

By: Representatives McCoy, Morris, Smith  
(39th), Scott (80th)

To: Ways and Means

HOUSE BILL NO. 838

1 AN ACT TO AMEND SECTION 57-61-25, MISSISSIPPI CODE OF 1972,  
2 TO INCREASE FROM \$280,000,000.00 TO \$290,000,000.00, THE AGGREGATE  
3 AMOUNT OF BONDS THAT MAY BE ISSUED UNDER THE MISSISSIPPI BUSINESS  
4 INVESTMENT ACT; TO AMEND SECTION 57-61-34, MISSISSIPPI CODE OF  
5 1972, TO INCREASE FROM \$7,000,000.00 TO \$9,000,000.00, THE AMOUNT  
6 OF BOND PROCEEDS THAT THE MISSISSIPPI DEVELOPMENT AUTHORITY MAY  
7 MAKE AVAILABLE UNDER THE MISSISSIPPI BUSINESS INVESTMENT ACT AS  
8 INTEREST BEARING LOANS TO AID IN THE ESTABLISHMENT OF BUSINESS  
9 INCUBATION CENTERS AND THE CREATION OF NEW AND EXPANDING  
10 TECHNOLOGY-BASED BUSINESS AND INDUSTRY; TO AMEND SECTION 57-61-36,  
11 MISSISSIPPI CODE OF 1972, TO INCREASE FROM \$10,500,000.00 TO  
12 \$12,500,000.00, THE AMOUNT OF BOND PROCEEDS THAT THE MISSISSIPPI  
13 DEVELOPMENT AUTHORITY MAY USE UNDER THE MISSISSIPPI BUSINESS  
14 INVESTMENT ACT FOR THE PURPOSE OF MAKING GRANTS TO COUNTIES AND  
15 MUNICIPALITIES UNDER THE DEVELOPMENT INFRASTRUCTURE GRANT PROGRAM;  
16 TO AMEND SECTION 57-61-41, MISSISSIPPI CODE OF 1972, TO INCREASE  
17 FROM \$8,000,000.00 TO \$12,000,000.00, THE AMOUNT OF BOND PROCEEDS  
18 THAT THE MISSISSIPPI DEVELOPMENT AUTHORITY MAY USE UNDER THE  
19 MISSISSIPPI BUSINESS INVESTMENT ACT FOR THE PURPOSE OF PROVIDING  
20 LOANS TO STATE, COUNTY AND MUNICIPAL PORT AUTHORITIES AND AIRPORT  
21 AUTHORITIES THROUGH THE PORT REVITALIZATION REVOLVING LOAN FUND;  
22 TO REFLECT THE CHANGE OF THE NAME OF THE MISSISSIPPI DEPARTMENT OF  
23 ECONOMIC AND COMMUNITY DEVELOPMENT TO THE MISSISSIPPI DEVELOPMENT  
24 AUTHORITY; TO AMEND SECTION 57-61-15, MISSISSIPPI CODE OF 1972, TO  
25 EXTEND THE REVERTER ON THE PROVISION THAT REQUIRES THAT A MINIMUM  
26 OF FIFTEEN PERCENT CERTAIN BOND PROCEEDS UNDER THE MISSISSIPPI  
27 BUSINESS INVESTMENT ACT BE ALLOCATED TO SMALL COMMUNITIES; TO  
28 REFLECT THE CHANGE OF THE NAME OF THE MISSISSIPPI DEPARTMENT OF  
29 ECONOMIC AND COMMUNITY DEVELOPMENT TO THE MISSISSIPPI DEVELOPMENT  
30 AUTHORITY; AND FOR RELATED PURPOSES.

