To: Ways and Means

MISSISSIPPI LEGISLATURE                        REGULAR SESSION 2001
By: Representatives McCoy, Morris

HOUSE BILL NO. 781
(As Sent to Governor)

AN ACT TO REENACT SECTIONS 57-10-401 THROUGH 57-10-445 AND
SECTION 27-7-22.3, MISSISSIPPI CODE OF 1972, WHICH CREATE THE
MISSISSIPPI BUSINESS FINANCE CORPORATION AND PRESCRIBE ITS POWERS
AND DUTIES; TO AMEND SECTION 57-10-499, MISSISSIPPI CODE OF 1972,
to extend until October 1, 2005, the repeal date on Sections 57-10-401 through 57-10-445 and 27-7-22.3, MISSISSIPPI CODE OF 1972; to amend Sections 31-25-19, 57-10-17, 57-10-31, 57-10-39, 57-10-105, 57-10-109, 57-10-167 and 57-10-207, MISSISSIPPI CODE OF 1972, to clarify that the Mississippi Development Bank and the Mississippi Business Finance Corporation are independent public bodies and that the powers conferred upon the Bank and the Corporation are vested in the board of directors of the Mississippi Business Finance Corporation and in no other state agency; to repeal Section 57-10-37, MISSISSIPPI CODE OF 1972, which provides that the administrative and staff services of the Corporation shall be provided by the Mississippi Agricultural and Industrial Board; and for related purposes.

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

SECTION 1. Section 57-10-401, Mississippi Code of 1972, is reenacted as follows:

57-10-401. As used in Sections 57-10-401 through 57-10-445 the following terms shall have the meanings ascribed to them herein unless the context clearly indicates otherwise:

(a) "Approved company" means any eligible company seeking to locate an economic development project in a county, which eligible company is approved by the corporation.

(b) "Approved costs" means:

(i) Obligations incurred for equipment and labor and to contractors, subcontractors, builders and materialmen in

[In cases involving an economic development project for which the Mississippi Business Finance Corporation has issued bonds for the purpose of financing the approved costs of such project prior to July 1, 1994, this section shall read as follows:]
connection with the acquisition, construction and installation of
an economic development project;

(ii) The cost of acquiring land or rights in land
and any cost incidental thereto, including recording fees;

(iii) The cost of contract bonds and of insurance
of all kinds that may be required or necessary during the course
of acquisition, construction and installation of an economic
development project which is not paid by the contractor or
contractors or otherwise provided for;

(iv) All costs of architectural and engineering
services, including test borings, surveys, estimates, plans and
specifications, preliminary investigations, and supervision of
construction, as well as for the performance of all the duties
required by or consequent upon the acquisition, construction and
installation of an economic development project;

(v) All costs which shall be required to be paid
under the terms of any contract or contracts for the acquisition,
construction and installation of an economic development project;

(vi) All costs, expenses and fees incurred in
connection with the issuance of bonds pursuant to Sections
57-10-401 through 57-10-445;

(vii) All costs funded by a loan made under the
Mississippi Small Enterprise Development Finance Act; and

(viii) All costs of professionals permitted to be
engaged under the Mississippi Small Enterprise Development Finance
Act for a loan made under such act.

(c) "Assessment" means the job development assessment
fee authorized in Section 57-10-413.

(d) "Bonds" means the revenue bonds, notes or other
debt obligations of the corporation authorized to be issued by the
corporation on behalf of an eligible company or other state
agency.
(e) "Corporation" means the Mississippi Business Finance Corporation created under Section 57-10-167, Mississippi Code of 1972.

(f) "Economic development project" means and includes the acquisition of any equipment or real estate in a county and the construction and installation thereon, and with respect thereto, of improvements and facilities necessary or desirable for improvement of the real estate, including surveys, site tests and inspections, subsurface site work, excavation, removal of structures, roadways, cemeteries and other surface obstructions, filling, grading and provision of drainage, storm water detention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications and similar facilities, off-site construction of utility extensions to the boundaries of the real estate, and the acquisition, construction and installation of manufacturing, telecommunications, data processing, distribution or warehouse facilities on the real estate, for lease or financial arrangement by the corporation to an approved company for use and occupancy by the approved company or its affiliates for manufacturing, telecommunications, data processing, distribution or warehouse purposes. Such term also includes, without limitation, any project the financing of which has been approved under the Mississippi Small Enterprise Development Finance Act.

(g) "Eligible company" means any corporation, partnership, sole proprietorship, business trust, or other entity which is:

(i) Engaged in manufacturing which meets the standards promulgated by the corporation under Sections 57-10-401 through 57-10-445;

(ii) A private company approved by the corporation for a loan under the Mississippi Small Enterprise Development Finance Act;

H. B. No. 781
01/HR03/R930SG
PAGE 3 (TB\LH)
(iii) A distribution or warehouse facility employing a minimum of fifty (50) people or employing a minimum of twenty (20) people and having a capital investment in such facility of at least Five Million Dollars ($5,000,000.00); or

(iv) A telecommunications or data processing business.

(h) "Executive director" means the Executive Director of the Mississippi Business Finance Corporation.

(i) "Financing agreement" means any financing documents and agreements, indentures, loan agreements, lease agreements, security agreements and the like, entered into by and among the corporation, private lenders and an approved company with respect to an economic development project.

(j) "Manufacturing" means any activity involving the manufacturing, processing, assembling or production of any property, including the processing resulting in a change in the conditions of the property and any activity functionally related thereto, together with the storage, warehousing, distribution and related office facilities in respect thereof as determined by the Mississippi Business Finance Corporation; however, in no event shall "manufacturing" include mining, coal or mineral processing, or extraction of Mississippi minerals.

(k) "State agency" means any state board, commission, committee, council, university, department or unit thereof created by the Constitution or laws of this state.

(l) "Revenues" shall not be considered state funds.

(m) "State" means the State of Mississippi.

(n) "Mississippi Small Enterprise Development Finance Act" means the provisions of law contained in Section 57-71-1 et seq.

[In cases involving an economic development project for which the Mississippi Business Finance Corporation has not issued bonds]
for the purpose of financing the approved costs of such project
prior to July 1, 1994, this section shall read as follows:

57-10-401. As used in Sections 57-10-401 through 57-10-445
the following terms shall have the meanings ascribed to them
herein unless the context clearly indicates otherwise:

(a) "Approved company" means any eligible company
seeking to locate an economic development project in a county,
which eligible company is approved by the corporation.

(b) "Approved costs" means:
   (i) Obligations incurred for equipment and labor
   and to contractors, subcontractors, builders and materialmen in
   connection with the acquisition, construction and installation of
   an economic development project;
   (ii) The cost of acquiring land or rights in land
   and any cost incidental thereto, including recording fees;
   (iii) The cost of contract bonds and of insurance
   of all kinds that may be required or necessary during the course
   of acquisition, construction and installation of an economic
   development project which is not paid by the contractor or
   contractors or otherwise provided for;
   (iv) All costs of architectural and engineering
   services, including test borings, surveys, estimates, plans and
   specifications, preliminary investigations, and supervision of
   construction, as well as for the performance of all the duties
   required by or consequent upon the acquisition, construction and
   installation of an economic development project;
   (v) All costs which shall be required to be paid
   under the terms of any contract or contracts for the acquisition,
   construction and installation of an economic development project;
   (vi) All costs, expenses and fees incurred in
   connection with the issuance of bonds pursuant to Sections
   57-10-401 through 57-10-445;
(vii) All costs funded by a loan made under the Mississippi Small Enterprise Development Finance Act; and

(viii) All costs of professionals permitted to be engaged under the Mississippi Small Enterprise Development Finance Act for a loan made under such act.

(c) "Assessment" means the job development assessment fee authorized in Section 57-10-413.

(d) "Bonds" means the revenue bonds, notes or other debt obligations of the corporation authorized to be issued by the corporation on behalf of an eligible company or other state agency.

(e) "Corporation" means the Mississippi Business Finance Corporation created under Section 57-10-167, Mississippi Code of 1972.

