

**\*\*\*Adopted\*\*\***

**AMENDMENT No. 1 PROPOSED TO**

**Senate Bill NO. 2868**

**By Representative(s) Committee**

24           **Amend by striking all after the enacting clause and inserting**  
25 **in lieu thereof the following:**

26

27           SECTION 1. Section 31-25-5, Mississippi Code of 1972, is  
28 amended as follows:

29           31-25-5. As used in this act, the following words and terms  
30 have the following meanings, unless a different meaning clearly  
31 appears from the context:

32                   (a) "Act" means this Mississippi Development Bank Act.

33                   (b) "Bank" means the Mississippi Development Bank  
34 created by this act.

35                   (c) "Board" means the Board of Directors of the  
36 Mississippi Business Finance Corporation.

37                   (d) "Bondholder" or "holder" or any similar term when  
38 used with reference to a bond of the bank means any person who  
39 shall be the bearer of any outstanding bond of the bank registered  
40 to bearer or not registered, or the registered owner of any  
41 outstanding bond of the bank which shall at the time be registered  
42 other than to bearer.

43                   (e) "Bonds" means bonds, notes or other evidences of  
44 indebtedness of the bank issued pursuant to this act.

45                   (f) "County" shall mean a county of this state.

46                   (g) "Fully marketable form" means a duly and validly

47 issued security accompanied by an approving legal opinion of a  
48 bond counsel of recognized standing in the field of bond law whose  
49 opinions are generally accepted by purchasers of municipal bonds,  
50 provided that the security so executed need not be printed or  
51 lithographed nor be in more than one (1) denomination.

52 (h) "Local governmental unit" means (i) any county,  
53 municipality, utility district, regional solid waste authority,  
54 county cooperative service district or political subdivision of  
55 the State of Mississippi, (ii) the State of Mississippi or any  
56 agency thereof, (iii) the institutions of higher learning of the  
57 State of Mississippi, (iv) any education building corporation  
58 established for institutions of higher learning, or (v) any other  
59 governmental unit created under state law.

60 (i) "Municipality" means any municipality of the state,  
61 whether operating under the code charter, the commission form of  
62 government, a special charter or any other form of government.

63 (j) "Security" means a bond, note or other evidence of  
64 indebtedness issued by a local governmental unit pursuant to the  
65 provisions of this act.

66 (k) "Revenues" means all fees, charges, monies,  
67 profits, payments of principal of or interest on securities and  
68 other investments, gifts, grants, contributions, appropriations  
69 and all other income derived by the bank under this act.

70 (l) "State" means the State of Mississippi.

71 SECTION 2. Section 31-25-27, Mississippi Code of 1972, is  
72 amended as follows:

73 31-25-27. (1) Each local governmental unit is hereby  
74 authorized and empowered to contract with the bank with respect to  
75 the bank's purchase of such local governmental unit's securities  
76 and such contract shall contain such terms and conditions as may  
77 be prescribed by the bank. Each local governmental unit is  
78 authorized and empowered to pay to the bank such fees and charges  
79 for services as the bank may prescribe.

80 (2) Each local governmental unit is hereby authorized to  
81 issue securities under the provisions of this act and to sell such

82 securities to the bank to raise money for any purpose or purposes  
83 set forth in Sections 21-27-23, 21-33-301, 21-33-325, 21-33-326,  
84 31-27-5, 17-17-301 et seq. and any other state law authorizing the  
85 issuance of local governmental unit debt, and for the purpose of  
86 refunding any securities issued under the provisions of this act  
87 or under the provisions of Section 21-27-11 et seq., or Section  
88 21-33-301 et seq., or Section 31-27-1 et seq. Such securities may  
89 be issued in accordance with Sections 21-33-301, 21-33-303,  
90 21-33-307, 21-33-309, 21-33-311, 21-33-313, 21-33-325 and  
91 21-33-326, or Sections 21-27-23 through 21-27-43 and Sections  
92 21-27-47 through 21-27-71, or Sections 31-27-1 through 31-27-25,  
93 or Sections 17-5-3 through 17-5-11, or Sections 49-17-101 through  
94 49-17-123, or Sections 17-17-301 through 17-17-349 or any other  
95 state law authorizing issuance of local governmental unit debt, as  
96 the case may be, unless otherwise specifically provided in this  
97 act; provided, however, the securities of any local governmental  
98 unit may be issued with such terms and provisions as may be  
99 necessary and appropriate in order to comply with the provisions  
100 of any loan agreement described in Section 49-17-87. Whenever  
101 securities shall be issued under this subsection, the governing  
102 authority may also pledge to the payment of principal of, premium,  
103 if any, and interest on such securities the revenues of any  
104 project to be constructed, improved or purchased with the proceeds  
105 thereof. Whenever any project is a part of a system or combined  
106 system, then all or any portion of the revenues of such system or  
107 combined system may be pledged to secure repayment of such  
108 securities as determined by the bank.

