To: Finance

MISSISSIPPI LEGISLATURE
REGULAR SESSION 2003

By: Senator(s) Minor

SENATE BILL NO. 2890

AN ACT TO AMEND SECTION 57-61-25, MISSISSIPPI CODE OF 1972, TO INCREASE FROM $280,000,000.00 TO $290,000,000.00 THE AGGREGATE AMOUNT OF BONDS THAT MAY BE ISSUED UNDER THE MISSISSIPPI BUSINESS INVESTMENT ACT; TO AMEND SECTION 57-61-34, MISSISSIPPI CODE OF 1972, TO INCREASE FROM $7,000,000.00 TO $9,000,000.00 THE AMOUNT OF BOND PROCEEDS THAT THE MISSISSIPPI DEVELOPMENT AUTHORITY MAY MAKE AVAILABLE UNDER THE MISSISSIPPI BUSINESS INVESTMENT ACT AS INTEREST-BEARING LOANS TO AID IN THE ESTABLISHMENT OF BUSINESS INCUBATION CENTERS AND THE CREATION OF NEW AND EXPANDING TECHNOLOGY-BASED BUSINESS AND INDUSTRY; TO AMEND SECTION 57-61-36, MISSISSIPPI CODE OF 1972, TO INCREASE FROM $10,500,000.00 TO $12,500,000.00 THE AMOUNT OF BOND PROCEEDS THAT THE MISSISSIPPI DEVELOPMENT AUTHORITY MAY USE UNDER THE MISSISSIPPI BUSINESS INVESTMENT ACT FOR THE PURPOSE OF MAKING GRANTS TO COUNTIES AND MUNICIPALITIES UNDER THE DEVELOPMENT INFRASTRUCTURE GRANT PROGRAM; TO AMEND SECTION 57-61-41, MISSISSIPPI CODE OF 1972, TO INCREASE FROM $8,000,000.00 TO $12,000,000.00 THE AMOUNT OF BOND PROCEEDS THAT THE MISSISSIPPI DEVELOPMENT AUTHORITY MAY USE UNDER THE MISSISSIPPI BUSINESS INVESTMENT ACT FOR THE PURPOSE OF PROVIDING LOANS TO STATE, COUNTY AND MUNICIPAL PORT AUTHORITIES AND AIRPORT AUTHORITIES THROUGH THE PORT REVITALIZATION REVOLVING LOAN FUND; TO AMEND SECTION 57-61-15, MISSISSIPPI CODE OF 1972, TO EXTEND THE REVERTER ON THE PROVISION THAT REQUIRES THAT A MINIMUM OF 15% OF CERTAIN BOND PROCEEDS UNDER THE MISSISSIPPI BUSINESS INVESTMENT ACT BE ALLOCATED TO SMALL COMMUNITIES; AND FOR RELATED PURPOSES.

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

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

57-61-25. (1) The seller is authorized to borrow, on the credit of the state upon receipt of a resolution from the Mississippi Development Authority requesting the same, money not exceeding the aggregate sum of Two Hundred Ninety Million Dollars ($290,000,000.00), not including money borrowed to refund outstanding bonds, notes or replacement notes, as may be necessary to carry out the purposes of this chapter. The aggregate amount of bonds issued prior to June 30, 1987, shall not exceed Fifty Million Dollars ($50,000,000.00); provided, however, this Fifty Million Dollars ($50,000,000.00) limitation shall not be construed...
to limit the aggregate amount of grants which may be awarded prior
to June 30, 1987, to less than the full amount authorized under
Section 57-61-15(1), Mississippi Code of 1972. The rate of
interest on any such bonds or notes which are not subject to
taxation shall not exceed the rates set forth in Section
75-17-101, Mississippi Code of 1972, for general obligation bonds.

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

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

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

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

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

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

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

(9) The proceeds of bonds issued under this chapter after April 9, 2002, may be used to reimburse reasonable, actual and necessary costs incurred by the Mississippi Development Authority in administering a program or providing assistance related to a project, or both, for which funding is provided from the use of proceeds of such bonds. An accounting of actual costs incurred for which reimbursement is sought shall be maintained for each project by the Mississippi Development Authority. Reimbursement of reasonable, actual and necessary costs for a program or project shall not exceed three percent (3%) of the proceeds of bonds issued for such program or project. Monies authorized for a particular program or project may not be used to reimburse administrative costs for unrelated programs or projects. Reimbursements under this subsection shall satisfy any applicable federal tax law requirements.
SECTION 2. Section 57-61-34, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

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

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

The requirements of Section 57-61-9 shall not apply to any grant made under this subsection. The Mississippi Development Authority shall utilize the proceeds of the bonds to make loans to municipalities through an equipment and public facilities grant and loan fund to aid in infrastructure-related improvements as determined by the Mississippi Development Authority, the purchase of equipment and in the purchase, construction or repair and renovation of public facilities.
Authority may establish criteria and guidelines to govern grants made pursuant to this subsection.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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