

By: Senator(s) Robertson, Horhn

To: Finance

SENATE BILL NO. 2158

1 AN ACT TO REENACT SECTIONS 57-10-401 THROUGH 57-10-445 AND  
2 27-7-22.3, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR SMALL  
3 BUSINESS ASSISTANCE; TO AMEND SECTION 57-10-449, MISSISSIPPI CODE  
4 OF 1972, TO EXTEND UNTIL OCTOBER 1, 2011, THE REPEAL DATE ON THE  
5 ABOVE 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);

207 (iv) A telecommunications or data/information  
208 processing business meeting criteria established by the  
209 Mississippi Business Finance Corporation;

210 (v) National or regional headquarters meeting  
211 criteria established by the Mississippi Business Finance  
212 Corporation;

213 (vi) Research and development facilities meeting  
214 criteria established by the Mississippi Business Finance  
215 Corporation; or

216 (vii) Technology intensive enterprises or  
217 facilities meeting criteria established by the Mississippi  
218 Business Finance Corporation.

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

221 (i) "Financing agreement" means any financing documents  
222 and agreements, indentures, loan agreements, lease agreements,  
223 security agreements and the like, entered into by and among the

224 corporation, private lenders and an approved company with respect  
225 to an economic development project.

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

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

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

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

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

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

245 57-10-403. (1) The Legislature finds and declares that the  
246 general welfare and material well-being of citizens of the state  
247 depend in large measure upon the development and growth of  
248 industry in the state.

249 (2) The Legislature finds and declares further that it is in  
250 the best interest of the state to induce the location or expansion  
251 of manufacturing facilities within this state in order to advance  
252 the public purposes of relieving unemployment by creating new jobs  
253 within this state that, but for the inducements to be offered by  
254 the corporation to approved companies as herein provided, would  
255 not exist, and of creating new sources of tax revenues for the  
256 support of the public services provided by this state and country.



257           (3) The Legislature finds and declares further that the  
258 authority granted by this article and the purposes to be  
259 accomplished hereby are proper governmental and public purposes  
260 for which public monies may be expended, and that the inducement  
261 of the location or expansion of manufacturing facilities within  
262 the state is of paramount importance, mandating that the  
263 provisions of this article be liberally construed and applied in  
264 order to advance the public purposes.

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

267           57-10-405. In addition to its other powers and duties, the  
268 corporation shall have all the powers necessary or convenient to  
269 carry out and effectuate the purposes and provisions of Sections  
270 57-10-401 through 57-10-445, including, but without limiting the  
271 generality of the foregoing, the power:

272           (a) To provide and finance economic development  
273 projects under the provisions of Sections 57-10-401 through  
274 57-10-445, and cooperate with counties, municipalities and  
275 eligible companies in order to promote, foster and support  
276 economic development within the counties and municipalities;

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

284           (c) To negotiate the terms of, and enter into financing  
285 agreements with, approved companies, and in connection therewith  
286 to acquire, convey, sell, own, lease, mortgage, finance, foreclose  
287 or otherwise dispose of any property, real or personal, in  
288 connection with an economic development project, and to pay, or  
289 cause to be paid, in accordance with the provisions of a financing

290 agreement, the approved costs of an economic development project  
291 from any funds available therefor, including, without limitation,  
292 funds available as the result of the issuance of bonds under the  
293 Mississippi Small Enterprise Development Finance Act;

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

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

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

307 (g) To make and publish administrative regulations  
308 respecting its programs and other administrative regulations  
309 necessary or appropriate to effectuate the purposes of Sections  
310 57-10-401 through 57-10-445, and necessary to administer the  
311 procedures and program as provided for in Sections 57-10-401  
312 through 57-10-445;

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

321 (i) To accept gifts, devises, bequests, grants, loans,  
322 appropriations, revenue sharing, other financing and assistance

323 and any other aid from any source and to agree to, and to comply  
324 with, conditions attached thereto;

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

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

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

336 57-10-407. The corporation may accept and expend: (a)  
337 monies which may be appropriated from time to time by the  
338 Legislature; (b) monies which may be available under the  
339 Mississippi Small Enterprise Development Finance Act; or (c)  
340 monies which may be received from any source, including income  
341 from the corporation's operations, under Sections 57-10-401  
342 through 57-10-445, for effectuating the purposes of Sections  
343 57-10-401 through 57-10-445, including, without limitation, the  
344 payment of the expenses of administration and operation incurred  
345 pursuant to Sections 57-10-401 through 57-10-445 and the  
346 establishment and, if deemed desirable, maintenance of a reserve  
347 or contingency fund for the administration of Sections 57-10-401  
348 through 57-10-445.

