

By: Representative Warren

To: Ways and Means

HOUSE BILL NO. 220

1 AN ACT TO REENACT SECTIONS 57-10-401 THROUGH 57-10-445 AND
2 SECTION 27-7-22.3, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR
3 SMALL BUSINESS ASSISTANCE; TO REENACT AND AMEND SECTION 57-10-449,
4 MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEALER ON THOSE
5 SECTIONS; AND FOR RELATED PURPOSES.

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

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

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

13 57-10-401. As used in Sections 57-10-401 through 57-10-445
14 the following terms shall have the meanings ascribed to them
15 herein unless the context clearly indicates otherwise:

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

19 (b) "Approved costs" means:

20 (i) Obligations incurred for equipment and labor
21 and to contractors, subcontractors, builders and materialmen in
22 connection with the acquisition, construction and installation of
23 an economic development project;

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

26 (iii) The cost of contract bonds and of insurance
27 of all kinds that may be required or necessary during the course
28 of acquisition, construction and installation of an economic

29 development project which is not paid by the contractor or
30 contractors or otherwise provided for;

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

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

40 (vi) All costs, expenses and fees incurred in
41 connection with the issuance of bonds pursuant to Sections
42 57-10-401 through 57-10-445;

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

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

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

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

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

57 (f) "Economic development project" means and includes
58 the acquisition of any equipment or real estate in a county and
59 the construction and installation thereon, and with respect
60 thereto, of improvements and facilities necessary or desirable for
61 improvement of the real estate, including surveys, site tests and

62 inspections, subsurface site work, excavation, removal of
63 structures, roadways, cemeteries and other surface obstructions,
64 filling, grading and provision of drainage, storm water detention,
65 installation of utilities such as water, sewer, sewage treatment,
66 gas, electricity, communications and similar facilities, off-site
67 construction of utility extensions to the boundaries of the real
68 estate, and the acquisition, construction and installation of
69 manufacturing, telecommunications, data processing, distribution
70 or warehouse facilities on the real estate, for lease or financial
71 arrangement by the corporation to an approved company for use and
72 occupancy by the approved company or its affiliates for
73 manufacturing, telecommunications, data processing, distribution
74 or warehouse purposes. Such term also includes, without
75 limitation, any project the financing of which has been approved
76 under the Mississippi Small Enterprise Development Finance Act.

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

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

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

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

90 (iv) A telecommunications or data processing
91 business.

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

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

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

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

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

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

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

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

120 57-10-401. As used in Sections 57-10-401 through 57-10-445
121 the following terms shall have the meanings ascribed to them
122 herein unless the context clearly indicates otherwise:

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

126 (b) "Approved costs" means:

127 (i) Obligations incurred for equipment and labor
128 and to contractors, subcontractors, builders and materialmen in
129 connection with the acquisition, construction and installation of
130 an economic development project;

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

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

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

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

147 (vi) All costs, expenses and fees incurred in
148 connection with the issuance of bonds pursuant to Sections
149 57-10-401 through 57-10-445;

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

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

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

157 (d) "Bonds" means the revenue bonds, notes or other
158 debt obligations of the corporation authorized to be issued by the

159 corporation on behalf of an eligible company or other state
160 agency.

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

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

184 If an eligible company closes a facility in this state and
185 becomes an approved company under the provisions of Sections
186 57-10-401 through 57-10-449, only that portion of the project for
187 which such company is attempting to obtain financing that is in
188 excess of the value of the closed facility shall be included
189 within the definition of the term "economic development project."
190 The Mississippi Business Finance Corporation shall promulgate
191 rules and regulations to govern the determination of the

192 difference between the value of the closed facility and the new
193 facility.

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

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

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

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

207 (iv) A telecommunications or data processing
208 business.

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

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

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

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

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

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

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

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

235 57-10-403. (1) The Legislature finds and declares that the
236 general welfare and material well-being of citizens of the state
237 depend in large measure upon the development and growth of
238 industry in the state.

