

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

To: Ways and Means

HOUSE BILL NO. 838
(As Passed the House)

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 AUTHORIZE THE MISSISSIPPI DEVELOPMENT AUTHORITY TO USE NOT MORE
17 THAN \$100,000.00 OF THE BOND PROCEEDS UNDER THE MISSISSIPPI
18 BUSINESS INVESTMENT ACT FOR THE PURPOSE OF DEVELOPING A LONG-RANGE
19 PLAN FOR COORDINATING THE RESOURCES OF THE STATE INSTITUTIONS OF
20 HIGHER LEARNING, THE MISSISSIPPI DEVELOPMENT AUTHORITY AND OTHER
21 STATE AGENCIES IN ORDER TO PROMOTE ECONOMIC DEVELOPMENT IN THE
22 STATE; TO AMEND SECTION 57-61-41, MISSISSIPPI CODE OF 1972, TO
23 INCREASE FROM \$8,000,000.00 TO \$12,000,000.00, THE AMOUNT OF BOND
24 PROCEEDS THAT THE MISSISSIPPI DEVELOPMENT AUTHORITY MAY USE UNDER
25 THE MISSISSIPPI BUSINESS INVESTMENT ACT FOR THE PURPOSE OF
26 PROVIDING LOANS TO STATE, COUNTY AND MUNICIPAL PORT AUTHORITIES
27 AND AIRPORT AUTHORITIES THROUGH THE PORT REVITALIZATION REVOLVING
28 LOAN FUND; TO REFLECT THE CHANGE OF THE NAME OF THE MISSISSIPPI
29 DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT TO THE
30 MISSISSIPPI DEVELOPMENT AUTHORITY; TO AMEND SECTION 57-61-15,
31 MISSISSIPPI CODE OF 1972, TO EXTEND THE REVERTER ON THE PROVISION
32 THAT REQUIRES THAT A MINIMUM OF FIFTEEN PERCENT CERTAIN BOND
33 PROCEEDS UNDER THE MISSISSIPPI BUSINESS INVESTMENT ACT BE
34 ALLOCATED TO SMALL COMMUNITIES; TO REFLECT THE CHANGE OF THE NAME
35 OF THE MISSISSIPPI DEPARTMENT OF ECONOMIC AND COMMUNITY
36 DEVELOPMENT TO THE MISSISSIPPI DEVELOPMENT AUTHORITY; AND FOR
37 RELATED PURPOSES.

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

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

41 57-61-25. (1) The seller is authorized to borrow, on the
42 credit of the state upon receipt of a resolution from the
43 Mississippi Development Authority requesting the same, money not
44 exceeding the aggregate sum of Two Hundred Ninety Million Dollars



45 (\$290,000,000.00), not including money borrowed to refund
46 outstanding bonds, notes or replacement notes, as may be necessary
47 to carry out the purposes of this chapter. The aggregate amount
48 of bonds issued prior to June 30, 1987, shall not exceed Fifty
49 Million Dollars (\$50,000,000.00); provided, however, this Fifty
50 Million Dollars (\$50,000,000.00) limitation shall not be construed
51 to limit the aggregate amount of grants which may be awarded prior
52 to June 30, 1987, to less than the full amount authorized under
53 Section 57-61-15(1), Mississippi Code of 1972. The rate of
54 interest on any such bonds or notes which are not subject to
55 taxation shall not exceed the rates set forth in Section
56 75-17-101, Mississippi Code of 1972, for general obligation bonds.

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

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

72 (4) All bonds and notes issued under authority of this
73 chapter may be general or limited obligations of the state, and
74 the full faith and credit of the State of Mississippi as to
75 general obligation bonds, or the revenues derived from projects
76 assisted as to limited obligation bonds, are hereby pledged for



77 the payment of the principal of and interest on such bonds and
78 notes.

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

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

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

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

100 (9) The proceeds of bonds issued under this chapter after
101 April 9, 2002, may be used to reimburse reasonable, actual and
102 necessary costs incurred by the Mississippi Development Authority
103 in administering a program or providing assistance related to a
104 project, or both, for which funding is provided from the use of
105 proceeds of such bonds. An accounting of actual costs incurred
106 for which reimbursement is sought shall be maintained for each
107 project by the Mississippi Development Authority. Reimbursement
108 of reasonable, actual and necessary costs for a program or project
109 shall not exceed three percent (3%) of the proceeds of bonds



110 issued for such program or project. Monies authorized for a
111 particular program or project may not be used to reimburse
112 administrative costs for unrelated programs or projects.
113 Reimbursements under this subsection shall satisfy any applicable
114 federal tax law requirements.