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

32 **SECTION 1.** Section 57-61-25, Mississippi Code of 1972, is  
33 amended as follows:

34 57-61-25. (1) The seller is authorized to borrow, on the  
35 credit of the state upon receipt of a resolution from the  
36 Mississippi Development Authority requesting the same, money not  
37 exceeding the aggregate sum of Two Hundred Ninety Million Dollars  
38 (\$290,000,000.00), not including money borrowed to refund  
39 outstanding bonds, notes or replacement notes, as may be necessary  
40 to carry out the purposes of this chapter. The aggregate amount  
41 of bonds issued prior to June 30, 1987, shall not exceed Fifty



42 Million Dollars (\$50,000,000.00); provided, however, this Fifty  
43 Million Dollars (\$50,000,000.00) limitation shall not be construed  
44 to limit the aggregate amount of grants which may be awarded prior  
45 to June 30, 1987, to less than the full amount authorized under  
46 Section 57-61-15(1), Mississippi Code of 1972. The rate of  
47 interest on any such bonds or notes which are not subject to  
48 taxation shall not exceed the rates set forth in Section  
49 75-17-101, Mississippi Code of 1972, for general obligation bonds.

50 (2) As evidence of indebtedness authorized in this chapter,  
51 general or limited obligation bonds of the state shall be issued  
52 from time to time, to provide monies necessary to carry out the  
53 purposes of this chapter for such total amounts, in such form, in  
54 such denominations payable in such currencies (either domestic or  
55 foreign or both) and subject to such terms and conditions of  
56 issue, redemption and maturity, rate of interest and time of  
57 payment of interest as the seller directs, except that such bonds  
58 shall mature or otherwise be retired in annual installments  
59 beginning not more than five (5) years from date thereof and  
60 extending not more than thirty (30) years from date thereof.

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

65 (4) All bonds and notes issued under authority of this  
66 chapter may be general or limited obligations of the state, and  
67 the full faith and credit of the State of Mississippi as to  
68 general obligation bonds, or the revenues derived from projects  
69 assisted as to limited obligation bonds, are hereby pledged for  
70 the payment of the principal of and interest on such bonds and  
71 notes.

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



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

78           (7) The seller is authorized to provide, by resolution, for  
79 the issuance of refunding bonds for the purpose of refunding any  
80 debt issued under the provision of this chapter and then  
81 outstanding, either by voluntary exchange with the holders of the  
82 outstanding debt or to provide funds to redeem and the costs of  
83 issuance and retirement of the debt, at maturity or at any call  
84 date. The issuance of the refunding bonds, the maturities and  
85 other details thereof, the rights of the holders thereof and the  
86 duties of the issuing officials in respect to the same shall be  
87 governed by the provisions of this section, insofar as they may be  
88 applicable.

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

93           (9) The proceeds of bonds issued under this chapter after  
94 April 9, 2002, may be used to reimburse reasonable, actual and  
95 necessary costs incurred by the Mississippi Development Authority  
96 in administering a program or providing assistance related to a  
97 project, or both, for which funding is provided from the use of  
98 proceeds of such bonds. An accounting of actual costs incurred  
99 for which reimbursement is sought shall be maintained for each  
100 project by the Mississippi Development Authority. Reimbursement  
101 of reasonable, actual and necessary costs for a program or project  
102 shall not exceed three percent (3%) of the proceeds of bonds  
103 issued for such program or project. Monies authorized for a  
104 particular program or project may not be used to reimburse  
105 administrative costs for unrelated programs or projects.



106 Reimbursements under this subsection shall satisfy any applicable  
107 federal tax law requirements.

108       **SECTION 2.** Section 57-61-34, Mississippi Code of 1972, is  
109 amended as follows:

110       57-61-34. Notwithstanding any provision of this chapter to  
111 the contrary, the Mississippi Development Authority shall utilize  
112 not more than Nine Million Dollars (\$9,000,000.00) out of the  
113 proceeds of bonds authorized to be issued in this chapter to be  
114 made available as interest-bearing loans to municipalities or  
115 private companies to aid in the establishment of business  
116 incubation centers and the creation of new and expanding  
117 technology-based business and industry.

118       In exercising the power given it under this section, the  
119 Mississippi Development Authority shall work in conjunction with  
120 the University Research Center and may contract with the center to  
121 provide space and assistance to business incubation centers as the  
122 center is authorized to do pursuant to Section 57-13-13.