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

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

355           57-10-409. The corporation may enter into, with any approved  
356 company, a financing agreement with respect to its economic  
357 development project. The terms and provisions of each financing  
358 agreement shall be determined by negotiations between the  
359 corporation and the approved company, except that each financing  
360 agreement shall include the following provisions:

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

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

384           (c) If the corporation loans funds to an approved  
385 company that is a private company under the Mississippi Small  
386 Enterprise Development Finance Act, the financing agreement shall

387 include the terms and conditions of the loan required by Section  
388 57-71-1 et seq.

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

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

395 2. The aggregate assessment withheld by the  
396 approved company in each year.

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

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

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

419 (f) The financing agreement shall provide that:

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

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

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

442 57-10-409. The corporation may enter into, with any approved  
443 company, a financing agreement with respect to its economic  
444 development project. The terms and provisions of each financing  
445 agreement shall be determined by negotiations between the  
446 corporation and the approved company, except that each financing  
447 agreement shall include the following provisions:

448 (a) If the corporation issues any bonds in connection  
449 with an economic development project, the term of the financing  
450 agreement shall not be less than the last maturity of the bonds  
451 issued with respect to the economic development project, except  
452 that the financing agreement may terminate upon the earlier

453 redemption of all of the bonds issued with respect to the economic  
454 development project and may grant to the approved company an  
455 option to purchase the economic development project from the  
456 corporation upon the termination of the financing agreement for  
457 such consideration and under such terms and conditions the  
458 corporation may approve. Nothing in this paragraph shall limit  
459 the extension of the term of a financing agreement if there is a  
460 refunding of the correlative bonds or otherwise.

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

471 (c) If the corporation loans funds to an approved  
472 company that is a private company under the Mississippi Small  
473 Enterprise Development Finance Act, the financing agreement shall  
474 include the terms and conditions of the loan required by Section  
475 57-71-1 et seq.

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

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

482 2. The aggregate assessment withheld by the  
483 approved company in each year.

484 (ii) The income tax credited to the approved  
485 company referred to herein shall be credited in the fiscal year of

486 the financing agreement in which the tax return of the approved  
487 company is filed. The approved company shall not be required to  
488 pay estimated tax payments under Section 27-7-319, Mississippi  
489 Code of 1972.

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

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

508 (f) The financing agreement shall provide that:

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

513 (ii) Upon the default by the approved company in  
514 the obligation to render its annual payment, the corporation shall  
515 have the right, at its option, to declare the financing agreement  
516 in default and to accelerate the total of all annual payments that  
517 are to be made or to terminate the financing agreement and cause  
518 to be sold the economic development project at public or private



519 sale, or to pursue any other remedies available under the Uniform  
520 Commercial Code, as from time to time amended, or otherwise  
521 available in law or equity.

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

530 57-10-409. The corporation may enter into, with any approved  
531 company, a financing agreement with respect to its economic  
532 development project. The terms and provisions of each financing  
533 agreement shall be determined by negotiations between the  
534 corporation and the approved company, except that each financing  
535 agreement shall include the following provisions:

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

549 (b) If the corporation issues any bonds in connection  
550 with an economic development project, the financing agreement  
551 shall specify that the annual obligations of the approved company

552 under Sections 57-10-401 through 57-10-445 shall equal in each  
553 year at least the annual debt service for that year on the bonds  
554 issued with respect to the economic development project; and the  
555 approved company shall pay such obligation of the financing  
556 agreement to the trustee for bonds issued for the benefit of the  
557 approved company, at such time and in such amounts sufficient to  
558 amortize such bonds.

559 (c) If the corporation loans funds to an approved  
560 company that is a private company under the Mississippi Small  
561 Enterprise Development Finance Act, the financing agreement shall  
562 include the terms and conditions of the loan required by Section  
563 57-71-1 et seq.

564 (d) (i) In consideration for financing agreement  
565 payment, the approved company may be permitted a tax credit on the  
566 amount provided for in Section 27-7-22.3(2), Mississippi Code of  
567 1972, during the period of time in which the financing agreement  
568 is in effect, not to exceed twenty-five (25) years.

