH CARE TRUST FUND TO THE HEALTH CARE EXPENDABLE FUND, AND TO EXTEND THE REPEALER ON THE HEALTH CARE EXPENDABLE FUND; TO AMEND SECTION 43-13-405, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF THE REPEALER ON THE HEALTH CARE TRUST FUND; TO BRING FORWARD SECTION 43-13-409, MISSISSIPPI CODE OF 1972; TO AMEND SECTIONS 57-10-511, 57-61-21, 57-61-41, 57-93-1 AND 69-34-1, MISSISSIPPI CODE OF 1972, TO EXPAND THE PURPOSES FOR WHICH MONEY IN THE MISSISSIPPI SMALL BUSINESS ASSISTANCE PROGRAM, THE MISSISSIPPI BUSINESS INVESTMENT FUND, THE PORT REVITALIZATION REVOLVING LOAN FUND, THE MISSISSIPPI EXISTING INDUSTRY PRODUCTIVITY LOAN FUND, AND THE MILK PRODUCERS TRANSPORTATION COST ASSISTANCE LOAN FUND MAY BE UTILIZED; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) During fiscal year 2012, the State Fiscal Officer shall transfer to the Budget Contingency Fund created in Section 27-103-301, out of the following enumerated funds, the amounts listed below from each fund:

AGENCY/FUND	FUND NO.	AMOUNT
State General Fund	2999	$106,544,000.00
Capital Expense Fund	399C	26,500,000.00
Department of Insurance	3501	8,000,000.00
Unclaimed Property Fund	3178	3,500,000.00
Public Service Commission	3811	4,004,222.00
Public Service Commission	3813	90,247.00
Public Service Commission	3812	1,961,276.00
Department of Finance and Administration - Support	3147	269,185.00
Hurricane Disaster Reserve Fund	37SS	27,861,195.00

Working Cash-Stabilization		
Reserve Fund	3992	87,987,385.00
TOTAL		$266,717,510.00

(2) During fiscal year 2012, the State Fiscal Officer shall transfer to Fund No. 3951 in the State Treasury for the purpose of paying maturing bonds and interest on the full faith and credit bonds of the State of Mississippi falling due during fiscal year 2012, the amounts listed below from the following funds:

AGENCY/FUND	FUND NO.	AMOUNT
Research and Development/		
Business Incubator		
Revolving Loan Programs	341N, 34MC, 34MN, 34MP	$5,405,057.00
Airport/Port Revitalization		
Revolving Loan Program	34AV, 34MP	4,812,684.00
Milk Producers Transportation		
Cost Assistance Loan Program	34AB	1,435,522.00
TOTAL		$11,653,263.00

SECTION 2. During fiscal year 2011, the State Fiscal Officer shall transfer to the Budget Contingency Fund created in Section 27-103-301, out of the following enumerated funds, the amounts listed below from each fund:

AGENCY/FUND	FUND NO.	AMOUNT
State General Fund	2999	$ 46,234,878.00

SECTION 3. Section 43-13-407, Mississippi Code of 1972, is amended as follows:

43-13-407. (1) In accordance with the purposes of this article, there is established in the State Treasury the Health Care Expendable Fund, into which shall be transferred from the Health Care Trust Fund the following sums:

(a) In fiscal year 2005, Four Hundred Fifty-six Million Dollars ($456,000,000.00);

(b) In fiscal year 2006, One Hundred Eighty-six Million Dollars ($186,000,000.00);

(c) In fiscal year 2007, One Hundred Eighty-six Million Dollars ($186,000,000.00);

(d) In fiscal year 2008, One Hundred Six Million Dollars ($106,000,000.00);

(e) In fiscal year 2009, Ninety-two Million Two Hundred Fifty Thousand Dollars ($92,250,000.00);

(f) In the fiscal year beginning after the calendar year in which none of the amount of the annual tobacco settlement installment payment will be deposited into the Health Care Expendable Fund as provided in subsection (3)(d) of this section, and in each fiscal year thereafter, a sum equal to the average annual amount of the dividends, interest and other income, including increases in value of the principal, earned on the funds in the Health Care Trust Fund during the preceding four (4) fiscal years.