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

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

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

130 The requirements of Section 57-61-9 shall not apply to any
131 loan made under this section. The Mississippi Development
132 Authority shall establish criteria and guidelines to govern loans
133 made pursuant to this section.

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

136 57-61-36. (1) Notwithstanding any provision of this chapter
137 to the contrary, the Mississippi Development Authority shall
138 utilize not more than Twelve Million Five Hundred Thousand Dollars
139 (\$12,500,000.00) out of the proceeds of bonds authorized to be
140 issued in this chapter for the purpose of making grants to
141 municipalities through a development infrastructure grant fund to
142 complete infrastructure related to new or expanded industry.



143 (2) Notwithstanding any provision of this chapter to the
144 contrary, the Mississippi Development Authority may utilize not
145 more than Seven Million Dollars (\$7,000,000.00) out of the
146 proceeds of bonds authorized to be issued in this chapter for the
147 purpose of making interest-bearing loans to any agency,
148 department, institution, instrumentality or political subdivision
149 of the state; or any agency, department, institution or
150 instrumentality of any political subdivision of the state; or any
151 business, organization, corporation, association or other legal
152 entity meeting criteria established by the department, through a
153 housing development revolving loan fund, to construct or repair
154 housing for low or moderate income earners; provided, however,
155 that the department may not utilize any bond proceeds authorized
156 under this chapter for the purpose of making any loans to the
157 Mississippi Home Corporation for any purpose whatsoever. No more
158 than forty percent (40%) of the additional bonds authorized by
159 this section in House Bill No. 1694, 1998 Regular Session [Laws,
160 1998, Chapter 559], may be used for multiple family housing
161 activities. Funds authorized under this subsection may be
162 deposited in the Mississippi Affordable Housing Development Fund
163 authorized in Section 43-33-759 and used for purposes authorized
164 by that section. This subsection (2) shall be repealed from and
165 after July 1, 2004.

166 (3) Notwithstanding any provision of this chapter to the
167 contrary, the Mississippi Development Authority shall utilize not
168 more than Eight Million Five Hundred Thousand Dollars
169 (\$8,500,000.00) out of the proceeds of bonds authorized to be
170 issued in this chapter for the purpose of making grants or loans
171 to municipalities through an equipment and public facilities grant
172 and loan fund to aid in infrastructure-related improvements as
173 determined by the Mississippi Development Authority, the purchase
174 of equipment and in the purchase, construction or repair and
175 renovation of public facilities. Any bonds previously issued for



176 the Development Infrastructure Revolving Loan Program which have
177 not been loaned or applied for are eligible to be administered as
178 grants or loans.

179 The requirements of Section 57-61-9 shall not apply to any
180 grant made under this subsection. The Mississippi Development
181 Authority may establish criteria and guidelines to govern grants
182 made pursuant to this subsection.

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

194 (5) The Mississippi Development Authority may establish a
195 capital access program and may contract with any financial
196 institution to participate in the program upon such terms and
197 conditions as the authority shall consider necessary and proper.
198 The Mississippi Development Authority may establish loss reserve
199 accounts at financial institutions that participate in the program
200 and require payments by the financial institution and the borrower
201 to such loss reserve accounts. All money in such loss reserve
202 accounts is the property of the Mississippi Development Authority.

203 Under the capital access program a participating financial
204 institution may make a loan to any borrower the Mississippi
205 Development Authority determines to be qualified under rules and
206 regulations adopted by the authority and be protected against
207 losses from such loans as provided in the program. Under such
208 rules and regulations as may be adopted by the Mississippi



209 Development Authority, a participating financial institution may
210 submit claims for the reimbursement for losses incurred as a
211 result of default on loans by qualified borrowers.

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

220 (6) Notwithstanding any provision of this chapter to the
221 contrary, the Mississippi Development Authority shall utilize not
222 more than Two Hundred Thousand Dollars (\$200,000.00) out of the
223 proceeds of bonds authorized to be issued in this chapter for the
224 purpose of assisting Warren County, Mississippi, in the
225 continuation and completion of the study for the proposed Kings
226 Point levee.