(f) "Economic development project" means and includes the acquisition of any equipment or real estate in a county and the construction and installation thereon, and with respect thereto, of improvements and facilities necessary or desirable for improvement of the real estate, including surveys, site tests and inspections, subsurface site work, excavation, removal of structures, roadways, cemeteries and other surface obstructions, filling, grading and provision of drainage, storm water detention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications and similar facilities, off-site construction of utility extensions to the boundaries of the real estate, and the acquisition, construction and installation of manufacturing, telecommunications, data processing, distribution or warehouse facilities on the real estate, for lease or financial arrangement by the corporation to an approved company for use and occupancy by the approved company or its affiliates for manufacturing, telecommunications, data processing, distribution or warehouse purposes. Such term also includes, without
limitation, any project the financing of which has been approved under the Mississippi Small Enterprise Development Finance Act. If an eligible company closes a facility in this state and becomes an approved company under the provisions of Sections 57-10-401 through 57-10-449, only that portion of the project for which such company is attempting to obtain financing that is in excess of the value of the closed facility shall be included within the definition of the term "economic development project."

The Mississippi Business Finance Corporation shall promulgate rules and regulations to govern the determination of the difference between the value of the closed facility and the new facility.

(g) "Eligible company" means any corporation, partnership, sole proprietorship, business trust, or other entity which:

(i) Engaged in manufacturing which meets the standards promulgated by the corporation under Sections 57-10-401 through 57-10-445;

(ii) A private company approved by the corporation for a loan under the Mississippi Small Enterprise Development Finance Act;

(iii) A distribution or warehouse facility employing a minimum of fifty (50) people or employing a minimum of twenty (20) people and having a capital investment in such facility of at least Five Million Dollars ($5,000,000.00); or

(iv) A telecommunications or data processing business.

(h) "Executive director" means the Executive Director of the Mississippi Business Finance Corporation.

(i) "Financing agreement" means any financing documents and agreements, indentures, loan agreements, lease agreements, security agreements and the like, entered into by and among the
corporation, private lenders and an approved company with respect
to an economic development project.

(j) "Manufacturing" means any activity involving the
manufacturing, processing, assembling or production of any
property, including the processing resulting in a change in the
conditions of the property and any activity functionally related
thereto, together with the storage, warehousing, distribution and
related office facilities in respect thereof as determined by the
Mississippi Business Finance Corporation; however, in no event
shall "manufacturing" include mining, coal or mineral processing,
or extraction of Mississippi minerals.

(k) "State agency" means any state board, commission,
committee, council, university, department or unit thereof created
by the Constitution or laws of this state.

(l) "Revenues" shall not be considered state funds.

(m) "State" means the State of Mississippi.

(n) "Mississippi Small Enterprise Development Finance
Act" means the provisions of law contained in Section 57-71-1 et
seq.

SECTION 2. Section 57-10-403, Mississippi Code of 1972, is
reenacted as follows:

57-10-403. (1) The Legislature finds and declares that the
general welfare and material well-being of citizens of the state
depend in large measure upon the development and growth of
industry in the state.

(2) The Legislature finds and declares further that it is in
the best interest of the state to induce the location or expansion
of manufacturing facilities within this state in order to advance
the public purposes of relieving unemployment by creating new jobs
within this state that, but for the inducements to be offered by
the corporation to approved companies as herein provided, would
not exist, and of creating new sources of tax revenues for the
support of the public services provided by this state and country.
The Legislature finds and declares further that the authority granted by this article and the purposes to be accomplished hereby are proper governmental and public purposes for which public monies may be expended, and that the inducement of the location or expansion of manufacturing facilities within the state is of paramount importance, mandating that the provisions of this act be liberally construed and applied in order to advance the public purposes.

SECTION 3. Section 57-10-405, Mississippi Code of 1972, is reenacted as follows:

57-10-405. In addition to its other powers and duties, the corporation shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of Sections 57-10-401 through 57-10-445, including, but without limiting the generality of the foregoing, the power:

(a) To provide and finance economic development projects under the provisions of Sections 57-10-401 through 57-10-445, and cooperate with counties, municipalities and eligible companies in order to promote, foster and support economic development within the counties and municipalities;

(b) To conduct hearings and inquiries, in the manner and by the methods as it deems desirable, including, without limitation, appointment of special committees, for the purpose of gathering information with respect to counties, municipalities, eligible companies and economic development projects, for the purpose of making any determinations necessary or desirable in the furtherance of Sections 57-10-401 through 57-10-445;

(c) To negotiate the terms of, and enter into financing agreements with, approved companies, and in connection therewith to acquire, convey, sell, own, lease, mortgage, finance, foreclose or otherwise dispose of any property, real or personal, in connection with an economic development project, and to pay, or cause to be paid, in accordance with the provisions of a financing
agreement, the approved costs of an economic development project from any funds available therefor, including, without limitation, funds available as the result of the issuance of bonds under the Mississippi Small Enterprise Development Finance Act;

d) To delegate to the executive director the rights and powers of the corporation required for the proper and desirable execution of the purposes of this article;

e) To consent, if it deems it necessary or desirable in the fulfillment of its purposes, to the modification of the terms of any financing agreements of any kind to which the corporation is a party;

f) To include in any borrowing the amounts deemed necessary by the corporation to pay financing charges, consultant, advisory and legal fees, fees for bond insurance, letters of credit or other forms of credit enhancement, investment advisory fees, trustees' fees and other expenses necessary or incident to the borrowing;

g) To make and publish administrative regulations respecting its programs and other administrative regulations necessary or appropriate to effectuate the purposes of Sections 57-10-401 through 57-10-445, and necessary to administer the procedures and program as provided for in Sections 57-10-401 through 57-10-445;

h) To make, execute and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, or other organization or entity, necessary or appropriate to accomplish the purposes of Sections 57-10-401 through 57-10-445, including any financing agreements with state agencies or any political subdivisions of the state under which funds may be pledged by or to the corporation for the payment of its bonds;

i) To accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance
and any other aid from any source and to agree to, and to comply
with, conditions attached thereto;

(j) To sue and be sued in its own name, plead and be
impleaded; and

(k) To invest any funds held by the corporation or its
agents or trustees, under Sections 57-10-401 through 57-10-445,
including, but not limited to, the proceeds of bonds issued under
Sections 57-10-401 through 57-10-445, reserve or other funds, or
any monies not required for immediate disbursement, and the
investment income on any of the foregoing, in obligations
authorized by Sections 57-10-401 through 57-10-445.

SECTION 4. Section 57-10-407, Mississippi Code of 1972, is
reenacted as follows:

57-10-407. The corporation may accept and expend: (a)
monies which may be appropriated from time to time by the
Legislature; (b) monies which may be available under the
Mississippi Small Enterprise Development Finance Act; or (c)
monies which may be received from any source, including income
from the corporation's operations, under Sections 57-10-401
through 57-10-445, for effectuating the purposes of Sections
57-10-401 through 57-10-445, including, without limitation, the
payment of the expenses of administration and operation incurred
pursuant to Sections 57-10-401 through 57-10-445 and the
establishment and, if deemed desirable, maintenance of a reserve
or contingency fund for the administration of Sections 57-10-401
through 57-10-445.

SECTION 5. Section 57-10-409, Mississippi Code of 1972, is
reenacted as follows:

[In cases involving an economic development project for which
the Mississippi Business Finance Corporation has issued bonds for
the purpose of financing the approved costs of such project prior
to July 1, 1994, this section shall read as follows:]
57-10-409. The corporation may enter into, with any approved company, a financing agreement with respect to its economic development project. The terms and provisions of each financing agreement shall be determined by negotiations between the corporation and the approved company, except that each financing agreement shall include the following provisions:

(a) If the corporation issues any bonds in connection with an economic development project, the term of the financing agreement shall not be less than the last maturity of the bonds issued with respect to the economic development project, except that the financing agreement may terminate upon the earlier redemption of all of the bonds issued with respect to the economic development project and may grant to the approved company an option to purchase the economic development project from the corporation upon the termination of the financing agreement for such consideration and under such terms and conditions the corporation may approve. Nothing in this paragraph shall limit the extension of the term of a financing agreement if there is a refunding of the correlative bonds or otherwise.

