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To: Ways and Means

HOUSE BILL NO. 838  
(As Passed the House)

1 AN ACT TO AMEND SECTION 57-61-9, MISSISSIPPI CODE OF 1972, TO  
2 REVISE THE PROJECTS FOR WHICH A COUNTY OR MUNICIPALITY MAY REQUEST  
3 ASSISTANCE UNDER THE MISSISSIPPI BUSINESS INVESTMENT ACT; TO AMEND  
4 SECTION 57-61-25, MISSISSIPPI CODE OF 1972, TO INCREASE THE AMOUNT  
5 OF BONDS THAT MAY BE ISSUED UNDER THE MISSISSIPPI BUSINESS  
6 INVESTMENT ACT; AND FOR RELATED PURPOSES.

7  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

9 SECTION 1. Section 57-61-9, Mississippi Code of 1972, is  
10 amended as follows:

11 57-61-9. (1) Any private company desiring assistance from a  
12 municipality shall submit to the municipality a letter of intent  
13 to locate, expand or build a facility entirely or partially within  
14 the municipality or on land the municipality is authorized to own  
15 or otherwise acquire. The letter of intent shall include:

16 (a) Except for strategic investments, a commitment that  
17 the proposed project will create and maintain a minimum of ten  
18 (10) net new full-time equivalent jobs, will create and maintain  
19 at least a five percent (5%) increase in full-time equivalent jobs  
20 in the case of expansion of an enterprise already located at the  
21 site or at least a twenty-five percent (25%) increase in full-time  
22 equivalent jobs pursuant to subsection (9) of Section 57-61-15 and  
23 will create and maintain at least one (1) net new full-time  
24 equivalent job for every Fifteen Thousand Dollars (\$15,000.00)  
25 either loaned or granted for the project. The commitment required  
26 by this paragraph (a) shall include any jobs created prior to the  
27 effective date of this chapter resulting from contracts entered  
28 into contingent upon assistance being made available under this  
29 chapter. All jobs required to be maintained by this paragraph (a)

30 shall be maintained until such time as any loan made under this  
31 chapter for the benefit of a private company is repaid.

32 (b) A statement that the specific improvements are  
33 necessary for the efficient and cost-effective operation of the  
34 private company, together with supporting financial and  
35 engineering documentation.

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

39 (d) If required by the department, a notarized  
40 statement of willingness to grant a lien on the facility for which  
41 the improvement is being provided, in an amount and a manner to be  
42 determined by the department, which lien may be foreclosed in the  
43 event that the private company fails to operate in the facility  
44 according to the terms of the agreement and/or to collateralize  
45 the loan made for the benefit of the private company for which the  
46 improvement is being provided in an amount and manner to be  
47 determined by the department. In the event the contractual  
48 agreement is to be entered into with a department or subsidiary of  
49 the United States government, the department shall determine that  
50 the governmental unit will operate the proposed project for a  
51 sufficient number of years to retire the loan based on increased  
52 revenue estimates by the University Research Center and any  
53 agreement entered into shall reflect that the interest paid on any  
54 loan for such purpose shall be included in Mississippi's  
55 contributory value in the project. In the event the private  
56 company requesting the assistance is a subsidiary of another  
57 corporation, if required by the department, any contractual  
58 agreement entered into shall also require the parent company to  
59 unconditionally warrant the performance of the subsidiary in  
60 carrying out the terms of the agreement or it shall require the  
61 subsidiary and/or the parent company to pledge assets in an amount

62 and a manner to be determined by the department and/or to  
63 collateralize the loan in an amount and a manner to be determined  
64 by the department to ensure the performance of the terms of the  
65 contract.

66 (2) Upon receipt of the letter of intent from a private  
67 company, the municipality may apply to the department for a loan  
68 or grant. The application from the municipality shall include but  
69 not be limited to:

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

72 (b) A statement showing the sources of funding for the  
73 entire project, including the private company's or governmental  
74 unit's investment in the project and any public and other private  
75 sources of funding.

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

79 (d) Evidence that there will be a private match of at  
80 least Three Dollars (\$3.00) for every One Dollar (\$1.00) of state  
81 assistance, except in the case of ports where the private match  
82 will be at least Two Dollars (\$2.00) for every One Dollar (\$1.00)  
83 of state assistance.

84 (e) Demonstration that the private company is  
85 financially sound and is likely to fulfill the commitments made in  
86 its letter of intent.

87 (f) A proposed timetable for the provision of the  
88 improvements.

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

91 (h) A demonstration that insufficient local capital  
92 improvement funds at reasonable rates and terms are available  
93 within the necessary time to provide the needed improvement on  
94 public property. This includes local funds available through

95 issuance of bonds or other means, state funds available through  
96 existing programs, and available federal program funds such as  
97 community development block grant funds, urban development action  
98 grant funds, and economic development administration funds.