109 (3) Each local governmental unit is hereby authorized to  
110 issue securities to the bank to raise money for any purpose or  
111 purposes set forth in Sections 19-9-1, 19-9-27 or 19-9-28 and for  
112 the purpose of refunding any securities issued under the  
113 provisions of this act or under the provisions of Section 19-9-1  
114 et seq. Such securities may be issued in accordance with Sections  
115 19-9-1, 19-9-3, 19-9-5, 19-9-7, 19-9-9, 19-9-11, 19-9-13, 19-9-15,  
116 19-9-17, 19-9-27 and 19-9-28, or Sections 17-5-3 through 17-5-11,

117 or Sections 49-17-101 through 49-17-123, as the case may be,  
118 unless otherwise specifically provided in this act; provided,  
119 however, the securities of any local governmental unit may be  
120 issued with such terms and provisions as may be necessary and  
121 appropriate in order to comply with the provisions of any loan  
122 agreement described in Section 49-17-87. Whenever securities  
123 shall be issued under this subsection, the board of supervisors of  
124 the county may also pledge to the payment of principal of,  
125 premium, if any, and interest on such securities the revenues of  
126 any project to be constructed, improved, repaired or purchased  
127 with the proceeds thereof. Whenever any project is a part of a  
128 system or combined system, then all or any portion of the revenues  
129 of such system or combined system may be pledged to secure  
130 repayment of such securities as determined by the bank.

131 (4) In addition, any local governmental unit is hereby  
132 authorized to issue securities to the bank to raise money for any  
133 purpose or purposes otherwise authorized by state law and for the  
134 purpose of refunding any securities issued under the provisions of  
135 this act or as otherwise authorized by state law including Section  
136 49-17-83 et seq. Such securities may be issued in accordance with  
137 any other applicable provision of state law related to the  
138 issuance of securities including Section 49-17-83 et seq. Whenever  
139 securities shall be issued under this subsection, the governing  
140 body of such local governmental unit may also pledge to the  
141 payment of principal of, premium, if any, and interest on such  
142 securities the revenues of any project to be constructed, improved  
143 or purchased with the proceeds thereof. Whenever any project is a  
144 part of a system or combined system, then all or any portion of  
145 the revenues of such system or combined system may be pledged to  
146 secure repayment of such securities as determined by the bank.

147 (5) Securities issued by a local governmental unit under the  
148 provisions of this act:

149 (a) May be sold only to the bank at private sale and  
150 may be sold at such price or prices, in such manner and at such  
151 times as may be agreed to by the bank and the local governmental

152 unit, and the governing body of the local governmental unit may  
153 pay all expenses, premiums, fees and commissions which it may deem  
154 necessary and advantageous in connection with the issuance and  
155 sale thereof;

156 (b) Shall be secured as provided by Chapter 27, Title  
157 21, Mississippi Code of 1972; Chapter 33, Title 21, Mississippi  
158 Code of 1972; or Chapter 9, Title 19, Mississippi Code of 1972, or  
159 other provisions of state law, and as provided in this act; and it  
160 is the intention of the Legislature that any pledge of earnings,  
161 revenues or other monies made by the local governmental unit shall  
162 be valid and binding from the time the pledge is made; that the  
163 earnings, revenues or other monies so pledged and thereafter  
164 received by the local governmental unit shall immediately be  
165 subject to the lien of such pledge without any physical delivery  
166 thereof or further act, and that the lien of any such pledge shall  
167 be valid and binding as against all parties having claims of any  
168 kind in tort, contract or otherwise against the local governmental  
169 unit irrespective of whether such parties have notice thereof; and  
170 neither the resolution nor any other instrument by which a pledge  
171 is created need be recorded;