(b) If the corporation issues any bonds in connection with an economic development project, the financing agreement shall specify that the annual obligations of the approved company under Sections 57-10-401 through 57-10-445 shall equal in each year at least the annual debt service for that year on the bonds issued with respect to the economic development project; and the approved company shall pay such obligation of the financing agreement to the trustee for bonds issued for the benefit of the approved company, at such time and in such amounts sufficient to amortize such bonds.

(c) If the corporation loans funds to an approved company that is a private company under the Mississippi Small Enterprise Development Finance Act, the financing agreement shall
include the terms and conditions of the loan required by Section 57-71-1 et seq.

(d) (i) In consideration for financing agreement payment, the approved company may be permitted the following during the period of time in which the financing agreement is in effect, not to exceed twenty-five (25) years:

1. A tax credit on the amount provided for in Section 27-7-22.3(2), Mississippi Code of 1972; plus
2. The aggregate assessment withheld by the approved company in each year.

(ii) The income tax credited to the approved company referred to herein shall be credited in the fiscal year of the financing agreement in which the tax return of the approved company is filed. The approved company shall not be required to pay estimated tax payments under Section 27-7-319, Mississippi Code of 1972.

(e) (i) The financing agreement shall provide that the assessments, when added to the credit for the state corporate income tax herein granted, shall not exceed the total financing agreement annual payment by the approved company in any year; however, to the extent that financing agreement annual payments exceed credits received and assessments collected in any year, the excess payment may be recouped from excess credits or assessment collections in succeeding years.

(ii) If during any fiscal year of the financing agreement the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees equals the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of the fiscal year of the financing agreement.

(f) The financing agreement shall provide that:
(i) It may be assigned by the approved company only upon the prior written consent of the corporation following the adoption of a resolution by the corporation to such effect; and

(ii) Upon the default by the approved company in the obligation to render its annual payment, the corporation shall have the right, at its option, to declare the financing agreement in default and to accelerate the total of all annual payments that are to be made or to terminate the financing agreement and cause to be sold the economic development project at public or private sale, or to pursue any other remedies available under the Uniform Commercial Code, as from time to time amended, or otherwise available in law or equity.

[In cases involving an economic development project for which the Mississippi Business Finance Corporation has not issued bonds for the purpose of financing the approved costs of such project prior to July 1, 1994, but has issued bonds for such project prior to July 1, 1997, or in cases involving an economic development project which has been induced by a resolution of the Board of Directors of the Mississippi Business Finance Corporation that has been filed with the State Tax Commission prior to July 1, 1997, this section shall read as follows:]

57-10-409. The corporation may enter into, with any approved company, a financing agreement with respect to its economic development project. The terms and provisions of each financing agreement shall be determined by negotiations between the corporation and the approved company, except that each financing agreement shall include the following provisions:

(a) If the corporation issues any bonds in connection with an economic development project, the term of the financing agreement shall not be less than the last maturity of the bonds issued with respect to the economic development project, except that the financing agreement may terminate upon the earlier
redemption of all of the bonds issued with respect to the economic
development project and may grant to the approved company an
option to purchase the economic development project from the
corporation upon the termination of the financing agreement for
such consideration and under such terms and conditions the
corporation may approve. Nothing in this paragraph shall limit
the extension of the term of a financing agreement if there is a
refunding of the correlative bonds or otherwise.

(b) If the corporation issues any bonds in connection
with an economic development project, the financing agreement
shall specify that the annual obligations of the approved company
under Sections 57-10-401 through 57-10-445 shall equal in each
year at least the annual debt service for that year on the bonds
issued with respect to the economic development project; and the
approved company shall pay such obligation of the financing
agreement to the trustee for bonds issued for the benefit of the
approved company, at such time and in such amounts sufficient to
amortize such bonds.

(c) If the corporation loans funds to an approved
company that is a private company under the Mississippi Small
Enterprise Development Finance Act, the financing agreement shall
include the terms and conditions of the loan required by Section
57-71-1 et seq.

(d) (i) In consideration for financing agreement
payment, the approved company may be permitted the following
during the period of time in which the financing agreement is in
effect, not to exceed twenty-five (25) years:

1. A tax credit on the amount provided for in
Section 27-7-22.3(2), Mississippi Code of 1972; plus
2. The aggregate assessment withheld by the
approved company in each year.

(ii) The income tax credited to the approved
company referred to herein shall be credited in the fiscal year of
the financing agreement in which the tax return of the approved company is filed. The approved company shall not be required to pay estimated tax payments under Section 27-7-319, Mississippi Code of 1972.

(e) (i) The financing agreement shall provide that the assessments, when added to the credit for the state corporate income tax herein granted, shall not exceed the total financing agreement annual payment by the approved company in any year; however, to the extent that financing agreement annual payments exceed credits received and assessments collected in any year, the excess payment may be recouped from excess credits or assessment collections in succeeding years not to exceed three (3) years following the termination of the period of time during which the financing agreement is in effect.

(ii) If during any fiscal year of the financing approved company the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees equals the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of the fiscal year of the financing agreement.

(f) The financing agreement shall provide that:

(i) It may be assigned by the approved company only upon the prior written consent of the corporation following the adoption of a resolution by the corporation to such effect; and

(ii) Upon the default by the approved company in the obligation to render its annual payment, the corporation shall have the right, at its option, to declare the financing agreement in default and to accelerate the total of all annual payments that are to be made or to terminate the financing agreement and cause to be sold the economic development project at public or private
sale, or to pursue any other remedies available under the Uniform Commercial Code, as from time to time amended, or otherwise available in law or equity.

[In cases involving an economic development project for which the Mississippi Business Finance Corporation has not issued bonds for the purpose of financing the approved costs of such project prior to July 1, 1997, or in cases involving an economic development project which has not been induced by a resolution of the Board of Directors of the Mississippi Business Finance Corporation that has been filed with the State Tax Commission prior to July 1, 1997, this section shall read as follows:]

57-10-409. The corporation may enter into, with any approved company, a financing agreement with respect to its economic development project. The terms and provisions of each financing agreement shall be determined by negotiations between the corporation and the approved company, except that each financing agreement shall include the following provisions:

(a) If the corporation issues any bonds in connection with an economic development project, the term of the financing agreement shall not be less than the last maturity of the bonds issued with respect to the economic development project, except that the financing agreement may terminate upon the earlier redemption of all of the bonds issued with respect to the economic development project and may grant to the approved company an option to purchase the economic development project from the corporation upon the termination of the financing agreement for such consideration and under such terms and conditions the corporation may approve. Nothing in this paragraph shall limit the extension of the term of a financing agreement if there is a refunding of the correlative bonds or otherwise.

(b) If the corporation issues any bonds in connection with an economic development project, the financing agreement shall specify that the annual obligations of the approved company
under Sections 57-10-401 through 57-10-445 shall equal in each year at least the annual debt service for that year on the bonds issued with respect to the economic development project; and the approved company shall pay such obligation of the financing agreement to the trustee for bonds issued for the benefit of the approved company, at such time and in such amounts sufficient to amortize such bonds.

(c) If the corporation loans funds to an approved company that is a private company under the Mississippi Small Enterprise Development Finance Act, the financing agreement shall include the terms and conditions of the loan required by Section 57-71-1 et seq.

(d) (i) In consideration for financing agreement payment, the approved company may be permitted a tax credit on the amount provided for in Section 27-7-22.3(2), Mississippi Code of 1972, during the period of time in which the financing agreement is in effect, not to exceed twenty-five (25) years.

(ii) The income tax credited to the approved company referred to herein shall be credited in the fiscal year of the financing agreement in which the tax return of the approved company is filed. The approved company shall not be required to pay estimated tax payments under Section 27-7-319, Mississippi Code of 1972.