239 (2) The Legislature finds and declares further that it is in
240 the best interest of the state to induce the location or expansion
241 of manufacturing facilities within this state in order to advance
242 the public purposes of relieving unemployment by creating new jobs
243 within this state that, but for the inducements to be offered by
244 the corporation to approved companies as herein provided, would
245 not exist, and of creating new sources of tax revenues for the
246 support of the public services provided by this state and country.

247 (3) The Legislature finds and declares further that the
248 authority granted by this article and the purposes to be
249 accomplished hereby are proper governmental and public purposes
250 for which public monies may be expended, and that the inducement
251 of the location or expansion of manufacturing facilities within
252 the state is of paramount importance, mandating that the
253 provisions of this article be liberally construed and applied in
254 order to advance the public purposes.

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

257 57-10-405. In addition to its other powers and duties, the
258 corporation shall have all the powers necessary or convenient to
259 carry out and effectuate the purposes and provisions of Sections
260 57-10-401 through 57-10-445, including, but without limiting the
261 generality of the foregoing, the power:

262 (a) To provide and finance economic development
263 projects under the provisions of Sections 57-10-401 through
264 57-10-445, and cooperate with counties, municipalities and
265 eligible companies in order to promote, foster and support
266 economic development within the counties and municipalities;

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

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

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

287 (e) To consent, if it deems it necessary or desirable
288 in the fulfillment of its purposes, to the modification of the

289 terms of any financing agreements of any kind to which the
290 corporation is a party;

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

297 (g) To make and publish administrative regulations
298 respecting its programs and other administrative regulations
299 necessary or appropriate to effectuate the purposes of Sections
300 57-10-401 through 57-10-445, and necessary to administer the
301 procedures and program as provided for in Sections 57-10-401
302 through 57-10-445;

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

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

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

317 (k) To invest any funds held by the corporation or its
318 agents or trustees, under Sections 57-10-401 through 57-10-445,
319 including, but not limited to, the proceeds of bonds issued under
320 Sections 57-10-401 through 57-10-445, reserve or other funds, or
321 any monies not required for immediate disbursement, and the

322 investment income on any of the foregoing, in obligations
323 authorized by Sections 57-10-401 through 57-10-445.

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

326 57-10-407. The corporation may accept and expend: (a)
327 monies which may be appropriated from time to time by the
328 Legislature; (b) monies which may be available under the
329 Mississippi Small Enterprise Development Finance Act; or (c)
330 monies which may be received from any source, including income
331 from the corporation's operations, under Sections 57-10-401
332 through 57-10-445, for effectuating the purposes of Sections
333 57-10-401 through 57-10-445, including, without limitation, the
334 payment of the expenses of administration and operation incurred
335 pursuant to Sections 57-10-401 through 57-10-445 and the
336 establishment and, if deemed desirable, maintenance of a reserve
337 or contingency fund for the administration of Sections 57-10-401
338 through 57-10-445.

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

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

345 57-10-409. The corporation may enter into, with any approved
346 company, a financing agreement with respect to its economic
347 development project. The terms and provisions of each financing
348 agreement shall be determined by negotiations between the
349 corporation and the approved company, except that each financing
350 agreement shall include the following provisions:

351 (a) If the corporation issues any bonds in connection
352 with an economic development project, the term of the financing
353 agreement shall not be less than the last maturity of the bonds
354 issued with respect to the economic development project, except

355 that the financing agreement may terminate upon the earlier
356 redemption of all of the bonds issued with respect to the economic
357 development project and may grant to the approved company an
358 option to purchase the economic development project from the
359 corporation upon the termination of the financing agreement for
360 such consideration and under such terms and conditions the
361 corporation may approve. Nothing in this paragraph shall limit
362 the extension of the term of a financing agreement if there is a
363 refunding of the correlative bonds or otherwise.

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

374 (c) If the corporation loans funds to an approved
375 company that is a private company under the Mississippi Small
376 Enterprise Development Finance Act, the financing agreement shall
377 include the terms and conditions of the loan required by Section
378 57-71-1 et seq.

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

383 1. A tax credit on the amount provided for in
384 Section 27-7-22.3(2), Mississippi Code of 1972; plus

385 2. The aggregate assessment withheld by the
386 approved company in each year.