172 (c) Neither the officers or members of the governing  
173 body of the local governmental unit nor any person executing the  
174 bonds shall be personally liable on the bonds or be subject to any  
175 personal liability or accountability by reason of the issuance  
176 thereof;

177 (d) Shall be issued for the purposes set forth in this  
178 act and shall include terms and conditions which meet the state  
179 law authorizing the issuance of such local governmental unit debt  
180 and/or such terms and conditions consistent with the requirements  
181 for issuance of Mississippi Development Bank Bonds under Section  
182 31-25-37.

183 (6) Each local governmental unit issuing securities under  
184 the provisions of this act is hereby authorized and empowered in  
185 connection with the issuance of such securities to enter into any  
186 covenants, agreements as to defaults and agreements as to remedies

187 of the bank for defaults with respect to such local governmental  
188 unit's operation, revenues, assets, monies, funds or property as  
189 may be prescribed by the bank.

190 (7) The proceeds of securities shall be deposited in one or  
191 more special funds established by resolution of the local  
192 governmental unit issuing the same and shall be applied to the  
193 following: (a) the purpose for which the securities were issued;  
194 (b) the payment of all costs of issuance of the securities; (c)  
195 the payments of any fees and charges established by the bank; (d)  
196 the payment of interest on the securities for a period of time not  
197 greater than the period of time estimated to be required to  
198 complete the purpose for which the securities were issued; all to  
199 the extent provided by resolution of the governing body of the  
200 local governmental unit and approved by the bank. Such special  
201 fund shall be held by commercial banks qualified to act as  
202 depositories therefor.

203 (8) In the event the bank determines to issue bonds and in  
204 connection therewith to exercise the powers provided in subsection  
205 (7) of Section 31-25-37, and if the requirements of subsection  
206 (2), (3) or (4) as the case may be, of this section have been  
207 satisfied, a local governmental unit is authorized to issue its  
208 securities as provided in this section.

209 (9) Securities issued under this act may be validated in the  
210 manner and with the force and effect provided in Section 31-13-1  
211 et seq.

212 (10) This act shall be deemed to provide an additional,  
213 alternative and complete method for the doing of the things  
214 authorized hereby and shall be deemed and construed to be  
215 supplemental to any power conferred by other laws on local  
216 governmental units and not in derogation of any such powers.

217 (11) Any person who attempts to or obtains financial aid for  
218 a local governmental unit hereunder or who attempts to or sells  
219 securities of a governmental unit to the bank by false or  
220 misleading information or who shall by fraud attempt to obtain  
221 monies from the bank or its approval for the payment of monies or

222 shall fraudulently attempt to or does prevent the collection of  
223 any monies due to the bank shall, upon conviction, be guilty of a  
224 felony for each offense.

225 (12) Upon the sale and issuance of any securities to the  
226 bank by any governmental unit, such governmental unit shall be  
227 held and be deemed to have agreed that in the event of the failure  
228 of such governmental unit to pay the interest on or the principal  
229 of any of such securities owned or held by the bank as and when  
230 due and payable, such governmental unit shall have waived any and  
231 all defenses to such nonpayment, and the bank upon such nonpayment  
232 shall thereupon constitute a holder or owner of such securities as  
233 being in default, and the bank may then and thereupon avail itself  
234 of all remedies, rights and provisions of law applicable in such  
235 circumstance, including without limitation any remedies or rights  
236 theretofore agreed to by the local governmental unit, and that all  
237 of the securities of the issue of securities of such governmental  
238 unit as to which there has been such nonpayment, shall for all of  
239 the purposes of this section be held and be deemed to have become  
240 due and payable and to be unpaid. The bank is hereby authorized  
241 and empowered to carry out the provisions of this section and to  
242 exercise all of the rights and remedies and provisions of law  
243 herein provided or referred to.