(e) The financing agreement shall provide that:

(i) It may be assigned by the approved company only upon the prior written consent of the corporation following the adoption of a resolution by the corporation to such effect; and

(ii) Upon the default by the approved company in the obligation to render its annual payment, the corporation shall have the right, at its option, to declare the financing agreement in default and to accelerate the total of all annual payments that are to be made or to terminate the financing agreement and cause...
to be sold the economic development project at public or private
sale, or to pursue any other remedies available under the Uniform
Commercial Code, as from time to time amended, or otherwise
available in law or equity.

SECTION 6. Section 57-10-411, Mississippi Code of 1972, is
reenacted as follows:

57-10-411. Ninety (90) days after the filing of the tax
return of the approved company, the State Tax Commission shall
certify to the corporation the state income tax liability for the
preceding year of each approved company with respect to an
economic development project financed under Sections 57-10-401
through 57-10-445, and the amounts of any tax credits taken under
Sections 57-10-401 through 57-10-445.

SECTION 7. Section 57-10-413, Mississippi Code of 1972, is
reenacted as follows:

[In cases involving an economic development project for which
the Mississippi Business Finance Corporation has issued bonds for
the purpose of financing the approved costs of such project prior
to July 1, 1994, this section shall read as follows:]

57-10-413. (1) The approved company may require that each
employee whose gross wages are equivalent to Five Dollars ($5.00)
or more per hour, as a condition of employment, agrees to pay a
job development assessment fee not to exceed a certain percentage
of the gross wages of each such employee whose job was created as
a result of the economic development project, for the purpose of
retiring the bonds which fund the economic development project or
other indebtedness. The job development assessment fee shall not
exceed the following percentages of the gross wages of the
employee:

(a) Two percent (2%), if the gross wages of the
employee are equivalent to Five Dollars ($5.00) or more per hour
but less than Seven Dollars ($7.00) per hour;
(b) Four percent (4%), if the gross wages of the employee are equivalent to Seven Dollars ($7.00) or more per hour but less than Nine Dollars ($9.00) per hour; and
(c) Six percent (6%), if the gross wages of the employee are equivalent to Nine Dollars ($9.00) or more per hour.

(2) Each employee so assessed shall be entitled to credits against Mississippi income taxes as provided in Section 27-7-22.3.

(3) If an approved company shall elect to impose the assessment as a condition of employment, it shall deduct the assessment from each paycheck of each employee.

(4) Any approved company collecting an assessment as provided in subsection (1) of this section shall make its payroll books and records available to the corporation at such reasonable times as the corporation shall request and shall file with the corporation documentation respecting the assessment as the corporation may require.

(5) Any assessment of the wages of employees of an approved company in connection with their employment at an economic development project under subsection (1) of this section shall lapse on the date the bonds are retired.

[In cases involving an economic development project for which the Mississippi Business Finance Corporation has not issued bonds for the purpose of financing the approved costs of such project prior to July 1, 1994, but has issued bonds for such project prior to July 1, 1997, or in cases involving an economic development project which has been induced by a resolution of the Board of Directors of the Mississippi Business Finance Corporation that has been filed with the State Tax Commission prior to July 1, 1997, this section shall read as follows:]
agrees to pay a job development assessment fee not to exceed a certain percentage of the gross wages of each such employee whose job was created as a result of the economic development project, for the purpose of retiring the bonds which fund the economic development project or other indebtedness. The job development assessment fee shall not exceed the following percentages of the gross wages of the employee:

(a) Two percent (2%), if the gross wages of the employee are equivalent to Five Dollars ($5.00) or more per hour but less than Seven Dollars ($7.00) per hour;

(b) Four percent (4%), if the gross wages of the employee are equivalent to Seven Dollars ($7.00) or more per hour but less than Nine Dollars ($9.00) per hour; and

(c) Six percent (6%), if the gross wages of the employee are equivalent to Nine Dollars ($9.00) or more per hour.

(2) Each employee so assessed shall be entitled to credits against Mississippi income taxes as provided in Section 27-7-22.3.

(3) If an approved company shall elect to impose the assessment as a condition of employment, it shall deduct the assessment from each paycheck of each employee.

(4) Any approved company collecting an assessment as provided in subsection (1) of this section shall make its payroll books and records available to the corporation at such reasonable times as the corporation shall request and shall file with the corporation documentation respecting the assessment as the corporation may require.

(5) Any assessment of the wages of employees of an approved company in connection with their employment at an economic development project under subsection (1) of this section shall lapse on the date the bonds are retired.

(6) If an eligible company closes a facility in this state and becomes an approved company under the provisions of Sections 57-10-401 through 57-10-449, only those jobs created in excess of
those that existed at the closed facility at the time of the
closure shall be eligible for the imposition of the job
development assessment fee. The Mississippi Business Finance
Corporation shall promulgate rules and regulations to govern the
determination of the number of jobs upon which the job development
assessment fee may be imposed.

SECTION 8. Section 57-10-415, Mississippi Code of 1972, is
reenacted as follows:

57-10-415. Every issue of bonds under Sections 57-10-401
through 57-10-445 shall be payable solely out of any revenues of
the corporation as provided in Sections 57-10-401 through
57-10-445. The bonds additionally may be secured by a pledge of
any grant, contribution or guarantee from the federal government
or any person or a pledge by the corporation of any revenues from
any source.

SECTION 9. Section 57-10-417, Mississippi Code of 1972, is
reenacted as follows:

57-10-417. The bonds issued by the corporation under
Sections 57-10-401 through 57-10-445 shall be limited obligations
of the corporation and shall not constitute a debt, liability or
general obligation of the state or any political subdivision
thereof (other than the corporation), or a pledge of the faith and
credit of the state or any political subdivision thereof (other
than the corporation), but shall be payable solely as provided by
the corporation under Sections 57-10-401 through 57-10-445. No
member or officer of the board of directors of the corporation nor
any person executing the bonds shall be liable personally on the
bonds by reason of the issuance thereof. Each bond issued under
Sections 57-10-401 through 57-10-445 shall contain on the face
thereof a statement that neither the state, nor any other
political subdivision thereof, shall be obligated to pay the same
or the interest thereon or other costs incident thereto except
from the revenue or money pledged by the corporation and that
neither the faith and credit nor the taxing power of the state or
any political subdivision thereof is pledged to the payment of the
principal of, or the interest on, such bond.

SECTION 10. Section 57-10-419, Mississippi Code of 1972, is
reenacted as follows:

57-10-419. (1) The corporation may issue in its own name,
from time to time, for the purpose of financing the approved costs
of an economic development project, its bonds and may pledge for
the payment thereof funds derived in respect of any financing
agreement or other arrangement entered into by the corporation and
an approved company under Sections 57-10-401 through 57-10-445.

(2) In anticipation of the issuance of bonds, the
corporation may provide for the issuance, at one time or from time
to time, of bond anticipation notes. The principal of and the
interest on the notes shall be payable solely from the funds
herein provided for the payment. Any notes may be made payable
from the proceeds of bonds or renewal notes; or, if bond or
renewal note proceeds are not available, the notes may be paid
from any available revenues or assets of the corporation.

(3) The bonds issued under Sections 57-10-401 through
57-10-445 shall be authorized by a resolution of the corporation,
shall bear such date or dates, and shall mature at such time or
times as such resolution may provide, except that no bond shall
mature more than twenty-five (25) years from the date of issue.
Bonds which are not subject to taxation shall bear interest at
such rate or rates, be in such denominations, be in such form,
carry such registration privileges, be executed in such manner, be
payable in such medium of payment, at such place or places, and be
subject to such terms of redemption, including redemption before
maturity, as such resolution may provide. Except as expressly
provided otherwise in Sections 57-10-401 through 57-10-445, the
provisions of other laws of the state relating to the issuance of
revenue bonds shall not apply to bonds issued by the corporation.
As to bonds issued hereunder and designated as taxable bonds by
the corporation, any immunity to taxation by the United States
government of interest on such bonds or notes is hereby waived.
Bonds of the corporation may be sold by the corporation at public
or private sale, from time to time, and at such price or prices as
the corporation shall determine.

