

By: Senator(s) Minor

To: Finance

SENATE BILL NO. 2890

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 AMEND SECTION 57-61-15, MISSISSIPPI CODE OF 1972, TO EXTEND THE
 23 REVERTER ON THE PROVISION THAT REQUIRES THAT A MINIMUM OF 15%
 24 CERTAIN BOND PROCEEDS UNDER THE MISSISSIPPI BUSINESS INVESTMENT
 25 ACT BE ALLOCATED TO SMALL COMMUNITIES; AND FOR RELATED PURPOSES.

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

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

29 57-61-25. (1) The seller is authorized to borrow, on the
 30 credit of the state upon receipt of a resolution from the
 31 Mississippi Development Authority requesting the same, money not
 32 exceeding the aggregate sum of Two Hundred Ninety Million Dollars
 33 (\$290,000,000.00), not including money borrowed to refund
 34 outstanding bonds, notes or replacement notes, as may be necessary
 35 to carry out the purposes of this chapter. The aggregate amount
 36 of bonds issued prior to June 30, 1987, shall not exceed Fifty
 37 Million Dollars (\$50,000,000.00); provided, however, this Fifty
 38 Million Dollars (\$50,000,000.00) limitation shall not be construed



39 to limit the aggregate amount of grants which may be awarded prior
40 to June 30, 1987, to less than the full amount authorized under
41 Section 57-61-15(1), Mississippi Code of 1972. The rate of
42 interest on any such bonds or notes which are not subject to
43 taxation shall not exceed the rates set forth in Section
44 75-17-101, Mississippi Code of 1972, for general obligation bonds.

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

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

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

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

69 (6) The bonds may be issued as coupon bonds or registered as
70 to both principal and interest, as the seller may determine. If



71 interest coupons are attached, they shall contain the facsimile
72 signature of the chairman and secretary of the seller.

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

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

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



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

105 57-61-34. Notwithstanding any provision of this chapter to
106 the contrary, the Mississippi Development Authority shall utilize
107 not more than Nine Million Dollars (\$9,000,000.00) out of the
108 proceeds of bonds authorized to be issued in this chapter to be
109 made available as interest-bearing loans to municipalities or
110 private companies to aid in the establishment of business
111 incubation centers and the creation of new and expanding
112 technology-based business and industry.

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

118 The requirements of Section 57-61-9 shall not apply to any
119 loan made under this section. The Mississippi Development
120 Authority shall establish criteria and guidelines to govern loans
121 made pursuant to this section.

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

124 57-61-36. (1) Notwithstanding any provision of this chapter
125 to the contrary, the Mississippi Development Authority shall
126 utilize not more than Twelve Million Five Hundred Thousand Dollars
127 (\$12,500,000.00) out of the proceeds of bonds authorized to be
128 issued in this chapter for the purpose of making grants to
129 municipalities through a development infrastructure grant fund to
130 complete infrastructure related to new or expanded industry.

131 (2) Notwithstanding any provision of this chapter to the
132 contrary, the Mississippi Development Authority may utilize not
133 more than Seven Million Dollars (\$7,000,000.00) out of the
134 proceeds of bonds authorized to be issued in this chapter for the
135 purpose of making interest-bearing loans to any agency,



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

154 (3) Notwithstanding any provision of this chapter to the
155 contrary, the Mississippi Development Authority shall utilize not
156 more than Eight Million Five Hundred Thousand Dollars
157 (\$8,500,000.00) out of the proceeds of bonds authorized to be
158 issued in this chapter for the purpose of making grants or loans
159 to municipalities through an equipment and public facilities grant
160 and loan fund to aid in infrastructure-related improvements as
161 determined by the Mississippi Development Authority, the purchase
162 of equipment and in the purchase, construction or repair and
163 renovation of public facilities. Any bonds previously issued for
164 the Development Infrastructure Revolving Loan Program which have
165 not been loaned or applied for are eligible to be administered as
166 grants or loans.

167 The requirements of Section 57-61-9 shall not apply to any
168 grant made under this subsection. The Mississippi Development



169 Authority may establish criteria and guidelines to govern grants
170 made pursuant to this subsection.

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

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

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

200 Notwithstanding any provision of this chapter to the
201 contrary, the Mississippi Development Authority may utilize not



202 more than Seven Hundred Fifty Thousand Dollars (\$750,000.00) out
203 of the proceeds of bonds authorized to be issued in this chapter
204 for the purpose of making payments to loan loss reserve accounts
205 established at financial institutions that participate in the
206 capital access program established by the Mississippi Development
207 Authority.

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

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

217 57-61-41. Notwithstanding any provision of this chapter to
218 the contrary, the Mississippi Development Authority shall utilize
219 not more than Twelve Million Dollars (\$12,000,000.00) out of the
220 proceeds of bonds authorized to be issued in this chapter to be
221 made available to state, county or municipal port and airport
222 authorities through a Port Revitalization Revolving Loan Fund for
223 the purpose of making loans to port authorities for the
224 improvement of port and airport facilities to promote commerce and
225 economic growth. Proceeds shall not be made available to provide
226 any facilities for utilization by a gaming vessel.