(2) In any fiscal year in which interest, dividends and other income from the investment of the funds in the Health Care Trust Fund are not sufficient to fund the full amount of the annual transfer into the Health Care Expendable Fund as required in subsection (1)(f) of this section, the State Treasurer shall transfer from tobacco settlement installment payments an amount that is sufficient to fully fund the amount of the annual transfer.

(3) Beginning with calendar year 2009, at the time that the State of Mississippi receives the tobacco settlement installment payment for each calendar year, the State Treasurer shall deposit the following amounts of each of those installment payments into the Health Care Expendable Fund:

(a) In calendar years 2009 and 2010, the total amount of the installment payment;

(b) In calendar year 2011, the amount of the installment payment less Ten Million Dollars ($10,000,000.00);

(c) In calendar year 2012, the amount of the installment payment less Twenty Million Dollars ($20,000,000.00);

(d) In calendar year 2013, and each calendar year thereafter, the amount of the installment payment to be deposited into the Health Care Expendable Fund shall be reduced by an additional Ten Million Dollars ($10,000,000.00) each calendar year until the calendar year that the amount of the installment payment that otherwise would be deposited into the Health Care Expendable Fund is less than the average annual amount of the dividends, interest and other income, including increases in value of the principal, earned on the funds in the Health Care Trust Fund during the preceding four (4) fiscal years. Beginning with that calendar year and each calendar year thereafter, none of the amount of the installment payment shall be deposited into the Health Care Expendable Fund.

(4) In addition to any other sums required to be transferred from the Health Care Trust Fund to the Health Care Expendable Fund, the sum of One Hundred Twelve Million Dollars ($112,000,000.00) shall be transferred from the Health Care Trust Fund to the Health Care Expendable Fund in fiscal year 2011.

(5) In addition to any other sums required to be transferred from the Health Care Trust Fund to the Health Care Expendable Fund, the sum of Fifty-six Million Two Hundred Sixty-three Thousand Four Hundred Thirty-eight Dollars ($56,263,438.00) shall be transferred from the Health Care Trust Fund to the Health Care Expendable Fund in fiscal year 2012.

(6) If Medicaid expenditures are projected to exceed the amount of funds appropriated to the Division of Medicaid in any fiscal year in excess of the expenditure reductions to providers, funds shall be transferred by the State Fiscal Officer from the Health Care Trust Fund into the Health Care Expendable Fund and

then to the Governor's Office, Division of Medicaid, in the amount and at such time as requested by the Governor to reconcile the deficit.

(7) All income from the investment of the funds in the Health Care Expendable Fund shall be credited to the account of the Health Care Expendable Fund. Any funds in the Health Care Expendable Fund at the end of a fiscal year shall not lapse into the State General Fund.

(8) The funds in the Health Care Expendable Fund shall be available for expenditure under specific appropriation by the Legislature beginning in fiscal year 2000, and shall be expended exclusively for health care purposes.

(9) The provisions of subsection (1) of this section may not be changed in any manner except upon amendment to that subsection by a bill enacted by the Legislature with a vote of not less than three-fifths (3/5) of the members of each house present and voting.

(10) Subsections (1), (2), (5), (6) and (7) of this section shall stand repealed on July 1, 2014.

SECTION 4. Section 43-13-405, Mississippi Code of 1972, is amended as follows:

43-13-405. (1) In accordance with the purposes of this article, there is established in the State Treasury the Health Care Trust Fund, into which shall be deposited Two Hundred Eighty Million Dollars ($280,000,000.00) of the funds received by the State of Mississippi as a result of the tobacco settlement as of the end of fiscal year 1999, and all tobacco settlement installment payments made in subsequent years for which the use or purpose for expenditure is not restricted by the terms of the settlement, except as otherwise provided in Section 43-13-407(2) and (3) and Section 41-113-11. All income from the investment of the funds in the Health Care Trust Fund shall be credited to the account of the Health Care Trust Fund. The funds in the Health

Care Trust Fund at the end of a fiscal year shall not lapse into the State General Fund.