244 (13) Any local governmental unit which borrows from the bank  
245 is hereby authorized and empowered to agree in writing with the  
246 bank that, as provided in this subsection, the State Tax  
247 Commission or any state agency, department or commission created  
248 pursuant to state law shall (a) withhold all or any part (as  
249 agreed by the local governmental unit) of any monies which such  
250 local governmental unit is entitled to receive from time to time  
251 pursuant to any law and which is in the possession of the State  
252 Tax Commission, or any state agency, department or commission  
253 created pursuant to state law and (b) pay the same over to the  
254 bank to satisfy any delinquent payments on any securities issued  
255 by such local governmental unit under the provisions of this act  
256 and any other delinquent payments due and owing the bank by such

257 local governmental unit, all as the same shall occur. In the  
258 event the bank shall file a copy of such written agreement,  
259 together with a statement of delinquency, with the State Tax  
260 Commission, or any state agency, department or commission created  
261 pursuant to state law then the State Tax Commission or any state  
262 agency, department or commission created pursuant to state law  
263 shall immediately make the withholdings provided in such agreement  
264 from the amounts due the local governmental unit and shall  
265 continue to pay the same over to the bank until all such  
266 delinquencies are satisfied.

267 (14) A local governmental unit described in Section  
268 31-25-5(h)(ii), (iii) or (iv) may issue securities only for the  
269 purpose of acquiring machinery, equipment, furnishings and other  
270 tangible personal property. Such a local governmental entity may  
271 issue securities in an aggregate amount not to exceed Five Million  
272 Dollars (\$5,000,000.00) per fiscal year.

273 (15) If a local governmental unit described in Section  
274 31-25-5(h)(ii), (iii) or (iv) has received funding or is to  
275 receive funding for a project from the bank for a fiscal year for  
276 which the local governmental unit requests an appropriation for  
277 the project as part of its budget request submitted to the Joint  
278 Legislative Budget Committee, the local governmental unit must  
279 report such funding in its budget request submitted to the Joint  
280 Legislative Budget Committee, and the Joint Legislative Budget  
281 Committee shall report the funding in the recommended state  
282 budget. If the Legislature appropriates funds to such a local  
283 governmental unit for a project that has been funded or will be  
284 funded by the bank for the fiscal year for which the appropriation  
285 is made, the legislation authorizing the appropriation shall  
286 indicate that the amount appropriated for the project is in  
287 addition to the funding provided by the bank.

288 SECTION 3. Section 31-25-31, Mississippi Code of 1972, is  
289 amended as follows:

290 31-25-31. (1) Except as otherwise provided in subsection  
291 (2) of this section, bonds issued by the bank under this chapter



292 shall be general obligations of the bank or, if the resolution of  
293 the board authorizing their issuance shall so provide, shall be  
294 special obligations thereof payable solely from payments of  
295 principal, interest and redemption payments on the municipal  
296 securities being purchased with their proceeds or from such  
297 payments on any or all municipal securities held or to be held by  
298 the bank or from other funds available to the bank as provided in  
299 such resolution or by any provision of law. Bonds issued by the  
300 bank shall not constitute or become an indebtedness, or a debt or  
301 liability of the state or of any local governmental unit nor shall  
302 any such entity other than the bank (in the case of its general  
303 obligations) be liable thereon, nor shall bonds or any powers  
304 granted herein to the state or agency thereof or local  
305 governmental unit constitute the giving, pledging or loaning of  
306 the faith and credit of the state or such agency thereof or of  
307 such local governmental unit. The issuance of bonds hereunder  
308 shall not directly, indirectly or contingently obligate the state  
309 to levy or collect any form of taxes or assessments therefor or to  
310 create any indebtedness payable out of taxes or assessments or  
311 make any appropriation for their payment nor to pledge the taxing  
312 power of the state and such levy or pledge is prohibited; however,  
313 notwithstanding the foregoing, nothing in this section shall be  
314 construed to prohibit any local governmental unit (including the  
315 state or any agency thereof) from assuming obligations in  
316 accordance with and subject to the limitations of this act or from  
317 issuing and selling municipal securities to the bank in accordance  
318 herewith. Nothing in this act shall be construed to authorize the  
319 bank to create a debt of the state within the meaning of the  
320 constitution or statutes of the state or authorize the bank to  
321 levy or collect taxes or assessments and bonds issued by the bank  
322 pursuant to the provisions of this act are payable and shall state  
323 plainly on their face that they are payable solely as general  
324 obligations of the bank, or solely from the funds pledged for  
325 their payment in accordance with the resolution authorizing their  
326 issuance or in any trust indenture or mortgage or deed of trust