123       The requirements of Section 57-61-9 shall not apply to any  
124 loan made under this section. The Mississippi Development  
125 Authority shall establish criteria and guidelines to govern loans  
126 made pursuant to this section.

127       **SECTION 3.** Section 57-61-36, Mississippi Code of 1972, is  
128 amended as follows:

129       57-61-36. (1) Notwithstanding any provision of this chapter  
130 to the contrary, the Mississippi Development Authority shall  
131 utilize not more than Twelve Million Five Hundred Thousand Dollars  
132 (\$12,500,000.00) out of the proceeds of bonds authorized to be  
133 issued in this chapter for the purpose of making grants to  
134 municipalities through a development infrastructure grant fund to  
135 complete infrastructure related to new or expanded industry.

136       (2) Notwithstanding any provision of this chapter to the  
137 contrary, the Mississippi Development Authority may utilize not  
138 more than Seven Million Dollars (\$7,000,000.00) out of the



139 proceeds of bonds authorized to be issued in this chapter for the  
140 purpose of making interest-bearing loans to any agency,  
141 department, institution, instrumentality or political subdivision  
142 of the state; or any agency, department, institution or  
143 instrumentality of any political subdivision of the state; or any  
144 business, organization, corporation, association or other legal  
145 entity meeting criteria established by the department, through a  
146 housing development revolving loan fund, to construct or repair  
147 housing for low or moderate income earners; provided, however,  
148 that the department may not utilize any bond proceeds authorized  
149 under this chapter for the purpose of making any loans to the  
150 Mississippi Home Corporation for any purpose whatsoever. No more  
151 than forty percent (40%) of the additional bonds authorized by  
152 this section in House Bill No. 1694, 1998 Regular Session [Laws,  
153 1998, Chapter 559], may be used for multiple family housing  
154 activities. Funds authorized under this subsection may be  
155 deposited in the Mississippi Affordable Housing Development Fund  
156 authorized in Section 43-33-759 and used for purposes authorized  
157 by that section. This subsection (2) shall be repealed from and  
158 after July 1, 2004.

159 (3) Notwithstanding any provision of this chapter to the  
160 contrary, the Mississippi Development Authority shall utilize not  
161 more than Eight Million Five Hundred Thousand Dollars  
162 (\$8,500,000.00) out of the proceeds of bonds authorized to be  
163 issued in this chapter for the purpose of making grants or loans  
164 to municipalities through an equipment and public facilities grant  
165 and loan fund to aid in infrastructure-related improvements as  
166 determined by the Mississippi Development Authority, the purchase  
167 of equipment and in the purchase, construction or repair and  
168 renovation of public facilities. Any bonds previously issued for  
169 the Development Infrastructure Revolving Loan Program which have  
170 not been loaned or applied for are eligible to be administered as  
171 grants or loans.



172           The requirements of Section 57-61-9 shall not apply to any  
173 grant made under this subsection. The Mississippi Development  
174 Authority may establish criteria and guidelines to govern grants  
175 made pursuant to this subsection.

176           (4) Notwithstanding any provision of this chapter to the  
177 contrary, the Mississippi Development Authority may utilize not  
178 more than Seven Hundred Fifty Thousand Dollars (\$750,000.00) out  
179 of the proceeds of bonds authorized to be issued in this chapter  
180 in order to match federal funds available from the United States  
181 Department of Agriculture for the purpose of establishing an  
182 intermediary relending program to be administered by the  
183 Mississippi Development Authority. The Mississippi Development  
184 Authority may establish criteria and guidelines to govern loans  
185 made under such program. This subsection (4) shall be repealed  
186 from and after April 9, 2002.

187           (5) The Mississippi Development Authority may establish a  
188 capital access program and may contract with any financial  
189 institution to participate in the program upon such terms and  
190 conditions as the authority shall consider necessary and proper.  
191 The Mississippi Development Authority may establish loss reserve  
192 accounts at financial institutions that participate in the program  
193 and require payments by the financial institution and the borrower  
194 to such loss reserve accounts. All money in such loss reserve  
195 accounts is the property of the Mississippi Development Authority.