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

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

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

409 (f) The financing agreement shall provide that:

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

414 (ii) Upon the default by the approved company in
415 the obligation to render its annual payment, the corporation shall
416 have the right, at its option, to declare the financing agreement
417 in default and to accelerate the total of all annual payments that
418 are to be made or to terminate the financing agreement and cause
419 to be sold the economic development project at public or private

420 sale, or to pursue any other remedies available under the Uniform
421 Commercial Code, as from time to time amended, or otherwise
422 available in law or equity.

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

432 57-10-409. The corporation may enter into, with any approved
433 company, a financing agreement with respect to its economic
434 development project. The terms and provisions of each financing
435 agreement shall be determined by negotiations between the
436 corporation and the approved company, except that each financing
437 agreement shall include the following provisions:

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

451 (b) If the corporation issues any bonds in connection
452 with an economic development project, the financing agreement

453 shall specify that the annual obligations of the approved company
454 under Sections 57-10-401 through 57-10-445 shall equal in each
455 year at least the annual debt service for that year on the bonds
456 issued with respect to the economic development project; and the
457 approved company shall pay such obligation of the financing
458 agreement to the trustee for bonds issued for the benefit of the
459 approved company, at such time and in such amounts sufficient to
460 amortize such bonds.

461 (c) If the corporation loans funds to an approved
462 company that is a private company under the Mississippi Small
463 Enterprise Development Finance Act, the financing agreement shall
464 include the terms and conditions of the loan required by Section
465 57-71-1 et seq.

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

470 1. A tax credit on the amount provided for in
471 Section 27-7-22.3(2), Mississippi Code of 1972; plus

472 2. The aggregate assessment withheld by the
473 approved company in each year.

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

480 (e) (i) The financing agreement shall provide that the
481 assessments, when added to the credit for the state corporate
482 income tax herein granted, shall not exceed the total financing
483 agreement annual payment by the approved company in any year;
484 however, to the extent that financing agreement annual payments
485 exceed credits received and assessments collected in any year, the

486 excess payment may be recouped from excess credits or assessment
487 collections in succeeding years not to exceed three (3) years
488 following the termination of the period of time during which the
489 financing agreement is in effect.

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

498 (f) The financing agreement shall provide that:

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

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

512 **[In cases involving an economic development project for which**
513 **the Mississippi Business Finance Corporation has not issued bonds**
514 **for the purpose of financing the approved costs of such project**
515 **prior to July 1, 1997, or in cases involving an economic**
516 **development project which has not been induced by a resolution of**
517 **the Board of Directors of the Mississippi Business Finance**

518 **Corporation that has been filed with the State Tax Commission**
519 **prior to July 1, 1997, this section shall read as follows:]**

520 57-10-409. The corporation may enter into, with any approved
521 company, a financing agreement with respect to its economic
522 development project. The terms and provisions of each financing
523 agreement shall be determined by negotiations between the
524 corporation and the approved company, except that each financing
525 agreement shall include the following provisions:

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

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

549 (c) If the corporation loans funds to an approved
550 company that is a private company under the Mississippi Small

551 Enterprise Development Finance Act, the financing agreement shall
552 include the terms and conditions of the loan required by Section
553 57-71-1 et seq.

554 (d) (i) In consideration for financing agreement
555 payment, the approved company may be permitted a tax credit on the
556 amount provided for in Section 27-7-22.3(2), Mississippi Code of
557 1972, during the period of time in which the financing agreement
558 is in effect, not to exceed twenty-five (25) years.

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

565 (e) The financing agreement shall provide that:

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

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

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

581 57-10-411. Ninety (90) days after the filing of the tax
582 return of the approved company, the State Tax Commission shall
583 certify to the corporation the state income tax liability for the

584 preceding year of each approved company with respect to an
585 economic development project financed under Sections 57-10-401
586 through 57-10-445, and the amounts of any tax credits taken under
587 Sections 57-10-401 through 57-10-445.