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

102 (3) The department shall consider grant and loan  
103 applications based on the following criteria:

104 (a) The number of net new full-time equivalent jobs  
105 that will be provided and the amount of additional state and local  
106 tax revenue estimated by the University Research Center to be  
107 directly generated by the private company's new investment, and  
108 additionally, as to loan applications by state agencies, the  
109 extent to which shipping through the port will be increased by the  
110 proposed port development projects, the degree to which jobs will  
111 be increased in the port area and the impact on port revenues.

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

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

116 The department and the University Research Center may use the  
117 resources and capabilities of the planning and development  
118 districts in carrying out the provisions of this chapter.

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

123 (5) (a) Notwithstanding anything contained in this chapter,  
124 an agency of the State of Mississippi operating a state-owned  
125 port, and hereinabove identified as a "municipality" and  
126 "governmental unit" for purposes of this chapter, may make  
127 application for a loan or grant under the terms and provisions of

128 this chapter. In addition, a public agency operating a port  
129 bordering on the Gulf of Mexico, which shall be considered to be a  
130 "municipality" or a "governmental unit" for the purposes of this  
131 chapter, may make application for a loan or grant under the terms  
132 and provisions of this chapter from funds other than those funds  
133 authorized for a state-owned port under paragraph (e)(iii) of  
134 Section 57-61-11. The application shall be initiated by  
135 submission of a letter of intent to engage in a project or  
136 projects for the purpose of effecting enlargement and improvement  
137 in all facilities used and useful in attracting international and  
138 foreign commerce through the port. Projects eligible for  
139 inclusion in the letter of intent may include but not be  
140 restricted to:

141 (i) Dredging and deepening the access channel and  
142 harbor basin of the port;

143 (ii) Effecting the enlargement of the land area of  
144 the port by reclamation;

145 (iii) Construction and installation of piling,  
146 bulkheads, docks, wharves, warehouses and appurtenances; and

147 (iv) Acquisition of facilities and equipment for  
148 handling bulk and containerized cargo.

149 (b) With respect to a state-owned port bordering on the  
150 Gulf of Mexico, the letter of intent shall include the following  
151 information and any other information required by the department:

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

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

157 (iii) Increased channel and basin depths necessary  
158 to accommodate modern shipping.

159 (iv) Comparison of the percentage of the world's  
160 cargo shipping that can now be accommodated with what could be

161 accommodated with project improvements.

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

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

166                   (vii) Financial data of port activities, including  
167 cost of project, degree of federal funding available and required  
168 local participation.

169           On or before January 1, 1989, a state-owned port described in  
170 this paragraph (b) shall submit to the Senate Finance Committee  
171 and the House Ways and Means Committee of the Mississippi  
172 Legislature a comprehensive, written report updating for each  
173 committee the information listed in items (i) through (vii) of  
174 this paragraph (b) with particular emphasis on the economic  
175 contribution to the region and state by shipping activity at the  
176 port; on financial data with respect to the degree of federal  
177 funding available and local participation in funding port  
178 activities; and on progress made in dredging and completing other  
179 improvements necessary to accommodate modern shipping.

180                   (c) The department shall consider grant and loan  
181 applications based on the following:

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

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

186                   (iii) Impact on port revenues.

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

189           (6) A municipality may apply to the department for a grant  
190 under the terms and provisions of this chapter, and the department  
191 may award grants to a municipality subject to limitations  
192 contained in this chapter. The application shall be initiated by  
193 submission of a letter of intent to engage in a project or

194 projects for the purpose of providing improvements necessary to  
195 accommodate a United States Navy home port.

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

203 (8) Notwithstanding any provision or requirement of this  
204 chapter to the contrary, a municipality may make application for a  
205 loan under this chapter, in an amount not to exceed Five Million  
206 Dollars (\$5,000,000.00), for the purpose of acquiring and  
207 developing land to be used as a technology/industrial park for  
208 which there is a binding commitment by one or more private  
209 companies to create and maintain not less than an aggregate of  
210 three hundred (300) jobs meeting minimum criteria established by  
211 the department. Such a commitment by a private company shall not  
212 disqualify the private company from obtaining assistance under  
213 this section.

214 (9) (a) A municipality is authorized to negotiate a  
215 contract for the acquisition, construction and erection of a  
216 project or any portion of a project hereunder where a municipality  
217 finds that, because of the particular nature of a project or any  
218 portion thereof, it would be in the best public interest of the  
219 municipality to negotiate.

220 (b) Contracts by a private company for the acquisition,  
221 construction or erection of a project which receives assistance  
222 under this chapter shall be effected in the manner prescribed by  
223 law for public contracts, unless the department makes a written  
224 finding that, because of special circumstances with respect to the  
225 projects or any portion thereof, it would better serve the public  
226 interest or more effectively achieve the purposes of this chapter

227 to enter into such contracts based on negotiation.