(4) The proceeds of any bonds shall be used solely for the
purposes for which issued and shall be disbursed in the manner and
under the restrictions, if any, that the corporation may provide
in the resolution authorizing the issuance of the bonds or in a
trust indenture securing the same.

(5) The principal and interest on the bonds issued by the
corporation shall be payable solely and only from proceeds derived
under a financing agreement and shall be secured solely by the
economic development project, the proceeds of the financing
agreement, and such other assets as may be available, but not
including revenues of the state.

(6) Before the preparation of definitive certificates
evidencing the bonds, the corporation may issue, under like
restrictions, interim receipts or temporary certificates, with or
without coupons, exchangeable for definitive certificates when the
certificates have been executed and are available for delivery.
The corporation may also provide for the replacement of any
certificates which become mutilated or are destroyed or lost.

SECTION 11. Section 57-10-421, Mississippi Code of 1972, is
reenacted as follows:

57-10-421. In addition to the requirements provided for in
Section 57-10-419, any resolution authorizing the issuance of
bonds under Sections 57-10-401 through 57-10-445 may contain
provisions as to:

(a) The setting aside of reserves or sinking funds and
the regulations and disposition thereof;
(b) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding or other bonds;

(c) The procedure, if any, by which the terms of any of the proceedings under which the bonds are being issued may be amended or abrogated, the number or percentage of bondholders who or which must consent thereto, and the manner in which the consent may be given;

(d) The vesting in a trustee or trustees of such property, rights, powers and duties in trust as the company may determine, and limiting or abrogating the right of bondholders to appoint a trustee or limiting the rights, powers and duties of the trustee;

(e) Defining the act or omissions to act which shall constitute a default and the obligations or duties of the corporation to the holders of the bonds, and providing for the rights and remedies of the holders of the bonds in the event of default, which rights and remedies may include the general laws of the state and other provisions of Sections 57-10-401 through 57-10-445; or

(f) Any other matter, of like or different character, which in any way affects the security or protection of the holders of the bonds.

SECTION 12. Section 57-10-423, Mississippi Code of 1972, is reenacted as follows:

57-10-423. Any pledge made by the corporation shall be valid and binding from the time when the pledge was made. The revenues or properties so pledged and thereafter received by the corporation shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the corporation, irrespective of whether the
parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

SECTION 13. Section 57-10-425, Mississippi Code of 1972, is reenacted as follows:

57-10-425. The corporation, subject to the provisions in proceedings relating to outstanding bonds as may then exist, may purchase bonds out of any funds available therefor, which shall thereupon be canceled, at any reasonable price which, if the bonds are then redeemable, shall not exceed the redemption price (and premium, if any) then applicable plus accrued interest to the redemption date thereof.

SECTION 14. Section 57-10-427, Mississippi Code of 1972, is reenacted as follows:

57-10-427. The bonds may be secured by an indenture by and between the corporation and a corporate trustee which may be any bank or other corporation having the power of a trust company or any trust company within or without this state. Such indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the corporation in relation to the exercise of its powers and the custody, safekeeping and application of all money. The corporation may provide by the indenture for the payment of the proceeds of the bonds and revenues to the trustee under the indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as the corporation may determine. If the bonds shall be secured by an indenture, the bondholders shall have no authority to appoint a separate trustee to represent them.

SECTION 15. Section 57-10-429, Mississippi Code of 1972, is reenacted as follows:

57-10-429. In the event that any of the members or officers of the board of directors of the corporation shall cease to be
members or officers of the board prior to the delivery of any
bonds signed by them, their signatures or facsimiles thereof shall
nevertheless be valid and sufficient for all purposes, the same as
if such members or officers had remained in office until such
delivery.

SECTION 16. Section 57-10-431, Mississippi Code of 1972, is
reenacted as follows:

57-10-431. The corporation may create and establish such
funds and accounts as may be necessary or desirable for its
purposes under Sections 57-10-401 through 57-10-445.

SECTION 17. Section 57-10-433, Mississippi Code of 1972, is
reenacted as follows:

57-10-433. The corporation shall have the power to contract
with the holders of any of its bonds issued under Sections
57-10-401 through 57-10-445 as to the custody, collection,
securing, investment and payment of any money of the corporation,
and of any money held in trust or otherwise for the payment of
bonds, and to carry out such contract. Money held in trust or
otherwise for the payment of bonds or in any way to secure bonds
and deposits of money may be secured in the same manner as money
of the corporation, and all banks and trust companies are
authorized to give security for the deposits.

SECTION 18. Section 57-10-435, Mississippi Code of 1972, is
reenacted as follows:

57-10-435. Amendments to Sections 57-10-401 through
57-10-445, enacted after July 1, 1993, shall not limit the rights
vested in the corporation with respect to any agreements made
with, or remedies available to, the holders of bonds issued under
this article or Section 27-7-22.3 prior to the enactment of the
amendments until the bonds, together with all interest thereon,
and all costs and expenses in connection with any proceeding by or
on behalf of the holders, are fully met and discharged.
SECTION 19. Section 57-10-437, Mississippi Code of 1972, is reenacted as follows:

57-10-437. All expenses incurred by the corporation in carrying out the provisions of Sections 57-10-401 through 57-10-445 shall be payable solely from funds provided under Sections 57-10-401 through 57-10-445, or other funds of the corporation. Nothing in Sections 57-10-401 through 57-10-445 shall be construed to authorize the corporation to incur indebtedness or liability on behalf of or payable by the state or any other political subdivision thereof.

SECTION 20. Section 57-10-439, Mississippi Code of 1972, is reenacted as follows:

57-10-439. (1) The corporation is hereby declared to be performing a public function and to be a public body corporate and a political subdivision of the state. Accordingly, the income, including any profit made on the sale thereof from all bonds issued by the corporation, shall at all times be exempt from all taxation by the state or any political subdivision thereof. If, after all indebtedness and other obligations of the corporation are discharged, the corporation is dissolved, its remaining assets shall inure to the benefit of the state.

(2) With the approval of the appropriate local taxing authority, all mortgages or deeds of trust executed as security therefor, all lease or purchase agreements made pursuant to the provisions hereof, and all purchases required to establish the industrial enterprise and financed by proceeds from bonds issued under Sections 57-10-401 through 57-10-445, shall likewise be exempt from all taxation in the State of Mississippi except the contractors' tax imposed by Section 27-65-21, and except ad valorem taxes levied for school district purposes. All projects and the revenue derived therefrom from any lease thereof shall be exempt from all taxation in the State of Mississippi, except the tax levied by Section 27-65-21, except the tax levied under
Chapter 7, Title 27, Mississippi Code of 1972, and except ad
valorem taxes levied for school district purposes.

SECTION 21. Section 57-10-441, Mississippi Code of 1972, is
reenacted as follows:

57-10-441. The bonds issued by and under the authority of
Sections 57-10-401 through 57-10-445 by the corporation are
declared to be legal investments in which all public officers or
public bodies of the state, its political subdivisions, all
municipalities and municipal subdivisions, all insurance companies
and associations, and other persons carrying on insurance
business, all banks, bankers, banking associations, trust
companies, savings associations, including savings and loan
associations, building and loan associations, investment
companies, and other persons carrying on a banking business, all
administrators, guardians, executors, trustees and other
fiduciaries, and all other persons who are now or may later be
authorized to invest in bonds or in other obligations of the
state, may invest funds, including capital, in their control or
belonging to them. Such bonds are also hereby made securities
which may be deposited with and received by all public officers
and bodies of the state or any agency or political subdivision of
the state and all municipalities and public corporations for any
purpose for which the deposit of bonds or other obligations of the
state is now or may be later authorized by law.