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

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

594 57-10-413. (1) The approved company may require that each
595 employee whose gross wages are equivalent to Five Dollars (\$5.00)
596 or more per hour, as a condition of employment, agrees to pay a
597 job development assessment fee not to exceed a certain percentage
598 of the gross wages of each such employee whose job was created as
599 a result of the economic development project, for the purpose of
600 retiring the bonds which fund the economic development project or
601 other indebtedness. The job development assessment fee shall not
602 exceed the following percentages of the gross wages of the
603 employee:

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

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

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

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

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

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

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

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

636 57-10-413. (1) Except as otherwise provided for in
637 subsection (6) of this section, the approved company may require
638 that each employee whose gross wages are equivalent to Five
639 Dollars (\$5.00) or more per hour, as a condition of employment,
640 agrees to pay a job development assessment fee not to exceed a
641 certain percentage of the gross wages of each such employee whose
642 job was created as a result of the economic development project,
643 for the purpose of retiring the bonds which fund the economic
644 development project or other indebtedness. The job development
645 assessment fee shall not exceed the following percentages of the
646 gross wages of the employee:

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

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

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

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

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

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

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

670 (6) If an eligible company closes a facility in this state
671 and becomes an approved company under the provisions of Sections
672 57-10-401 through 57-10-449, only those jobs created in excess of
673 those that existed at the closed facility at the time of the
674 closure shall be eligible for the imposition of the job
675 development assessment fee. The Mississippi Business Finance
676 Corporation shall promulgate rules and regulations to govern the
677 determination of the number of jobs upon which the job development
678 assessment fee may be imposed.

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

681 57-10-415. Every issue of bonds under Sections 57-10-401
682 through 57-10-445 shall be payable solely out of any revenues of

683 the corporation as provided in Sections 57-10-401 through
684 57-10-445. The bonds additionally may be secured by a pledge of
685 any grant, contribution or guarantee from the federal government
686 or any person or a pledge by the corporation of any revenues from
687 any source.

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

690 57-10-417. The bonds issued by the corporation under
691 Sections 57-10-401 through 57-10-445 shall be limited obligations
692 of the corporation and shall not constitute a debt, liability or
693 general obligation of the state or any political subdivision
694 thereof (other than the corporation), or a pledge of the faith and
695 credit of the state or any political subdivision thereof (other
696 than the corporation), but shall be payable solely as provided by
697 the corporation under Sections 57-10-401 through 57-10-445. No
698 member or officer of the board of directors of the corporation nor
699 any person executing the bonds shall be liable personally on the
700 bonds by reason of the issuance thereof. Each bond issued under
701 Sections 57-10-401 through 57-10-445 shall contain on the face
702 thereof a statement that neither the state, nor any other
703 political subdivision thereof, shall be obligated to pay the same
704 or the interest thereon or other costs incident thereto except
705 from the revenue or money pledged by the corporation and that
706 neither the faith and credit nor the taxing power of the state or
707 any political subdivision thereof is pledged to the payment of the
708 principal of, or the interest on, such bond.

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

711 57-10-419. (1) The corporation may issue in its own name,
712 from time to time, for the purpose of financing the approved costs
713 of an economic development project, its bonds and may pledge for
714 the payment thereof funds derived in respect of any financing

715 agreement or other arrangement entered into by the corporation and
716 an approved company under Sections 57-10-401 through 57-10-445.

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

725 (3) The bonds issued under Sections 57-10-401 through
726 57-10-445 shall be authorized by a resolution of the corporation,
727 shall bear such date or dates, and shall mature at such time or
728 times as such resolution may provide, except that no bond shall
729 mature more than twenty-five (25) years from the date of issue.
730 Bonds which are not subject to taxation shall bear interest at
731 such rate or rates, be in such denominations, be in such form,
732 carry such registration privileges, be executed in such manner, be
733 payable in such medium of payment, at such place or places, and be
734 subject to such terms of redemption, including redemption before
735 maturity, as such resolution may provide. Except as expressly
736 provided otherwise in Sections 57-10-401 through 57-10-445, the
737 provisions of other laws of the state relating to the issuance of
738 revenue bonds shall not apply to bonds issued by the corporation.
739 As to bonds issued hereunder and designated as taxable bonds by
740 the corporation, any immunity to taxation by the United States
741 government of interest on such bonds or notes is hereby waived.
742 Bonds of the corporation may be sold by the corporation at public
743 or private sale, from time to time, and at such price or prices as
744 the corporation shall determine.