(2) The Health Care Trust Fund shall remain inviolate and shall never be expended, except as provided in this article. The Legislature shall appropriate from the Health Care Trust Fund such sums as are necessary to recoup any funds lost as a result of any of the following actions:

(a) The federal Centers for Medicare and Medicaid Services, or other agency of the federal government, is successful in recouping tobacco settlement funds from the State of Mississippi;

(b) The federal share of funds for the support of the Mississippi Medicaid Program is reduced directly or indirectly as a result of the tobacco settlement;

(c) Federal funding for any other program is reduced as a result of the tobacco settlement; or

(d) Tobacco cessation programs are mandated by the federal government or court order.

(3) This section shall stand repealed on July 1, 2014.

SECTION 5. Section 43-13-409, Mississippi Code of 1972, is brought forward as follows:

43-13-409. (1) There is established a board of directors to invest the funds in the Health Care Trust Fund and the Health Care Expendable Fund. The board of directors shall consist of thirteen (13) members as follows:

(a) Seven (7) voting members as follows: the State Treasurer, or his designee, the Attorney General, or his designee, and one (1) member from each congressional district to be appointed by the Governor with the advice and consent of the Senate. Of the members appointed by the Governor, one (1) member shall be appointed for an initial term that expires on March 1, 2000; one (1) member shall be appointed for an initial term that expires on March 1, 2001; one (1) member shall be appointed for an

initial term that expires on March 1, 2002; one (1) member shall be appointed for an initial term that expires on March 1, 2003; and one (1) member shall be appointed for an initial term that expires on March 1, 2004. Upon the expiration of any of the initial terms of office, the Governor shall appoint successors by and with the advice and consent of the Senate for terms of five (5) years from the expiration date of the previous term. Any member appointed by the Governor shall be eligible for reappointment. Each member appointed by the Governor shall possess knowledge, skill and experience in business or financial matters commensurate with the duties and responsibilities of the board of directors in administering the Health Care Trust Fund and the Health Care Expendable Fund.

(b) Two (2) nonvoting, advisory members of the Senate shall be appointed by the Lieutenant Governor, and one (1) nonvoting, advisory representative of the health care community shall be appointed by the Lieutenant Governor, who shall serve for the length of the term of the appointing official and shall be eligible for reappointment.

(c) Two (2) nonvoting, advisory members of the House of Representatives shall be appointed by the Speaker of the House, and one (1) nonvoting, advisory representative of the health care community shall be appointed by the Speaker of the House, who shall serve for the length of the term of the appointing official and shall be eligible for reappointment.

(d) Any person appointed to fill a vacancy on the board of directors shall be appointed in the same manner as for a regular appointment and shall serve for the remainder of the unexpired term only.

(2) Nonlegislative members of the board of directors shall serve without compensation, but shall be reimbursed for each day's official duties of the board at the same per diem as established by Section 25-3-69, and actual travel and lodging expenses as

established by Section 25-3-41. Legislative members of the board of directors shall receive the same per diem and expense reimbursement as for attending committee meetings when the Legislature is not in regular session.

(3) The State Treasurer shall be the chairman of the board of directors. The board of directors shall annually elect one (1) member to serve as vice chairman of the board. The vice chairman shall act as chairman in the absence of or upon the disability of the chairman or if there is a vacancy in the office of chairman.

(4) All expenses of the board of directors in carrying out its duties and responsibilities under this article, including the payment of per diem and expenses of the nonlegislative members of the board, shall be paid from funds appropriated to the State Treasurer's office for that purpose.

(5) The board of directors shall invest the funds in the Health Care Trust Fund and the Health Care Expendable Fund in any of the investments authorized for the Mississippi Prepaid Affordable College Tuition Program under Section 37-155-9, and those investments shall be subject to the limitations prescribed by Section 37-155-9.

(6) In furtherance of the powers granted under subsection (5) of this section, the board of directors shall have such powers as necessary or convenient to carry out the purposes and provisions of this article, including, but not limited to, the following express powers:

(a) To contract for necessary goods and services, to employ necessary personnel, and to engage the services of consultants for administrative and technical assistance in carrying out its duties and responsibilities in administering the Health Care Trust Fund and the Health Care Expendable Fund;

(b) To administer the Health Care Trust Fund and the Health Care Expendable Fund in a manner that is sufficiently actuarially sound to meet the obligations of this article and to

establish a comprehensive investment plan for the purposes of this article, which shall specify the investment policies to be utilized by the board of directors in administering the funds;