SECTION 22. Section 57-10-443, Mississippi Code of 1972, is
reenacted as follows:

57-10-443. The corporation, within one hundred twenty (120)
days of the close of each fiscal year, shall submit an annual
report of its activities in regard to Sections 57-10-401 through
57-10-445 for the preceding year to the Governor. The Clerk of
the House of Representatives and the Secretary of the Senate each
shall receive a copy of the report by making a request for it to
the corporation. Each report shall set forth a complete operating
and financial statement in regard to Sections 57-10-401 through 57-10-445 for the corporation during the fiscal year it covers.

SECTION 23. Section 57-10-445, Mississippi Code of 1972, is reenacted as follows:

57-10-445. Nothing contained in Sections 57-10-401 through 57-10-445 is to be construed as a restriction or limitation upon any powers which the corporation might otherwise have under any other law of the state. Insofar as the provisions of Sections 57-10-401 through 57-10-445 are inconsistent with the provisions of any other law, the provisions of Sections 57-10-401 through 57-10-445 shall be controlling, and the powers conferred by Sections 57-10-401 through 57-10-445 shall be regarded as supplemental and additional to powers conferred by any other laws.

No proceedings, notice or approval shall be required for the issuance of any bonds or any instrument or the security therefor, except as provided in Sections 57-10-401 through 57-10-445. The provisions of Sections 57-10-401 through 57-10-445 shall be liberally construed to accomplish the purposes of Sections 57-10-401 through 57-10-445.

The powers granted and the duties imposed in Sections 57-10-401 through 57-10-445 shall be construed to be independent and severable. If any one or more sections, subsections, sentences or parts of any of Sections 57-10-401 through 57-10-445 shall be adjudged unconstitutional or invalid, such adjudication shall not affect, impair or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provisions so held unconstitutional or invalid.

SECTION 24. Section 27-7-22.3, Mississippi Code of 1972, is reenacted as follows:

[In cases involving an economic development project for which the Mississippi Business Finance Corporation has issued bonds for the purpose of financing the approved costs of such project prior to July 1, 1994, this section shall read as follows:]

H. B. No. 781 *HR03/ R930SG*
01/HR03/R930SG
PAGE 30 (TB\LN)
27-7-22.3. (1) For taxpayers who are required to pay a job assessment fee as provided in Section 57-10-413, there shall be allowed as a credit against the taxes imposed by this chapter, an amount equal to the amount of the job assessment fee imposed upon such taxpayer pursuant to Section 57-10-413. If the amount allowable as a credit exceeds the tax imposed by this article and Section 27-7-22.3, the amount of such excess shall not be refundable or carried forward to any other taxable year.

(2) For any approved company as defined in Section 57-10-401, there shall be allowed against the taxes imposed by this chapter on the income of the approved company generated by or arising out of the economic development project (as defined in Section 57-10-401), a credit in an amount not to exceed the total debt service paid under a financing agreement entered into under Section 57-10-409. The tax credit allowed in this subsection shall not exceed the amount of taxes due the State of Mississippi.

In cases involving an economic development project for which the Mississippi Business Finance Corporation has not issued bonds for the purpose of financing the approved costs of such project prior to July 1, 1994, but has issued bonds for such project prior to July 1, 1997, or in cases involving an economic development project which has been induced by a resolution of the Board of Directors of the Mississippi Business Finance Corporation that has been filed with the State Tax Commission prior to July 1, 1997, this section shall read as follows:

27-7-22.3. (1) For taxpayers who are required to pay a job assessment fee as provided in Section 57-10-413, there shall be allowed as a credit against the taxes imposed by this chapter, an amount equal to the amount of the job assessment fee imposed upon such taxpayer pursuant to Section 57-10-413. If the amount allowable as a credit exceeds the tax imposed by this article and Section 27-7-22.3, the amount of such excess shall not be refundable or carried forward to any other taxable year.
(2) For any approved company as defined in Section 57-10-401, there shall be allowed against the taxes imposed by this chapter on the income of the approved company generated by or arising out of the economic development project (as defined in Section 57-10-401), a credit in an amount not to exceed the total debt service paid under a financing agreement entered into under Section 57-10-409. The tax credit allowed in this subsection shall not exceed the amount of taxes due the State of Mississippi. The amount of income of the approved company generated by or arising out of the economic development project shall be determined by a formula adopted by the Mississippi Business Finance Corporation.

[In cases involving an economic development project for which the Mississippi Business Finance Corporation has not issued bonds for the purpose of financing the approved costs of such project prior to July 1, 1997, or in cases involving an economic development project which has not been induced by a resolution of the Board of Directors of the Mississippi Business Finance Corporation that has been filed with the State Tax Commission prior to July 1, 1997, this section shall read as follows:]

27-7-22.3. For any approved company as defined in Section 57-10-401, there shall be allowed against the taxes imposed by this chapter on the income of the approved company generated by or arising out of the economic development project (as defined in Section 57-10-401), a credit in an amount not to exceed the total debt service paid under a financing agreement entered into under Section 57-10-409; provided, however, that the tax credit allowed in this subsection shall not exceed eighty percent (80%) of the amount of taxes due the State of Mississippi prior to the application of the credit. To the extent that financing agreement annual payments exceed the amount of the credit authorized pursuant to this section in any taxable year, such excess payment may be recouped from excess credits in succeeding years not to
exceed three (3) years following the date upon which the credit
was earned. The amount of income of the approved company
generated by or arising out of the economic development project
shall be determined by a formula adopted by the Mississippi
Business Finance Corporation.

SECTION 25. Section 57-10-449, Mississippi Code of 1972, is
amended as follows:
57-10-449. Sections 57-10-401 through 57-10-445 and
27-7-22.3 shall be repealed from and after October 1, 2005.

SECTION 26. Section 31-25-19, Mississippi Code of 1972, is
amended as follows:
31-25-19. In addition to the other powers granted to the
bank under this act, the bank shall have the power:
(a) To sue and be sued in its own name;
(b) To have an official seal and to alter the same at
pleasure;
(c) To maintain an office at such place or places
within this state as it may designate, by lease without the
approval of any other state agency or department;
(d) To adopt and from time to time to amend and repeal
bylaws and rules and regulations, not inconsistent with this act,
to carry into effect the powers and purposes of the bank and
governing the conduct of its affairs and business and the use of
its services and facilities;
(e) To make, enter into and enforce all contracts or
agreements necessary, convenient or desirable for the purposes of
the bank or pertaining to any loan to a local governmental unit
made by the purchase of municipal securities or to the performance
of its duties and execution or carrying out of any of its other
powers under this act;
(f) To acquire, hold, use and dispose of its income,
(g) To the extent that it will facilitate the conduct of its operations and thereby further the purposes of this act, to acquire real or other personal property, or any interest therein, on either a temporary or long-term basis in the name of the bank by gift, purchase, transfer, foreclosure, lease or otherwise, including rights or easements, hold, sell, assign, lease, encumber mortgage or otherwise dispose of any real or other personal property, or any interest therein or mortgage interest owned by it or under its control, custody or in its possession and release or relinquish any right, title, claim, lien, interest, easement or demand however acquired, including any equity or right of redemption in property foreclosed by it and to do any of the foregoing by public or private sale; and, to the same extent, to lease or rent any lands, buildings, structures, facilities or equipment from private parties;

(h) To enter into agreements or other transactions with and accept the cooperation of the United States or any agency thereof or of the state or any agency or governmental subdivision thereof (including any local governmental unit whether or not such local governmental unit is selling or has sold its bonds to the bank) in furtherance of the purposes of this act and the corporate purposes of the bank, and to do any and all things necessary in order to avail itself of such cooperation;

(i) To receive and accept grants, aid or contributions from any source of money, materials, property, labor, supplies, services or other things of value, to be held, used and applied to carry out the purposes of this act subject to such conditions upon which such grants and contributions may be made, including, but not limited to, gifts or grants from any department or agency of the United States or of this state or of any governmental subdivision of this state (including any local governmental unit whether or not such local governmental unit is selling or has sold its bonds to the bank) for any purpose consistent with this act,
and to do any and all things necessary, useful, desirable or convenient in connection with the procurement acceptance or disposition of such gifts or grants;