196           Under the capital access program a participating financial  
197 institution may make a loan to any borrower the Mississippi  
198 Development Authority determines to be qualified under rules and  
199 regulations adopted by the authority and be protected against  
200 losses from such loans as provided in the program. Under such  
201 rules and regulations as may be adopted by the Mississippi  
202 Development Authority, a participating financial institution may  
203 submit claims for the reimbursement for losses incurred as a  
204 result of default on loans by qualified borrowers.



205 Notwithstanding any provision of this chapter to the  
206 contrary, the Mississippi Development Authority may utilize not  
207 more than Seven Hundred Fifty Thousand Dollars (\$750,000.00) out  
208 of the proceeds of bonds authorized to be issued in this chapter  
209 for the purpose of making payments to loan loss reserve accounts  
210 established at financial institutions that participate in the  
211 capital access program established by the Mississippi Development  
212 Authority.

213 (6) Notwithstanding any provision of this chapter to the  
214 contrary, the Mississippi Development Authority shall utilize not  
215 more than Two Hundred Thousand Dollars (\$200,000.00) out of the  
216 proceeds of bonds authorized to be issued in this chapter for the  
217 purpose of assisting Warren County, Mississippi, in the  
218 continuation and completion of the study for the proposed Kings  
219 Point levee.

220 **SECTION 4.** Section 57-61-41, Mississippi Code of 1972, is  
221 amended as follows:

222 57-61-41. Notwithstanding any provision of this chapter to  
223 the contrary, the Mississippi Development Authority shall utilize  
224 not more than Twelve Million Dollars (\$12,000,000.00) out of the  
225 proceeds of bonds authorized to be issued in this chapter to be  
226 made available to state, county or municipal port and airport  
227 authorities through a Port Revitalization Revolving Loan Fund for  
228 the purpose of making loans to port authorities for the  
229 improvement of port and airport facilities to promote commerce and  
230 economic growth. Proceeds shall not be made available to provide  
231 any facilities for utilization by a gaming vessel.

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

236 **SECTION 5.** Section 57-61-15, Mississippi Code of 1972, is  
237 amended as follows:



238           **[From and after April 9, 2002, through June 30, 2004, this**  
239 **section shall read as follows:]**

240           57-61-15. (1) Except for grants authorized for state-owned  
241 ports and for grants authorized under Section 57-61-32, Section  
242 57-61-33 and Section 57-61-36, Mississippi Code of 1972, no more  
243 than Seven Million Five Hundred Thousand Dollars (\$7,500,000.00)  
244 of the proceeds of bonds authorized to be issued under this  
245 chapter shall be made available for grants to municipalities;  
246 however, Two Million Five Hundred Thousand Dollars (\$2,500,000.00)  
247 of such amount shall be made available for grants to small  
248 communities.

249           (2) In no case shall any municipality receive more than one  
250 (1) grant in any single fiscal year. This subsection shall not  
251 apply to grants authorized under Section 57-61-36, Mississippi  
252 Code of 1972.

253           (3) A minimum of fifteen percent (15%) of the aggregate  
254 funds made available under this chapter shall be allocated to  
255 small communities. For the purpose of determining the aggregate  
256 funds available to make the allocation established in this  
257 subsection, there shall be excluded from inclusion therein any  
258 funds specifically dedicated pursuant to Sections 57-61-11(e)(iii)  
259 and (v), 57-61-32, 57-61-33, 57-61-34, 57-61-36, 57-61-39,  
260 57-61-41 and 57-75-27, Mississippi Code of 1972.

261           (4) No loan or grant shall be made without substantiation of  
262 the provisions of Section 57-61-9, Mississippi Code of 1972.