(c) Subject to the terms, conditions, limitations and restrictions specified in Section 37-155-9, the board of directors shall have power to sell, assign, transfer and dispose of any of the securities and investments of the Health Care Trust Fund and the Health Care Expendable Fund, provided that any such sale, assignment or transfer has the majority approval of the entire board; and

(d) To annually prepare or cause to be prepared a report setting forth in appropriate detail an accounting of the Health Care Trust Fund and the Health Care Expendable Fund and a description of the financial condition of the funds at the close of each fiscal year, including any recommendations for legislation regarding the investment authority of the board of directors over the funds. The report shall be submitted to the Governor and the Legislative Budget Office on or before September 1 of each fiscal year.

SECTION 6. Section 57-10-511, Mississippi Code of 1972, is amended as follows:

57-10-511. MDA shall grant funds under this article to a planning and development district or qualified entity in accordance with the following terms and conditions:

(a) Grant funds received by a planning and development district or qualified entity in accordance with this article shall be used by the planning and development district or qualified entity to establish a revolving assistance fund for the purpose of providing assistance to small businesses in accordance with this article. Except as otherwise allowed in this article, all principal and interest payments by small businesses in repayment of such assistance shall be eligible for and used by the planning

and development district or qualified entity for additional assistance to small businesses in accordance with this article.

(b) Each planning and development district meeting the criteria set forth in this article shall receive an initial grant of not to exceed One Million Dollars ($1,000,000.00) for the purpose of establishing the program within its area in accordance with this article. Each qualified entity meeting the criteria set forth in this article shall be eligible to receive an initial grant of Five Hundred Thousand Dollars ($500,000.00) for the purpose of establishing the program within the area it serves in accordance with this article. The total amount of initial grants to planning and development districts shall not exceed Ten Million Dollars ($10,000,000.00) and the total amount of initial grants for qualified entities shall not exceed Two Million Dollars ($2,000,000.00). Each planning and development district or qualified entity receiving an initial grant shall have twelve (12) months in which to make binding commitments to provide assistance to small businesses in the principal amount of the initial grant in accordance with this article. Grant funds not committed to provide assistance to small businesses at the end of twelve (12) months after receipt thereof by the planning and development district or qualified entity shall be returned to MDA for placement in a pool to be redistributed by MDA to planning and development districts or qualified entities which have binding commitments to distribute as assistance all their initial grant funds and have pending applications for additional assistance in accordance with this article. Any planning and development district or qualified entity returning any such grant funds to MDA shall be required at the time such initial grant funds are returned to deliver to the State Treasury, for deposit in the General Fund, interest on the amount of such returned funds at the same rate as any bonds or notes of the State of Mississippi issued pursuant to this article to provide such grant funds.

(c) After all of the initial grant funds have been provided as assistance to small businesses in accordance with this article, MDA shall distribute additional grant funds to each planning and development district or qualified entity qualified under this article to receive and requesting such funds in whatever amounts MDA deems appropriate and when needed by such planning and development districts or qualified entities to provide additional assistance to small businesses in accordance with this article. The schedule for distributing such funds shall be determined by MDA. Funds distributed to planning and development districts and qualified entities pursuant to this paragraph shall be in addition to funds distributed to planning and development districts and qualified entities pursuant to paragraph (b) of this section. The total amount of grants issued pursuant to this paragraph shall not exceed Twenty Million Dollars ($20,000,000.00) for planning and development districts or qualified entities. Grant funds not committed to provide assistance to small businesses at the end of twelve (12) months after receipt thereof by the planning and development district or qualified entity shall be returned to MDA for placement in a pool to be redistributed by MDA to planning and development districts or qualified entities which have binding commitments to distribute as assistance all their initial grant funds and have pending applications for additional assistance in accordance with this article. Any planning and development district or qualified entity returning any such grant funds to MDA shall be required at the time such grant funds are returned to deliver to the State Treasury, for deposit in the General Fund, interest on the amount of such returned funds at the same rate as any bonds or notes of the State of Mississippi issued pursuant to this article to provide such grant funds.