227 (7) Notwithstanding any provision of this chapter to the
228 contrary, the Mississippi Development Authority shall utilize not
229 more than One Hundred Thousand Dollars (\$100,000.00) out of the
230 proceeds of bonds authorized to be issued in this chapter for the
231 purpose of developing a long-range plan for coordinating the
232 resources of the state institutions of higher learning, the
233 Mississippi Development Authority and other state agencies in
234 order to promote economic development in the state.

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

237 57-61-41. Notwithstanding any provision of this chapter to
238 the contrary, the Mississippi Development Authority shall utilize
239 not more than Twelve Million Dollars (\$12,000,000.00) out of the
240 proceeds of bonds authorized to be issued in this chapter to be
241 made available to state, county or municipal port and airport



242 authorities through a Port Revitalization Revolving Loan Fund for
243 the purpose of making loans to port authorities for the
244 improvement of port and airport facilities to promote commerce and
245 economic growth. Proceeds shall not be made available to provide
246 any facilities for utilization by a gaming vessel.

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

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

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

255 57-61-15. (1) Except for grants authorized for state-owned
256 ports and for grants authorized under Section 57-61-32, Section
257 57-61-33 and Section 57-61-36, Mississippi Code of 1972, no more
258 than Seven Million Five Hundred Thousand Dollars (\$7,500,000.00)
259 of the proceeds of bonds authorized to be issued under this
260 chapter shall be made available for grants to municipalities;
261 however, Two Million Five Hundred Thousand Dollars (\$2,500,000.00)
262 of such amount shall be made available for grants to small
263 communities.

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

268 (3) A minimum of fifteen percent (15%) of the aggregate
269 funds made available under this chapter shall be allocated to
270 small communities. For the purpose of determining the aggregate
271 funds available to make the allocation established in this
272 subsection, there shall be excluded from inclusion therein any
273 funds specifically dedicated pursuant to Sections 57-61-11(e)(iii)



274 and (v), 57-61-32, 57-61-33, 57-61-34, 57-61-36, 57-61-39,
275 57-61-41 and 57-75-27, Mississippi Code of 1972.

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

278 (5) Except in the case of an application pursuant to Section
279 57-61-9(5) (a), Mississippi Code of 1972, funds loaned shall be
280 secured by a lien and/or collateralized consistent with Section
281 57-61-9(1) (d), Mississippi Code of 1972, if required by the
282 Mississippi Development Authority.

283 (6) Except in the case of an application pursuant to Section
284 57-61-9(5) (a), Mississippi Code of 1972, private companies which
285 fail to create and maintain the number of jobs specified in an
286 approved application shall be liable for, in the discretion of the
287 Mississippi Development Authority, (a) a penalty equal to two
288 percent (2%) greater than the current prime interest rate for the
289 remainder of the loan made for their benefit, or (b) prepayment of
290 the outstanding loan amount incurred by the municipality for their
291 benefit, unless the penalty or a portion thereof is waived by the
292 Mississippi Development Authority because the failure is due to
293 circumstances outside the control of the private company. The
294 penalty shall be payable in installments which the Mississippi
295 Development Authority deems appropriate. Immediate notice of
296 penalties and waivers of penalties, including the penalties in
297 Section 57-61-9(1) (d), Mississippi Code of 1972, with the reasons
298 thereof, shall be submitted by the Mississippi Development
299 Authority to the Governor and the Legislature along with the
300 Mississippi Development Authority's decision on the imposition of
301 penalties and the reasons for this decision.

302 (7) Except in the case of an application pursuant to Section
303 57-61-9(5) (a), Mississippi Code of 1972, municipalities receiving
304 loans which fail to meet their repayment obligations shall forfeit
305 the right to receive their sales tax allocation and/or homestead
306 exemption reimbursement in an amount sufficient to repay



307 obligations due until such time as their indebtedness has been
308 discharged or arrangements to discharge such indebtedness
309 satisfactory to the Mississippi Development Authority have been
310 made. Sales tax allocations and/or homestead exemption
311 reimbursements forfeited hereby shall, upon demand by the
312 Mississippi Development Authority made in writing upon the State
313 Tax Commission, be paid to the Mississippi Development Authority
314 and applied to the discharge of the obligation. The Mississippi
315 Development Authority may prescribe such other penalties it deems
316 necessary.