327 executed as security therefor, as the case may be, and are not a  
328 debt or liability of the state. The state shall not in any event  
329 be liable for the payment of the principal or interest on any  
330 bonds of the bank or for the performance of any pledge, mortgage,  
331 obligations or agreement of any kind whatsoever which may be  
332 undertaken by the bank. No breach of any such pledge, mortgage,  
333 obligation or agreement shall impose any pecuniary liability upon  
334 the state or any charge upon its general credit or against its  
335 taxing power. Nothing in this subsection shall be construed to  
336 prohibit any local governmental unit (including the state or any  
337 agency thereof) from assuming obligations in accordance with and  
338 subject to the limitations of this act or from issuing and selling  
339 any security to the bank in accordance with this act. Any  
340 security issued or sold by a local governmental unit described in  
341 Section 31-25-5(h)(ii), (iii) or (iv) shall be subject to the  
342 requirements of Section 31-25-27(14).

343 (2) Bonds issued by the bank under Section 31-25-21(k) for  
344 the purposes provided in Section 31-25-20(g) shall be general  
345 obligations of the State of Mississippi, and for the payment  
346 thereof the full faith and credit of the State of Mississippi is  
347 irrevocably pledged. If the funds appropriated by the Legislature  
348 are insufficient to pay the principal of and the interest on such  
349 bonds as they become due, then the deficiency shall be paid by the  
350 State Treasurer from any funds in the State Treasury not otherwise  
351 appropriated. All such bonds shall contain recitals on their  
352 faces substantially covering the provisions of this subsection  
353 (2).

354 SECTION 4. This act shall take effect and be in force from  
355 and after July 1, 2000.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 31-25-5, MISSISSIPPI CODE OF 1972, TO  
2 REVISE THE DEFINITION OF THE TERM "LOCAL GOVERNMENTAL ENTITY"  
3 UNDER THE MISSISSIPPI DEVELOPMENT BANK ACT TO INCLUDE THE STATE OR  
4 ANY AGENCY THEREOF, INSTITUTIONS OF HIGHER LEARNING AND EDUCATION  
5 BUILDING CORPORATIONS ESTABLISHED FOR INSTITUTIONS OF HIGHER

6LEARNING; TO AMEND SECTION 31-25-27, MISSISSIPPI CODE OF 1972, TO  
7PROVIDE THAT SECURITIES ISSUED FOR LOCAL GOVERNMENTAL UNITS UNDER  
8THE PROVISIONS OF THE MISSISSIPPI DEVELOPMENT BANK ACT SHALL  
9INCLUDE TERMS AND CONDITIONS WHICH MEET THE PROVISION OF THE STATE  
10LAW AUTHORIZING THE ISSUANCE OF SUCH SECURITIES AND/OR SUCH TERMS  
11AND CONDITIONS CONSISTENT WITH THE REQUIREMENTS FOR ISSUANCE OF  
12MISSISSIPPI DEVELOPMENT BANK BONDS; TO PROVIDE THAT CERTAIN LOCAL  
13GOVERNMENTAL UNITS MAY ISSUE SECURITIES ONLY FOR THE PURPOSE OF  
14ACQUIRING MACHINERY, EQUIPMENT, FURNISHINGS AND OTHER TANGIBLE  
15PERSONAL PROPERTY; TO LIMIT THE AMOUNT OF SECURITIES THAT CERTAIN  
16LOCAL GOVERNMENTAL UNITS MAY ISSUE; TO AMEND SECTION 31-25-31,  
17MISSISSIPPI CODE OF 1972, TO PROVIDE THAT LOCAL GOVERNMENTAL UNITS  
18SHALL NOT BE PROHIBITED FROM ASSUMING OBLIGATIONS IN ACCORDANCE  
19WITH AND SUBJECT TO THE LIMITATIONS OF THE MISSISSIPPI DEVELOPMENT  
20BANK ACT, OR FROM ISSUING AND SELLING ANY SECURITY TO THE  
21MISSISSIPPI DEVELOPMENT BANK IN ACCORDANCE WITH SUCH ACT; AND FOR  
22RELATED PURPOSES.