(d) A planning and development district or qualified entity participating in the program may utilize an amount equal to

not more than fifty percent (50%) of interest earned on assistance provided to small businesses in accordance with this article or three percent (3%) of the current annual loans disbursed, whichever is the lesser amount, for administration and management of the program, unless specifically authorized to utilize more by MDA; however, any interest earned on grant funds held by a planning and development district or qualified entity prior to the utilization of such grant funds to provide assistance to small businesses shall be placed in the revolving assistance fund of the planning and development district or qualified entity and shall not be expended for administration or management costs. Planning and development districts and qualified entities may retain an amount equal to fifty percent (50%) of the interest earned on repayment funds that are being held on deposit in anticipation of relending, or three percent (3%) of the current annual loans disbursed, whichever is the lesser amount, to aid in the administration and management of the program. Each planning and development district and qualified entity shall file annually with the Secretary of the Senate and the Clerk of the House of Representatives not later than the first day of each regular legislative session a report which details any interest retained or utilized by the planning and development district or qualified entity pursuant to this paragraph (d).

(e) If a planning and development district or qualified entity participating in the program experiences losses from assistance provided pursuant to the program in excess of sixty percent (60%) of the amount of grant funds received by the planning and development district or qualified entity, the planning and development district or qualified entity shall repay the State of Mississippi the amount of such losses in excess of sixty percent (60%) by delivering that amount to the State Treasury for deposit in the General Fund.

(f) MDA shall assist each planning and development district or qualified entity participating in the program in connection with such planning and development district's or qualified entity's compliance with this article.

(g) Each planning and development district or qualified entity participating in the program shall submit the following reports to *** * *** MDA:

(i) An annual audit of grant funds received in connection with the program; and

(ii) A semiannual report on July 30 and January 30 of each year, describing all assistance provided to small businesses pursuant to the program, such reports to include, without limitation, the following: a description of each small business receiving assistance; the project to be assisted and purpose of assistance; a description of each loan and equity investment, including the terms and conditions thereof and use of the assistance funds by the small business; history of the assistance pool, including principal amount loaned, interest earned, interest expended for administration and management, principal amount of equity investments, assistance funds available, and losses; and a statement of jobs created or retained as a result of the assistance program.

(h) If MDA determines that a district or entity has provided assistance to small businesses in a manner inconsistent with the provisions of this article, then the amount of such assistance so provided shall be withheld by MDA from any additional grant funds to which the district or entity becomes entitled under this article. If MDA determines, after notifying such district or entity twice in writing and providing such district or entity a reasonable opportunity to comply, that a planning and development district or qualified entity has consistently failed to comply with this article in connection with the program, MDA may declare such planning and development

district or qualified entity in default under the program and, upon receipt of notice thereof from MDA, such planning and development district or qualified entity shall immediately cease providing assistance under the program and shall refund to MDA * * * all funds held in its revolving assistance fund. All funds refunded to MDA shall be distributed to other planning and development districts or qualified entities or used as otherwise provided by law. If required by MDA, the planning and development district or qualified entity shall convey to MDA all administrative and management control of assistance provided by it under the program.

(i) If MDA determines, after notifying a planning and development district or qualified entity twice in writing and providing copies of such notification to each member of the Legislature in whose district or in a part of whose district such planning and development district or qualified entity is located and providing such district or entity a reasonable opportunity to take corrective action, that a planning and development district or a qualified entity administering a revolving assistance fund under the provisions of this article is not actively engaged in lending as defined by the rules and regulations of MDA, MDA may declare such planning and development district or qualified entity in default under the program and, upon receipt of notice thereof from MDA, such planning and development district or qualified entity shall immediately cease providing assistance under the program and shall refund to MDA * * * all funds held in its revolving assistance fund. All funds refunded to MDA shall be distributed to other planning and development districts or qualified entities or used as otherwise provided by law. If required by MDA, the planning and development district or qualified entity shall convey to MDA all administrative and management control of assistance provided by it under the program.