228       (10) A municipality is authorized upon such terms and  
229 conditions as the municipality may deem advisable, provided such  
230 terms and conditions shall not be in conflict with the provisions  
231 of this chapter, to (a) acquire, whether by construction,  
232 purchase, gift or lease, all of or any portion of a project  
233 hereunder; (b) to lease or sell to others all of or any portion of  
234 a project hereunder; and (c) to lend to the private company the  
235 proceeds of the loan from the board to such municipality.

236       (11) All agreements between a municipality and a private  
237 company related directly or indirectly to a project or a portion  
238 of a project to be funded in whole or in part under this chapter  
239 are subject to approval by the department.

240       SECTION 2. Section 57-61-25, Mississippi Code of 1972, is  
241 amended as follows:

242       57-61-25. (1) (a) The seller is authorized to borrow, on  
243 the credit of the state upon receipt of a resolution from the  
244 department requesting the same, money not exceeding the aggregate  
245 sum of Two Hundred Fifty-four Million Seven Hundred Fifty Thousand  
246 Dollars (\$254,750,000.00), not including money borrowed to refund  
247 outstanding bonds, notes or replacement notes, as may be necessary  
248 to carry out the purposes of this chapter. The aggregate amount  
249 of bonds issued prior to June 30, 1987, shall not exceed Fifty  
250 Million Dollars (\$50,000,000.00); provided, however, this Fifty  
251 Million Dollar (\$50,000,000.00) limitation shall not be construed  
252 to limit the aggregate amount of grants which may be awarded prior  
253 to June 30, 1987, to less than the full amount authorized under  
254 Section 57-61-15(1), Mississippi Code of 1972. The rate of  
255 interest on any such bonds or notes which are not subject to  
256 taxation shall not exceed the rates set forth in Section  
257 75-17-101, Mississippi Code of 1972, for general obligation bonds.

258       (b) In addition to the authority granted in paragraph  
259 (a) of this subsection (1), the seller is authorized to borrow, on



260 the credit of the state upon receipt of a resolution from the  
261 department requesting same, money not exceeding the aggregate sum  
262 of Five Million Dollars (\$5,000,000.00), in order to provide  
263 funding for the purposes authorized in Section 57-61-9(8).

264 (2) As evidence of indebtedness authorized in this chapter,  
265 general or limited obligation bonds of the state shall be issued  
266 from time to time, to provide monies necessary to carry out the  
267 purposes of this chapter for such total amounts, in such form, in  
268 such denominations payable in such currencies (either domestic or  
269 foreign or both) and subject to such terms and conditions of  
270 issue, redemption and maturity, rate of interest and time of  
271 payment of interest as the seller directs, except that such bonds  
272 shall mature or otherwise be retired in annual installments  
273 beginning not more than five (5) years from date thereof and  
274 extending not more than thirty (30) years from date thereof.

275 (3) All bonds and notes issued under authority of this  
276 chapter shall be signed by the chairman of the seller, or by his  
277 facsimile signature, and the official seal of the seller shall be  
278 affixed thereto, attested by the secretary of the seller.

279 (4) All bonds and notes issued under authority of this  
280 chapter may be general or limited obligations of the state, and  
281 the full faith and credit of the State of Mississippi as to  
282 general obligation bonds, or the revenues derived from projects  
283 assisted as to limited obligation bonds, are hereby pledged for  
284 the payment of the principal of and interest on such bonds and  
285 notes.

286 (5) Such bonds and notes and the income therefrom shall be  
287 exempt from all taxation in the State of Mississippi.

288 (6) The bonds may be issued as coupon bonds or registered as  
289 to both principal and interest, as the seller may determine. If  
290 interest coupons are attached, they shall contain the facsimile  
291 signature of the chairman and secretary of the seller.

292 (7) The seller is authorized to provide, by resolution, for

293 the issuance of refunding bonds for the purpose of refunding any  
294 debt issued under the provision of this chapter and then  
295 outstanding, either by voluntary exchange with the holders of the  
296 outstanding debt or to provide funds to redeem and the costs of  
297 issuance and retirement of the debt, at maturity or at any call  
298 date. The issuance of the refunding bonds, the maturities and  
299 other details thereof, the rights of the holders thereof and the  
300 duties of the issuing officials in respect to the same shall be  
301 governed by the provisions of this section, insofar as they may be  
302 applicable.

303 (8) As to bonds issued hereunder and designated as taxable  
304 bonds by the seller, any immunity of the state to taxation by the  
305 United States government of interest on bonds or notes issued by  
306 the state is hereby waived.

307 SECTION 3. This act shall take effect and be in force from  
308 and after its passage.