263           (5) Except in the case of an application pursuant to Section  
264 57-61-9(5)(a), Mississippi Code of 1972, funds loaned shall be  
265 secured by a lien and/or collateralized consistent with Section  
266 57-61-9(1)(d), Mississippi Code of 1972, if required by the  
267 Mississippi Development Authority.

268           (6) Except in the case of an application pursuant to Section  
269 57-61-9(5)(a), Mississippi Code of 1972, private companies which  
270 fail to create and maintain the number of jobs specified in an





271 approved application shall be liable for, in the discretion of the  
272 Mississippi Development Authority, (a) a penalty equal to two  
273 percent (2%) greater than the current prime interest rate for the  
274 remainder of the loan made for their benefit, or (b) prepayment of  
275 the outstanding loan amount incurred by the municipality for their  
276 benefit, unless the penalty or a portion thereof is waived by the  
277 Mississippi Development Authority because the failure is due to  
278 circumstances outside the control of the private company. The  
279 penalty shall be payable in installments which the Mississippi  
280 Development Authority deems appropriate. Immediate notice of  
281 penalties and waivers of penalties, including the penalties in  
282 Section 57-61-9(1)(d), Mississippi Code of 1972, with the reasons  
283 thereof, shall be submitted by the Mississippi Development  
284 Authority to the Governor and the Legislature along with the  
285 Mississippi Development Authority's decision on the imposition of  
286 penalties and the reasons for this decision.

287 (7) Except in the case of an application pursuant to Section  
288 57-61-9(5)(a), Mississippi Code of 1972, municipalities receiving  
289 loans which fail to meet their repayment obligations shall forfeit  
290 the right to receive their sales tax allocation and/or homestead  
291 exemption reimbursement in an amount sufficient to repay  
292 obligations due until such time as their indebtedness has been  
293 discharged or arrangements to discharge such indebtedness  
294 satisfactory to the Mississippi Development Authority have been  
295 made. Sales tax allocations and/or homestead exemption  
296 reimbursements forfeited hereby shall, upon demand by the  
297 Mississippi Development Authority made in writing upon the State  
298 Tax Commission, be paid to the Mississippi Development Authority  
299 and applied to the discharge of the obligation. The Mississippi  
300 Development Authority may prescribe such other penalties it deems  
301 necessary.

302 (8) Any municipality which has forfeited its sales tax  
303 allocation and/or homestead exemption reimbursement for twelve



304 (12) months may levy an ad valorem tax on the taxable property  
305 therein for the purpose of meeting its repayment obligation. The  
306 revenue produced from the tax levy shall not be included within  
307 the ten percent (10%) growth limitation on ad valorem tax receipts  
308 for its general budget.

309 (9) This chapter is expressly not intended to encourage the  
310 relocation of a company from one jurisdiction within the state to  
311 another. Any request by a local sponsor for assistance to be  
312 provided a firm which currently operates a similar business in the  
313 state must be accompanied by a demonstration that the total net  
314 increase in and maintenance of full-time equivalent jobs, using  
315 the current number of jobs in all similar businesses operated by  
316 the private company in the state as a base, shall be at least  
317 twenty-five percent (25%). This requirement shall not apply to  
318 private companies relocating from small business incubators.

319 **[From and after July 1, 2004, this section shall read as**  
320 **follows:]**

321 57-61-15. (1) Except for grants authorized for state-owned  
322 ports and for grants authorized under Section 57-61-32, Section  
323 57-61-33 and Section 57-61-36, Mississippi Code of 1972, no more  
324 than Seven Million Five Hundred Thousand Dollars (\$7,500,000.00)  
325 of the proceeds of bonds authorized to be issued under this  
326 chapter shall be made available for grants to municipalities;  
327 however, Two Million Five Hundred Thousand Dollars (\$2,500,000.00)  
328 of such amount shall be made available for grants to small  
329 communities.

330 (2) In no case shall any municipality receive more than one  
331 (1) grant in any single fiscal year. This subsection shall not  
332 apply to grants authorized under Section 57-61-36, Mississippi  
333 Code of 1972.