(j) To procure insurance against any loss in connection with its property and other assets in such amounts and from insurers as it deems desirable, and to obtain from any department or agency of the United States of America or nongovernmental insurer any insurance or guaranty, to the extent now or hereafter available, as to, or of or for the payment or repayment of interest, principal or redemption price, if any, or all or any part thereof, on any bonds issued by the bank, or on any municipal securities of local governmental units purchased or held by the bank pursuant to this act; and notwithstanding any other provisions of this act to the contrary, to enter into any agreement or contract whatsoever with respect to any such insurance or guaranty, except to the extent that the same would in any way impair or interfere with the ability of the bank to perform and fulfill the terms of any agreement made with the holders of the bonds of the bank;

(k) To employ administrative and clerical staff, managing agents, architects, engineers, attorneys, accountants, and financial advisors and experts and such other advisors, consultants, agents and employees as may be necessary in its judgment and to fix their compensation, and to perform its powers or functions through its officers, agents and employees or by contracts with any firm, person or corporation;

(l) To the extent permitted under its contract with the holders of bonds of the bank, to consent to any modification of the rate of interest, time and payment of any installment of principal or interest, security or any other term of such bond, contract or agreement of any kind to which the bank is a party;

(m) To purchase, hold or dispose of any of its bonds;
(n) Notwithstanding any law to the contrary, but subject to any agreement with bondholders, to invest any funds or moneys of the bank not then required for disbursement in such manner as shall be deemed by the bank to be prudent except as otherwise permitted or provided by this act;

(o) To conduct examinations and hearings and to hear testimony and take proof, under oath or affirmation, at public or private hearings, on any matter material for its information and necessary to carry out this act;

(p) To loan money to local governmental units by the purchase of municipal securities, subject to the provisions of this act;

(q) To borrow money for any of its corporate purposes and to issue bonds therefor, subject to the provisions of this act; and

(r) To exercise any and all of the powers granted to the bank by any other section of this act and to do any act necessary or convenient to the exercise of the powers herein granted or reasonably implied therefrom.

SECTION 27. Section 57-10-17, Mississippi Code of 1972, is amended as follows:

57-10-17. The board of directors of the corporation is hereby authorized, in its discretion, based on sound business principles, to:

(a) Receive applications for and make direct term loans to small businesses, including any person, firm, corporation, joint stock company, partnership, association or trust located within the state unable to obtain sufficient funds for the successful operation of such businesses from conventional commercial sources or other governmental agencies or in the event the financial needs of such businesses exceed the legal loan limits of local banks or other financial institutions or in the
event the degree of risk involved in extending loans to such businesses exceed local standards;  
(b) Make direct equity investments and/or seed money loans to local economic development corporations;  
(c) Seek the participation of private banks or financial institutions, either within or without the state, in the term loans extended by the corporation;  
(d) Sell its own commercial paper and other evidences of indebtedness to obtain funds for the making of term loans to creditworthy businesses;  
(e) Provide a loan guaranty program for conventional loans extended to qualified small businesses in the State of Mississippi;  
(f) Sell its debenture bonds to banks and other financial institutions;  
(g) Apply for and receive funds in any amount from any private source or federal governmental entity, or the Small Businessman's Loan Fund or Guaranty Fee Fund as authorized by Sections 57-10-101 through 57-10-137, whether by way of grant, donation or loan;  
(h) Make contracts, including contracts for services, and incur liabilities for any of the purposes authorized herein;  
(i) Borrow money for any of the purposes authorized herein; incur debt, including the power to issue therefor its bonds, debentures, notes or other evidences of indebtedness, whether secured or unsecured; and secure the same by mortgage, pledge, deed of trust or other lien on its property, rights and privileges of every kind and nature, or any part thereof, or interest therein;  
(j) Purchase, receive, hold, lease or acquire by foreclosure, and sell, convey, transfer or lease real and personal property, together with such rights and privileges as may be incidental and appurtenant thereto and the use thereof, including,
but not restricted to, any real or personal property acquired by
the corporation from time to time in the satisfaction of debts or
enforcement of obligations;

(k) Make all expenditures and incur any obligations
reasonably required in the exercise of sound business principles
to secure possession of, preserve, maintain, insure and, if
necessary, improve real and personal property acquired in the
liquidation of investments in order to realize the maximum return
for the corporation on any sale or disposition thereof;

(l) Acquire, subscribe for, own, hold, sell, assign,
transfer, mortgage or pledge the stock, shares, bonds, debentures,
notes or other securities and evidences of interest in or
indebtedness of any person, firm, corporation, joint stock
company, partnership, association or trust, and, while the owner
or holder thereof, exercise all the rights, powers and privileges
of ownership, including the right to vote thereon;

(m) Mortgage, pledge or otherwise encumber any property
right or thing of value acquired pursuant to the powers contained
in paragraphs (j), (k) or (l) as security for the payment of any
part of the purchase price thereof;

(n) Cooperate with *** and assist and otherwise
encourage agencies, organizations, local or regional, private or
public, in the various communities of the state in the promotion,
assistance and development of the business prosperity and economic
welfare of such communities or of this state or of any part
thereof;

(o) Do all acts and things necessary and proper to
create, form, participate in or fund a State SBA 503 program as
authorized under Title V, Section 503 of the Small Business
Investment Act of 1958, as amended, Section 697, Title XV, United
States Code;

(p) Do all acts and things necessary and proper to
carry out the powers expressly granted in this article, including,
but not limited to, employment of administrative and clerical
staff, and such other employees as may be necessary in its
judgment and to fix their compensation, and to perform its powers
and functions through its officers, agents and employees;

(q) Do all acts and things necessary and proper for the
issuance of bonds for solid waste facilities;

(r) Do all acts and things necessary to operate the
Mississippi Development Bank pursuant to Section 31-25-1 et seq.;

(s) Maintain an office in the name of the corporation
at such place or places within this state as it may designate
without the approval of any other state agency or department.

SECTION 28. Section 57-10-31, Mississippi Code of 1972, is
amended as follows:

57-10-31. No officer or director of this corporation shall
ever be held personally liable for contracts, debts or defaults of
this corporation nor shall any mere informality in organization
have the effect of rendering these null or of exposing the
officers or directors to any such liability or responsibility.

However, the officers, directors, agents and employees of the
corporation * * * shall be liable for any fraudulent or illegal
diversion or misappropriation of the funds of the corporation
which any such person knowingly and willfully caused, permitted or
conspired to permit to be made, and all such officers, directors,
agents and employees entrusted with the custody of the securities
of or authorized to disburse the funds of the corporation shall be
bonded, either by a blanket bond or by individual bonds, with a
surety bond or bonds with a minimum limitation of One Hundred
Thousand Dollars ($100,000.00) coverage for each person covered
thereby, conditioned upon the faithful performance of their
duties, the premium for which shall be paid out of the assets of
the corporation.

SECTION 29. Section 57-10-39, Mississippi Code of 1972, is
amended as follows:

H. B. No. 781 *HR03/ R930SG*
01/HR03/R930SG
PAGE 39 (TB\LH)
57-10-39. An annual report concerning the operation of this article shall be submitted by the corporation to the Legislature.

SECTION 30. Section 57-10-105, Mississippi Code of 1972, is amended as follows:

57-10-105. Whenever the following terms or similar terms are used herein they shall have the following meanings, unless the context clearly indicates otherwise:

(a) "Borrower" means any individual, firm, partnership or corporation approved by the committee, residing in Mississippi who applies for or borrows money from any lender under the provisions of this article.

(b) "Lender" shall mean any state or national bank, savings and loan association or insurance company doing business in Mississippi, which is approved by the committee.

(c) "Manager" means the Executive Director of the Mississippi Business Finance Corporation.

(d) "Committee" means the Certified Development Company of Mississippi, Inc., created pursuant to Section 57-10-167.

(e) "Loan guaranty" means additional security to the lender by the state for loans to small businessmen in this state.

(f) "Guaranty fee fund" means a revolving fund maintained in the State Treasury as a separate fund composed of guaranty fee payments from loans made under the provisions of this article.