745 (4) The proceeds of any bonds shall be used solely for the
746 purposes for which issued and shall be disbursed in the manner and
747 under the restrictions, if any, that the corporation may provide

748 in the resolution authorizing the issuance of the bonds or in a
749 trust indenture securing the same.

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

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

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

765 57-10-421. In addition to the requirements provided for in
766 Section 57-10-419, any resolution authorizing the issuance of
767 bonds under Sections 57-10-401 through 57-10-445 may contain
768 provisions as to:

769 (a) The setting aside of reserves or sinking funds and
770 the regulations and disposition thereof;

771 (b) Limitations on the issuance of additional bonds,
772 the terms upon which additional bonds may be issued and secured,
773 and the refunding of outstanding or other bonds;

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

779 (d) The vesting in a trustee or trustees of such
780 property, rights, powers and duties in trust as the company may

781 determine, and limiting or abrogating the right of bondholders to
782 appoint a trustee or limiting the rights, powers and duties of the
783 trustee;

784 (e) Defining the act or omissions to act which shall
785 constitute a default and the obligations or duties of the
786 corporation to the holders of the bonds, and providing for the
787 rights and remedies of the holders of the bonds in the event of
788 default, which rights and remedies may include the general laws of
789 the state and other provisions of Sections 57-10-401 through
790 57-10-445; or

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

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

796 57-10-423. Any pledge made by the corporation shall be valid
797 and binding from the time when the pledge was made. The revenues
798 or properties so pledged and thereafter received by the
799 corporation shall immediately be subject to the lien of such
800 pledge without any physical delivery thereof or further act, and
801 the lien of any such pledge shall be valid and binding as against
802 all parties having claims of any kind in tort, contract or
803 otherwise against the corporation, irrespective of whether the
804 parties have notice thereof. Neither the resolution nor any other
805 instrument by which a pledge is created need be recorded.

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

808 57-10-425. The corporation, subject to the provisions in
809 proceedings relating to outstanding bonds as may then exist, may
810 purchase bonds out of any funds available therefor, which shall
811 thereupon be canceled, at any reasonable price which, if the bonds
812 are then redeemable, shall not exceed the redemption price (and

813 premium, if any) then applicable plus accrued interest to the
814 redemption date thereof.

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

817 57-10-427. The bonds may be secured by an indenture by and
818 between the corporation and a corporate trustee which may be any
819 bank or other corporation having the power of a trust company or
820 any trust company within or without this state. Such indenture
821 may contain such provisions for protecting and enforcing the
822 rights and remedies of the bondholders as may be reasonable and
823 proper and not in violation of law, including covenants setting
824 forth the duties of the corporation in relation to the exercise of
825 its powers and the custody, safekeeping and application of all
826 money. The corporation may provide by the indenture for the
827 payment of the proceeds of the bonds and revenues to the trustee
828 under the indenture or other depository, and for the method of
829 disbursement thereof, with such safeguards and restrictions as the
830 corporation may determine. If the bonds shall be secured by an
831 indenture, the bondholders shall have no authority to appoint a
832 separate trustee to represent them.

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

835 57-10-429. In the event that any of the members or officers
836 of the board of directors of the corporation shall cease to be
837 members or officers of the board prior to the delivery of any
838 bonds signed by them, their signatures or facsimiles thereof shall
839 nevertheless be valid and sufficient for all purposes, the same as
840 if such members or officers had remained in office until such
841 delivery.

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

844 57-10-431. The corporation may create and establish such
845 funds and accounts as may be necessary or desirable for its
846 purposes under Sections 57-10-401 through 57-10-445.

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

849 57-10-433. The corporation shall have the power to contract
850 with the holders of any of its bonds issued under Sections
851 57-10-401 through 57-10-445 as to the custody, collection,
852 securing, investment and payment of any money of the corporation,
853 and of any money held in trust or otherwise for the payment of
854 bonds, and to carry out such contract. Money held in trust or
855 otherwise for the payment of bonds or in any way to secure bonds
856 and deposits of money may be secured in the same manner as money
857 of the corporation, and all banks and trust companies are
858 authorized to give security for the deposits.