334 (3) A minimum of twenty-five percent (25%) of the aggregate  
335 funds made available under this chapter shall be allocated to  
336 small communities. For the purpose of determining the aggregate



337 funds available to make the allocation established in this  
338 subsection, there shall be excluded from inclusion therein any  
339 funds specifically dedicated pursuant to Sections 57-61-11(e) (iii)  
340 and (v), 57-61-32, 57-61-33, 57-61-34, 57-61-36, 57-61-39,  
341 57-61-41 and 57-75-27, Mississippi Code of 1972.

342 (4) No loan or grant shall be made without substantiation of  
343 the provisions of Section 57-61-9, Mississippi Code of 1972.

344 (5) Except in the case of an application pursuant to Section  
345 57-61-9(5) (a), Mississippi Code of 1972, funds loaned shall be  
346 secured by a lien and/or collateralized consistent with Section  
347 57-61-9(1) (d), Mississippi Code of 1972, if required by the  
348 Mississippi Development Authority.

349 (6) Except in the case of an application pursuant to Section  
350 57-61-9(5) (a), Mississippi Code of 1972, private companies which  
351 fail to create and maintain the number of jobs specified in an  
352 approved application shall be liable for, in the discretion of the  
353 Mississippi Development Authority, (a) a penalty equal to two  
354 percent (2%) greater than the current prime interest rate for the  
355 remainder of the loan made for their benefit, or (b) prepayment of  
356 the outstanding loan amount incurred by the municipality for their  
357 benefit, unless the penalty or a portion thereof is waived by the  
358 Mississippi Development Authority because the failure is due to  
359 circumstances outside the control of the private company. The  
360 penalty shall be payable in installments which the Mississippi  
361 Development Authority deems appropriate. Immediate notice of  
362 penalties and waivers of penalties, including the penalties in  
363 Section 57-61-9(1) (d), Mississippi Code of 1972, with the reasons  
364 thereof, shall be submitted by the Mississippi Development  
365 Authority to the Governor and the Legislature along with the  
366 Mississippi Development Authority's decision on the imposition of  
367 penalties and the reasons for this decision.

368 (7) Except in the case of an application pursuant to Section  
369 57-61-9(5) (a), Mississippi Code of 1972, municipalities receiving



370 loans which fail to meet their repayment obligations shall forfeit  
371 the right to receive their sales tax allocation and/or homestead  
372 exemption reimbursement in an amount sufficient to repay  
373 obligations due until such time as their indebtedness has been  
374 discharged or arrangements to discharge such indebtedness  
375 satisfactory to the Mississippi Development Authority have been  
376 made. Sales tax allocations and/or homestead exemption  
377 reimbursements forfeited hereby shall, upon demand by the  
378 Mississippi Development Authority made in writing upon the State  
379 Tax Commission, be paid to the Mississippi Development Authority  
380 and applied to the discharge of the obligation. The Mississippi  
381 Development Authority may prescribe such other penalties it deems  
382 necessary.

383 (8) Any municipality which has forfeited its sales tax  
384 allocation and/or homestead exemption reimbursement for twelve  
385 (12) months may levy an ad valorem tax on the taxable property  
386 therein for the purpose of meeting its repayment obligation. The  
387 revenue produced from the tax levy shall not be included within  
388 the ten percent (10%) growth limitation on ad valorem tax receipts  
389 for its general budget.

390 (9) This chapter is expressly not intended to encourage the  
391 relocation of a company from one jurisdiction within the state to  
392 another. Any request by a local sponsor for assistance to be  
393 provided a firm which currently operates a similar business in the  
394 state must be accompanied by a demonstration that the total net  
395 increase in and maintenance of full-time equivalent jobs, using  
396 the current number of jobs in all similar businesses operated by  
397 the private company in the state as a base, shall be at least  
398 twenty-five percent (25%). This requirement shall not apply to  
399 private companies relocating from small business incubators.

400 **SECTION 6.** This act shall take effect and be in force from  
401 and after its passage.