(g) "Small businessman's loan fund" means a separate and additional fund maintained in the State Treasury by appropriation from the state Legislature and used exclusively to guarantee loans as herein provided.

(h) "Transfer" means to loan, to give, to make available or to pass control of any available funds held in paragraphs (f) and (g) above to the Mississippi Economic Development Corporation, or its successor.
SECTION 31. Section 57-10-109, Mississippi Code of 1972, is amended as follows:

57-10-109. The manager shall be required to have a surety bond in an amount to be fixed by the committee.

The manager, subject to the approval of the committee, is authorized to employ such additional technical, clerical and stenographic assistance as may be necessary to carry out the provisions of this article. It is hereby made the duty of all of the departments and agencies of the state government to give aid and assistance to the manager in administering this program.

SECTION 32. Section 57-10-167, Mississippi Code of 1972, is amended as follows:

57-10-167. There is hereby established the Certified Development Company of Mississippi, a public corporation, which shall be an incorporated certified development company pursuant to Section 503 of the Small Business Investment Act of 1958, as amended.

The Certified Development Company of Mississippi, Inc., hereinafter referred to as the "committee" unless the context clearly indicates otherwise, shall be composed of twenty-five (25) members as follows:

(a) The State Treasurer; the Executive Director of the University Research Center or his designee; the Executive Director of the Mississippi Development Authority; the Executive Director of the Small Business Development Center; six (6) persons associated with small business to be appointed by the Governor, one (1) for a term of one (1) year, one (1) for a term of two (2) years, one (1) for a term of three (3) years, one (1) for a term of four (4) years, one (1) for a term of five (5) years and one (1) for a term of six (6) years; three (3) persons associated with small business to be appointed by the Lieutenant Governor, one (1) for a term of one (1) year, one (1) for a term of two (2) years...
and one (1) for a term of three (3) years; five (5) persons involved in banking or small business to be appointed by the Governor, one (1) for a term of one (1) year, one (1) for a term of two (2) years, one (1) for a term of three (3) years, one (1) for a term of four (4) years and one (1) for a term of five (5) years; and two (2) persons involved in banking or small business to be appointed by the Lieutenant Governor, one (1) for a term of one (1) year and one (1) for a term of two (2) years. The members described above and serving on the committee on June 30, 1984, shall continue to serve on the committee until the expiration of their terms.

(b) For terms to begin on July 1, 1984, the Governor shall appoint one (1) person associated with small business for a term of six (6) years; the Secretary of State shall appoint one (1) person associated with small business for a term of one (1) year; the Attorney General shall appoint one (1) person involved in banking or small business for a term of six (6) years; and the State Treasurer shall appoint two (2) persons, one (1) for a term of one (1) year and one (1) for a term of two (2) years, and after the expiration of the term of the person appointed hereinabove by the Attorney General, that vacancy shall be filled thereafter by a person involved in banking or small business appointed by the State Treasurer for a term of six (6) years.

All appointments after the initial appointment shall be for terms of six (6) years each. All such appointments will be subject to the approval of the Senate. An appointment to fill a vacancy existing for any reason other than the expiration of a term shall be for the balance of the unexpired term. Members serving by reason of their ex officio designation shall continue to serve as long as they occupy the position which entitles them to membership.

Members who are officers or employees of the state shall receive no compensation for their services, and other committee
members shall receive a per diem as provided in Section 25-3-69, Mississippi Code of 1972. All members shall receive reimbursement for actual traveling and subsistence expenses incurred in the performance of their duties under this article, such reimbursement to be as provided in Section 25-3-41, Mississippi Code of 1972.

The Certified Development Company of Mississippi, Inc., shall have an executive director who shall be appointed by the board of directors.

The Certified Development Company of Mississippi, Inc., shall elect from among its membership a nine-member board of directors, a majority of whom shall be a quorum, a president and vice president and may appoint a secretary and a treasurer.

From and after July 1, 1989, the Certified Development Company of Mississippi, Inc., shall be known as the Mississippi Business Finance Corporation, and wherever the term "Certified Development Company of Mississippi, Inc.," appears in the laws of this state it shall mean the Mississippi Business Finance Corporation.

SECTION 33. Section 57-10-207, Mississippi Code of 1972, is amended as follows:

57-10-207. In addition to those powers granted elsewhere by law, the board of directors of the company is hereby granted all powers necessary or appropriate to carry out and effectuate the purposes of this article, including, but not limited to, the following powers to:

(a) Borrow money and issue bonds as provided by this article;

(b) Procure insurance or guarantees from any public or private entities, including any department, agency or instrumentality of the United States of America, or, subject to the provisions of and to the extent moneys are available in the fund created by Section 57-10-215, insure or guarantee the payment of any bonds issued by the company, including the power to pay
premiums on any such insurance or guarantees or other instruments of indebtedness;

c) Receive and accept from any source aid or contributions of money, property, labor or other things of value to be held, used and applied to carry out the purposes of this act (subject, however, to any conditions upon which grants or contributions are made) including, but not limited to gifts or grants from any department, agency or instrumentality of the United States of America;

d) Enter into agreements with any department, agency or instrumentality of the United States of America or of the state and with lenders and enter into loans with contracting parties for the purpose of planning, regulating and providing for the financing or assisting in the financing of any eligible business or any project thereof;

e) Enter into contracts or agreements with lenders for the servicing and/or processing of loans;

f) Provide technical assistance to local industrial development authorities and to profit and nonprofit entities in the development or operation by, or assistance to, persons engaged in business enterprises and distribute data and information concerning the encouragement and improvement of business enterprises in the state;

g) To the extent permitted in the proceedings pursuant to which the bonds of the company are issued, consent to any modification with respect to the rate of interest, time for, and payment of, any installment of principal or interest, or any other term of any contract, loan, sales contract, lease, indenture or agreement of any kind to which the company is a party;

h) To the extent permitted in the proceedings pursuant to which the bonds of the company are issued, enter into contracts with any lender containing provisions authorizing the lender to reduce the charges or fees, exclusive of loan payments, to persons...
unable to pay the regular schedule thereof when, by reason of other income or payment by any department, agency or instrumentality of the United States of America or the state, the reduction can be made without jeopardizing the economic stability of the eligible business being financed;

(i) Allocate any of its property to the insurance or guaranty fund established by Section 57-10-215 or to any other fund of the company, such property consisting of:

(i) Moneys appropriated by the state;

(ii) Premiums, fees and any other amounts received by the company with respect to financial assistance provided by the company;

(iii) Proceeds as designated by the company from the loan or other disposition of property held or acquired by the company;

(iv) Income from investments that were made by the company or on the behalf of the company from moneys in one or more of its funds; or

(v) Any other moneys made available to the company consistent with this article;

(j) Use any fund or funds of the company for any and all expenses to be paid by the company including, by way of example, but not by limitation: (i) any and all expenses for employment of administrative and clerical staff, legal, actuarial and other services; (ii) all costs, charges, fees and expenses of the company relating to the authorizing, preparing, printing, selling, issuing and insuring of bonds and the funding of reserves; and (iii) all expenses and costs relating to the guaranteeing, insuring or procurement of guarantees, insurance or other instruments providing credit or the enhancement of credit for the bonds;
(k) Collect fees and charges, as the company determines to be reasonable, in connection with its loans, insurance, guarantees, commitments and servicing thereof;

(l) Sell, at public or private sale, with or without public bidding, any obligation held by the company under this article;

(m) Invest any funds not needed for immediate disbursement, including any funds held in reserve, in any obligations or securities which may be legally purchased by political subdivisions in the state or as may be otherwise permitted by Section 57-10-251; and

(n) Take any action necessary or convenient for the exercise of the powers granted by this article or reasonably implied from them.

SECTION 34. Section 57-10-37, Mississippi Code of 1972, which provides that the administrative and staff services of the Mississippi Business Finance Corporation shall be provided by the Mississippi Agricultural and Industrial Board, is repealed.

SECTION 35. This act shall take effect and be in force from and after its passage.