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

861 57-10-435. Amendments to Sections 57-10-401 through
862 57-10-445, enacted after July 1, 1993, shall not limit the rights
863 vested in the corporation with respect to any agreements made
864 with, or remedies available to, the holders of bonds issued under
865 this article or Section 27-7-22.3 prior to the enactment of the
866 amendments until the bonds, together with all interest thereon,
867 and all costs and expenses in connection with any proceeding by or
868 on behalf of the holders, are fully met and discharged.

869 **SECTION 19.** Section 57-10-437, Mississippi Code of 1972, is
870 reenacted as follows:

871 57-10-437. All expenses incurred by the corporation in
872 carrying out the provisions of Sections 57-10-401 through
873 57-10-445 shall be payable solely from funds provided under
874 Sections 57-10-401 through 57-10-445, or other funds of the
875 corporation. Nothing in Sections 57-10-401 through 57-10-445
876 shall be construed to authorize the corporation to incur

877 indebtedness or liability on behalf of or payable by the state or
878 any other political subdivision thereof.

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

881 57-10-439. (1) The corporation is hereby declared to be
882 performing a public function and to be a public body corporate and
883 a political subdivision of the state. Accordingly, the income,
884 including any profit made on the sale thereof from all bonds
885 issued by the corporation, shall at all times be exempt from all
886 taxation by the state or any political subdivision thereof. If,
887 after all indebtedness and other obligations of the corporation
888 are discharged, the corporation is dissolved, its remaining assets
889 shall inure to the benefit of the state.

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

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

906 57-10-441. The bonds issued by and under the authority of
907 Sections 57-10-401 through 57-10-445 by the corporation are
908 declared to be legal investments in which all public officers or
909 public bodies of the state, its political subdivisions, all

910 municipalities and municipal subdivisions, all insurance companies
911 and associations, and other persons carrying on insurance
912 business, all banks, bankers, banking associations, trust
913 companies, savings associations, including savings and loan
914 associations, building and loan associations, investment
915 companies, and other persons carrying on a banking business, all
916 administrators, guardians, executors, trustees and other
917 fiduciaries, and all other persons who are now or may later be
918 authorized to invest in bonds or in other obligations of the
919 state, may invest funds, including capital, in their control or
920 belonging to them. Such bonds are also hereby made securities
921 which may be deposited with and received by all public officers
922 and bodies of the state or any agency or political subdivision of
923 the state and all municipalities and public corporations for any
924 purpose for which the deposit of bonds or other obligations of the
925 state is now or may be later authorized by law.

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

928 57-10-443. The corporation, within one hundred twenty (120)
929 days of the close of each fiscal year, shall submit an annual
930 report of its activities in regard to Sections 57-10-401 through
931 57-10-445 for the preceding year to the Governor. The Clerk of
932 the House of Representatives and the Secretary of the Senate each
933 shall receive a copy of the report by making a request for it to
934 the corporation. Each report shall set forth a complete operating
935 and financial statement in regard to Sections 57-10-401 through
936 57-10-445 for the corporation during the fiscal year it covers.

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

939 57-10-445. Nothing contained in Sections 57-10-401 through
940 57-10-445 is to be construed as a restriction or limitation upon
941 any powers which the corporation might otherwise have under any
942 other law of the state. Insofar as the provisions of Sections

943 57-10-401 through 57-10-445 are inconsistent with the provisions
944 of any other law, the provisions of Sections 57-10-401 through
945 57-10-445 shall be controlling, and the powers conferred by
946 Sections 57-10-401 through 57-10-445 shall be regarded as
947 supplemental and additional to powers conferred by any other laws.
948 No proceedings, notice or approval shall be required for the
949 issuance of any bonds or any instrument or the security therefor,
950 except as provided in Sections 57-10-401 through 57-10-445.

951 The provisions of Sections 57-10-401 through 57-10-445 shall
952 be liberally construed to accomplish the purposes of Sections
953 57-10-401 through 57-10-445.