(j) Notwithstanding any other provision of this article to the contrary, if federal funds are not available for commitments made by a planning and development district to provide assistance under any federal loan program administered by the planning and development district in coordination with the Appalachian Regional Commission or Economic Development Administration, or both, a planning and development district may use funds in its revolving assistance fund, which have not been committed otherwise to provide assistance, for the purpose of providing temporary funding for such commitments. If a planning and development district uses uncommitted funds in its revolving assistance fund to provide such temporary funding, the district shall use funds repaid to the district under the temporarily funded federal loan program to replenish the funds used to provide the temporary funding. Funds used by a planning and development district to provide temporary funding under this paragraph (j) must be repaid to the district's revolving assistance fund no later than twelve (12) months after the date the district provides the temporary funding. A planning and development district may not use uncommitted funds in its revolving assistance fund to provide temporary funding under this paragraph (j) on more than two (2) occasions during a calendar year. A planning and development district may provide temporary funding for multiple commitments on each such occasion. The maximum aggregate amount of uncommitted funds in a revolving assistance fund that may be used for such purposes during a calendar year shall not exceed seventy percent (70%) of the uncommitted funds in the revolving assistance fund on the date the district first provides temporary funding during the calendar year.

SECTION 7. Section 57-61-21, Mississippi Code of 1972, is amended as follows:

57-61-21. (1) (a) There is hereby created a special fund in the State Treasury to be known as the Mississippi Business Investment Fund. Money in the fund shall be used:

(i) For * * * the purpose of providing grants and/or loans to municipalities for the purpose of providing for improvements authorized by this chapter; or

(ii) As otherwise provided by law.

(b) All monies received by the board to carry out the purposes of this chapter, by legislative appropriation, issuance of bonds or otherwise, shall be deposited into the Mississippi Business Investment Fund. Expenditures authorized herein shall be paid by the State Treasurer upon warrants drawn from the Mississippi Business Investment Fund, and the State Auditor, or his successor to such duties, shall issue warrants upon requisitions signed by the Chairman or Executive Director of the Mississippi Development Authority.

(2) Any monies repaid to the state from loans funded through the Mississippi Business Investment Fund shall be deposited into the Mississippi Business Investment Sinking Fund, which is hereby created in the State Treasury. Funds required in excess of the amounts available in the Mississippi Business Investment Sinking Fund to retire bonds issued pursuant to this chapter shall be appropriated from the State General Fund.

SECTION 8. Section 57-61-41, Mississippi Code of 1972, is amended as follows:

57-61-41. (1) (a) Notwithstanding any provision of this chapter to the contrary, the Mississippi Development Authority shall utilize not more than Twelve Million Dollars ($12,000,000.00) out of the proceeds of bonds authorized to be issued in this chapter to be made available to state, county or municipal port and airport authorities through a Port Revitalization Revolving Loan Fund. Money in the fund shall be used:

(i) For the purpose of making loans to port authorities for the improvement of port and airport facilities to promote commerce and economic growth; or

(ii) As otherwise provided by law.

(b) Proceeds shall not be made available to provide any facilities for utilization by a gaming vessel.

(2) In exercising its authority, the Mississippi Development Authority shall work in conjunction with the Water Resources Council to establish criteria and guidelines to govern loans made pursuant to this section.

(3) The Mississippi Development Authority may, on a case-by-case basis, renegotiate the payment of principal and interest on loans made under this section to state, county and municipal port and airport authorities located in the six (6) most southern counties of the state covered by the Presidential Declaration of Major Disaster for the State of Mississippi (FEMA-1604-DR) dated August 29, 2005; however, the interest on the loans shall not be forgiven for a period of more than twenty-four (24) months and the maturity of the loans shall not be extended for a period of more than forty-eight (48) months.

SECTION 9. Section 57-93-1, Mississippi Code of 1972, is amended as follows:

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

(a) "Existing industry" means a manufacturing enterprise that has been operating in this state for not less than two (2) consecutive years that meets minimum criteria established by the Mississippi Development Authority.

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

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

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

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

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

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

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

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

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

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

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

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

(ii) The amount of the loan requested;

(iii) The estimated total cost of the project;

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

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

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

(vii) Any other information required by the MDA.

(d) A county or incorporated municipality desiring a loan under this section must submit an application to the MDA. The application shall include:

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

(ii) The amount of the loan requested;

(iii) The estimated total cost of the project;

(iv) A statement showing the sources of funding for the project;

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

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

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

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

(ix) Any other information required by the MDA.