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

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

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



235 57-61-15. (1) Except for grants authorized for state-owned
236 ports and for grants authorized under Section 57-61-32, Section
237 57-61-33 and Section 57-61-36, Mississippi Code of 1972, no more
238 than Seven Million Five Hundred Thousand Dollars (\$7,500,000.00)
239 of the proceeds of bonds authorized to be issued under this
240 chapter shall be made available for grants to municipalities;
241 however, Two Million Five Hundred Thousand Dollars (\$2,500,000.00)
242 of such amount shall be made available for grants to small
243 communities.

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

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

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

258 (5) Except in the case of an application pursuant to Section
259 57-61-9(5)(a), Mississippi Code of 1972, funds loaned shall be
260 secured by a lien and/or collateralized consistent with Section
261 57-61-9(1)(d), Mississippi Code of 1972, if required by the
262 Mississippi Development Authority.

263 (6) Except in the case of an application pursuant to Section
264 57-61-9(5)(a), Mississippi Code of 1972, private companies which
265 fail to create and maintain the number of jobs specified in an
266 approved application shall be liable for, in the discretion of the
267 Mississippi Development Authority, (a) a penalty equal to two



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

282 (7) Except in the case of an application pursuant to Section
283 57-61-9(5)(a), Mississippi Code of 1972, municipalities receiving
284 loans which fail to meet their repayment obligations shall forfeit
285 the right to receive their sales tax allocation and/or homestead
286 exemption reimbursement in an amount sufficient to repay
287 obligations due until such time as their indebtedness has been
288 discharged or arrangements to discharge such indebtedness
289 satisfactory to the Mississippi Development Authority have been
290 made. Sales tax allocations and/or homestead exemption
291 reimbursements forfeited hereby shall, upon demand by the
292 Mississippi Development Authority made in writing upon the State
293 Tax Commission, be paid to the Mississippi Development Authority
294 and applied to the discharge of the obligation. The Mississippi
295 Development Authority may prescribe such other penalties it deems
296 necessary.

297 (8) Any municipality which has forfeited its sales tax
298 allocation and/or homestead exemption reimbursement for twelve
299 (12) months may levy an ad valorem tax on the taxable property
300 therein for the purpose of meeting its repayment obligation. The



301 revenue produced from the tax levy shall not be included within
302 the ten percent (10%) growth limitation on ad valorem tax receipts
303 for its general budget.

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

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

316 57-61-15. (1) Except for grants authorized for state-owned
317 ports and for grants authorized under Section 57-61-32, Section
318 57-61-33 and Section 57-61-36, Mississippi Code of 1972, no more
319 than Seven Million Five Hundred Thousand Dollars (\$7,500,000.00)
320 of the proceeds of bonds authorized to be issued under this
321 chapter shall be made available for grants to municipalities;
322 however, Two Million Five Hundred Thousand Dollars (\$2,500,000.00)
323 of such amount shall be made available for grants to small
324 communities.

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

329 (3) A minimum of twenty-five percent (25%) of the aggregate
330 funds made available under this chapter shall be allocated to
331 small communities. For the purpose of determining the aggregate
332 funds available to make the allocation established in this
333 subsection, there shall be excluded from inclusion therein any



334 funds specifically dedicated pursuant to Sections 57-61-11(e) (iii)
335 and (v), 57-61-32, 57-61-33, 57-61-34, 57-61-36, 57-61-39,
336 57-61-41 and 57-75-27, Mississippi Code of 1972.

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

339 (5) Except in the case of an application pursuant to Section
340 57-61-9(5) (a), Mississippi Code of 1972, funds loaned shall be
341 secured by a lien and/or collateralized consistent with Section
342 57-61-9(1) (d), Mississippi Code of 1972, if required by the
343 Mississippi Development Authority.

344 (6) Except in the case of an application pursuant to Section
345 57-61-9(5) (a), Mississippi Code of 1972, private companies which
346 fail to create and maintain the number of jobs specified in an
347 approved application shall be liable for, in the discretion of the
348 Mississippi Development Authority, (a) a penalty equal to two
349 percent (2%) greater than the current prime interest rate for the
350 remainder of the loan made for their benefit, or (b) prepayment of
351 the outstanding loan amount incurred by the municipality for their
352 benefit, unless the penalty or a portion thereof is waived by the
353 Mississippi Development Authority because the failure is due to
354 circumstances outside the control of the private company. The
355 penalty shall be payable in installments which the Mississippi
356 Development Authority deems appropriate. Immediate notice of
357 penalties and waivers of penalties, including the penalties in
358 Section 57-61-9(1) (d), Mississippi Code of 1972, with the reasons
359 thereof, shall be submitted by the Mississippi Development
360 Authority to the Governor and the Legislature along with the
361 Mississippi Development Authority's decision on the imposition of
362 penalties and the reasons for this decision.

363 (7) Except in the case of an application pursuant to Section
364 57-61-9(5) (a), Mississippi Code of 1972, municipalities receiving
365 loans which fail to meet their repayment obligations shall forfeit
366 the right to receive their sales tax allocation and/or homestead



367 exemption reimbursement in an amount sufficient to repay
368 obligations due until such time as their indebtedness has been
369 discharged or arrangements to discharge such indebtedness
370 satisfactory to the Mississippi Development Authority have been
371 made. Sales tax allocations and/or homestead exemption
372 reimbursements forfeited hereby shall, upon demand by the
373 Mississippi Development Authority made in writing upon the State
374 Tax Commission, be paid to the Mississippi Development Authority
375 and applied to the discharge of the obligation. The Mississippi
376 Development Authority may prescribe such other penalties it deems
377 necessary.

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

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

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