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

324 (9) This chapter is expressly not intended to encourage the
325 relocation of a company from one jurisdiction within the state to
326 another. Any request by a local sponsor for assistance to be
327 provided a firm which currently operates a similar business in the
328 state must be accompanied by a demonstration that the total net
329 increase in and maintenance of full-time equivalent jobs, using
330 the current number of jobs in all similar businesses operated by
331 the private company in the state as a base, shall be at least
332 twenty-five percent (25%). This requirement shall not apply to
333 private companies relocating from small business incubators.

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

336 57-61-15. (1) Except for grants authorized for state-owned
337 ports and for grants authorized under Section 57-61-32, Section
338 57-61-33 and Section 57-61-36, Mississippi Code of 1972, no more
339 than Seven Million Five Hundred Thousand Dollars (\$7,500,000.00)



340 of the proceeds of bonds authorized to be issued under this
341 chapter shall be made available for grants to municipalities;
342 however, Two Million Five Hundred Thousand Dollars (\$2,500,000.00)
343 of such amount shall be made available for grants to small
344 communities.

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

349 (3) A minimum of twenty-five percent (25%) of the aggregate
350 funds made available under this chapter shall be allocated to
351 small communities. For the purpose of determining the aggregate
352 funds available to make the allocation established in this
353 subsection, there shall be excluded from inclusion therein any
354 funds specifically dedicated pursuant to Sections 57-61-11(e)(iii)
355 and (v), 57-61-32, 57-61-33, 57-61-34, 57-61-36, 57-61-39,
356 57-61-41 and 57-75-27, Mississippi Code of 1972.

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

359 (5) Except in the case of an application pursuant to Section
360 57-61-9(5)(a), Mississippi Code of 1972, funds loaned shall be
361 secured by a lien and/or collateralized consistent with Section
362 57-61-9(1)(d), Mississippi Code of 1972, if required by the
363 Mississippi Development Authority.

364 (6) Except in the case of an application pursuant to Section
365 57-61-9(5)(a), Mississippi Code of 1972, private companies which
366 fail to create and maintain the number of jobs specified in an
367 approved application shall be liable for, in the discretion of the
368 Mississippi Development Authority, (a) a penalty equal to two
369 percent (2%) greater than the current prime interest rate for the
370 remainder of the loan made for their benefit, or (b) prepayment of
371 the outstanding loan amount incurred by the municipality for their
372 benefit, unless the penalty or a portion thereof is waived by the



373 Mississippi Development Authority because the failure is due to
374 circumstances outside the control of the private company. The
375 penalty shall be payable in installments which the Mississippi
376 Development Authority deems appropriate. Immediate notice of
377 penalties and waivers of penalties, including the penalties in
378 Section 57-61-9(1)(d), Mississippi Code of 1972, with the reasons
379 thereof, shall be submitted by the Mississippi Development
380 Authority to the Governor and the Legislature along with the
381 Mississippi Development Authority's decision on the imposition of
382 penalties and the reasons for this decision.

383 (7) Except in the case of an application pursuant to Section
384 57-61-9(5)(a), Mississippi Code of 1972, municipalities receiving
385 loans which fail to meet their repayment obligations shall forfeit
386 the right to receive their sales tax allocation and/or homestead
387 exemption reimbursement in an amount sufficient to repay
388 obligations due until such time as their indebtedness has been
389 discharged or arrangements to discharge such indebtedness
390 satisfactory to the Mississippi Development Authority have been
391 made. Sales tax allocations and/or homestead exemption
392 reimbursements forfeited hereby shall, upon demand by the
393 Mississippi Development Authority made in writing upon the State
394 Tax Commission, be paid to the Mississippi Development Authority
395 and applied to the discharge of the obligation. The Mississippi
396 Development Authority may prescribe such other penalties it deems
397 necessary.

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



405 (9) This chapter is expressly not intended to encourage the
406 relocation of a company from one jurisdiction within the state to
407 another. Any request by a local sponsor for assistance to be
408 provided a firm which currently operates a similar business in the
409 state must be accompanied by a demonstration that the total net
410 increase in and maintenance of full-time equivalent jobs, using
411 the current number of jobs in all similar businesses operated by
412 the private company in the state as a base, shall be at least
413 twenty-five percent (25%). This requirement shall not apply to
414 private companies relocating from small business incubators.

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