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

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

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

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

(g) The MDA shall have all powers necessary to implement and administer the program established under this section, and the MDA shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this section. However, in making loans under this section, the MDA shall attempt to provide for an equitable distribution of such loans among each of the congressional districts of this state in order to promote economic development across the entire state.

(3) (a) There is created in the State Treasury a special fund to be designated as the "Mississippi Existing Industry Productivity Loan Fund," which shall consist of funds appropriated or otherwise made available by the Legislature in any manner and funds from any other source designated for deposit into such fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund shall be used:

(i) By the MDA for the purposes described in this section; or

(ii) As otherwise provided by law.

(b) Monies in the fund which are derived from the proceeds of general obligation bonds may be used to reimburse reasonable actual and necessary costs incurred by the MDA in providing loans under this section through the use of general obligation bonds. An accounting of actual costs incurred for which reimbursement is sought shall be maintained for each loan by

the MDA. Reimbursement of reasonable actual and necessary costs shall not exceed three percent (3%) of the proceeds of bonds that are deposited into the fund. Monies authorized for a particular loan may not be used to reimburse administrative costs for unrelated loans. Reimbursements made under this subsection shall satisfy any applicable federal tax law requirements.

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

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

(4) (a) A county that receives a loan under this section shall pledge for repayment of the loan any part of the homestead exemption annual tax loss reimbursement to which it may be entitled under Section 27-33-77. An incorporated municipality that receives a loan under this section shall pledge for repayment of the loan any part of the sales tax revenue distribution to

which it may be entitled under Section 27-65-75. Each loan agreement shall provide for monthly payments, semiannual payments or other periodic payments, the annual total of which shall not exceed the annual total for any other year of the loan by more than fifteen percent (15%). The loan agreement shall provide for the repayment of all funds received within not more than twenty (20) years from the date of project completion.

(b) The State Auditor, upon request of the MDA, shall audit the receipts and expenditures of a county or an incorporated municipality whose loan payments appear to be in arrears, and if he finds that the county or municipality is in arrears in such payments, he shall immediately notify the Executive Director of the Department of Finance and Administration who shall withhold all future payments to the county of homestead exemption reimbursements under Section 27-33-77 and all sums allocated to the county or the municipality under Section 27-65-75 until such time as the county or the municipality is again current in its loan payments as certified by the MDA.

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

SECTION 10. Section 69-34-1, Mississippi Code of 1972, is amended as follows:

69-34-1. (1) There is hereby created in the State Treasury a special fund to be designated as the "Milk Producers Transportation Cost Assistance Loan Fund," which shall consist of funds from any other source designated for deposit into such fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund shall be used:

(a) For loans to milk producers who are eligible under this section; or

(b) As otherwise provide by law.

(2) The Mississippi Development Authority shall establish a loan program to make loans to residents of this state who are engaged in the business of producing milk (milk producers) for fuel transportation costs and other costs incurred in the delivery of milk by such milk producers.

(3) In order to be eligible for a loan under this section, a milk producer must produce and sell at least three hundred thousand (300,000) pounds of milk during a calendar year. The maximum amount that may be loaned to a milk producer under this section is Twenty Thousand Dollars ($20,000.00) or the actual fuel costs and other costs incurred in the transportation and delivery of milk by a milk producer, whichever is less.

(4) The Mississippi State University Cooperative Extension Service shall promulgate rules and regulations necessary for determining whether a milk producer is eligible for a loan under this section and shall certify to the Mississippi Development Authority whether a milk producer requesting a loan has satisfied the eligibility requirements of this section.

(5) A milk producer desiring a loan under this section must submit an application for a loan to the Mississippi Development Authority. The application must include any information required by the Mississippi Development Authority.

(6) The loans made under this section shall bear no interest. The loans shall be amortized over a period of ninety-six (96) months and payments on such loans shall begin on or after July 1, 2009.

(7) The Mississippi Development Authority shall have all powers necessary to implement and administer the program established under this section, and the department shall promulgate rules and regulations, in accordance with the

Mississippi Administrative Procedures Law, necessary for the implementation of this section.

(8) This section shall stand repealed from and after December 31, 2012.

SECTION 11. This act shall take effect and be in force from and after July 1, 2011, with the exception of Section 2, which shall take effect and be in force from and after its passage.