954 The powers granted and the duties imposed in Sections
955 57-10-401 through 57-10-445 shall be construed to be independent
956 and severable. If any one or more sections, subsections,
957 sentences or parts of any of Sections 57-10-401 through 57-10-445
958 shall be adjudged unconstitutional or invalid, such adjudication
959 shall not affect, impair or invalidate the remaining provisions
960 thereof, but shall be confined in its operation to the specific
961 provisions so held unconstitutional or invalid.

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

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

968 27-7-22.3. (1) For taxpayers who are required to pay a job
969 assessment fee as provided in Section 57-10-413, there shall be
970 allowed as a credit against the taxes imposed by this chapter, an
971 amount equal to the amount of the job assessment fee imposed upon
972 such taxpayer pursuant to Section 57-10-413. If the amount
973 allowable as a credit exceeds the tax imposed by this article and
974 Section 27-7-22.3, the amount of such excess shall not be
975 refundable or carried forward to any other taxable year.

976 (2) For any approved company as defined in Section
977 57-10-401, there shall be allowed against the taxes imposed by
978 this chapter on the income of the approved company generated by or
979 arising out of the economic development project (as defined in
980 Section 57-10-401), a credit in an amount not to exceed the total
981 debt service paid under a financing agreement entered into under
982 Section 57-10-409. The tax credit allowed in this subsection
983 shall not exceed the amount of taxes due the State of Mississippi.

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

993 27-7-22.3. (1) For taxpayers who are required to pay a job
994 assessment fee as provided in Section 57-10-413, there shall be
995 allowed as a credit against the taxes imposed by this chapter, an
996 amount equal to the amount of the job assessment fee imposed upon
997 such taxpayer pursuant to Section 57-10-413. If the amount
998 allowable as a credit exceeds the tax imposed by this article and
999 Section 27-7-22.3, the amount of such excess shall not be
1000 refundable or carried forward to any other taxable year.

1001 (2) For any approved company as defined in Section
1002 57-10-401, there shall be allowed against the taxes imposed by
1003 this chapter on the income of the approved company generated by or
1004 arising out of the economic development project (as defined in
1005 Section 57-10-401), a credit in an amount not to exceed the total
1006 debt service paid under a financing agreement entered into under
1007 Section 57-10-409. The tax credit allowed in this subsection
1008 shall not exceed the amount of taxes due the State of Mississippi.

1009 The amount of income of the approved company generated by or
1010 arising out of the economic development project shall be
1011 determined by a formula adopted by the Mississippi Business
1012 Finance Corporation.

1013 **[In cases involving an economic development project for which**
1014 **the Mississippi Business Finance Corporation has not issued bonds**
1015 **for the purpose of financing the approved costs of such project**
1016 **prior to July 1, 1997, or in cases involving an economic**
1017 **development project which has not been induced by a resolution of**
1018 **the Board of Directors of the Mississippi Business Finance**
1019 **Corporation that has been filed with the State Tax Commission**
1020 **prior to July 1, 1997, this section shall read as follows:]**

1021 27-7-22.3. For any approved company as defined in Section
1022 57-10-401, there shall be allowed against the taxes imposed by
1023 this chapter on the income of the approved company generated by or
1024 arising out of the economic development project (as defined in
1025 Section 57-10-401), a credit in an amount not to exceed the total
1026 debt service paid under a financing agreement entered into under
1027 Section 57-10-409; provided, however, that the tax credit allowed
1028 in this subsection shall not exceed eighty percent (80%) of the
1029 amount of taxes due the State of Mississippi prior to the
1030 application of the credit. To the extent that financing agreement
1031 annual payments exceed the amount of the credit authorized
1032 pursuant to this section in any taxable year, such excess payment
1033 may be recouped from excess credits in succeeding years not to
1034 exceed three (3) years following the date upon which the credit
1035 was earned. The amount of income of the approved company
1036 generated by or arising out of the economic development project
1037 shall be determined by a formula adopted by the Mississippi
1038 Business Finance Corporation.

1039 **SECTION 25.** Section 57-10-449, Mississippi Code of 1972, is
1040 reenacted and amended as follows:

1041 57-10-449. Sections 57-10-401 through 57-10-445 and
1042 27-7-22.3 shall be repealed from and after October 1, 2007.

1043 **SECTION 26.** This act shall take effect and be in force from
1044 and after October 1, 2005.