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

575 (e) The financing agreement shall provide that:

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

580 (ii) Upon the default by the approved company in  
581 the obligation to render its annual payment, the corporation shall  
582 have the right, at its option, to declare the financing agreement  
583 in default and to accelerate the total of all annual payments that  
584 are to be made or to terminate the financing agreement and cause

585 to be sold the economic development project at public or private  
586 sale, or to pursue any other remedies available under the Uniform  
587 Commercial Code, as from time to time amended, or otherwise  
588 available in law or equity.

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

591             57-10-411. Ninety (90) days after the filing of the tax  
592 return of the approved company, the State Tax Commission shall  
593 certify to the corporation the state income tax liability for the  
594 preceding year of each approved company with respect to an  
595 economic development project financed under Sections 57-10-401  
596 through 57-10-445, and the amounts of any tax credits taken under  
597 Sections 57-10-401 through 57-10-445.

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

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

604             57-10-413. (1) The approved company may require that each  
605 employee whose gross wages are equivalent to Five Dollars (\$5.00)  
606 or more per hour, as a condition of employment, agrees to pay a  
607 job development assessment fee not to exceed a certain percentage  
608 of the gross wages of each such employee whose job was created as  
609 a result of the economic development project, for the purpose of  
610 retiring the bonds which fund the economic development project or  
611 other indebtedness. The job development assessment fee shall not  
612 exceed the following percentages of the gross wages of the  
613 employee:

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

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

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

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

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

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

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

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

646 57-10-413. (1) Except as otherwise provided for in  
647 subsection (6) of this section, the approved company may require  
648 that each employee whose gross wages are equivalent to Five  
649 Dollars (\$5.00) or more per hour, as a condition of employment,

650 agrees to pay a job development assessment fee not to exceed a  
651 certain percentage of the gross wages of each such employee whose  
652 job was created as a result of the economic development project,  
653 for the purpose of retiring the bonds which fund the economic  
654 development project or other indebtedness. The job development  
655 assessment fee shall not exceed the following percentages of the  
656 gross wages of the employee:

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

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

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

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

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

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

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

680           (6) If an eligible company closes a facility in this state  
681 and becomes an approved company under the provisions of Sections  
682 57-10-401 through 57-10-449, only those jobs created in excess of

683 those that existed at the closed facility at the time of the  
684 closure shall be eligible for the imposition of the job  
685 development assessment fee. The Mississippi Business Finance  
686 Corporation shall promulgate rules and regulations to govern the  
687 determination of the number of jobs upon which the job development  
688 assessment fee may be imposed.

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

691 57-10-415. Every issue of bonds under Sections 57-10-401  
692 through 57-10-445 shall be payable solely out of any revenues of  
693 the corporation as provided in Sections 57-10-401 through  
694 57-10-445. The bonds additionally may be secured by a pledge of  
695 any grant, contribution or guarantee from the federal government  
696 or any person or a pledge by the corporation of any revenues from  
697 any source.

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

700 57-10-417. The bonds issued by the corporation under  
701 Sections 57-10-401 through 57-10-445 shall be limited obligations  
702 of the corporation and shall not constitute a debt, liability or  
703 general obligation of the state or any political subdivision  
704 thereof (other than the corporation), or a pledge of the faith and  
705 credit of the state or any political subdivision thereof (other  
706 than the corporation), but shall be payable solely as provided by  
707 the corporation under Sections 57-10-401 through 57-10-445. No  
708 member or officer of the board of directors of the corporation nor  
709 any person executing the bonds shall be liable personally on the  
710 bonds by reason of the issuance thereof. Each bond issued under  
711 Sections 57-10-401 through 57-10-445 shall contain on the face  
712 thereof a statement that neither the state, nor any other  
713 political subdivision thereof, shall be obligated to pay the same  
714 or the interest thereon or other costs incident thereto except  
715 from the revenue or money pledged by the corporation and that

716 neither the faith and credit nor the taxing power of the state or  
717 any political subdivision thereof is pledged to the payment of the  
718 principal of, or the interest on, such bond.

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

721             57-10-419. (1) The corporation may issue in its own name,  
722 from time to time, for the purpose of financing the approved costs  
723 of an economic development project, its bonds and may pledge for  
724 the payment thereof funds derived in respect of any financing  
725 agreement or other arrangement entered into by the corporation and  
726 an approved company under Sections 57-10-401 through 57-10-445.

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

735             (3) The bonds issued under Sections 57-10-401 through  
736 57-10-445 shall be authorized by a resolution of the corporation,  
737 shall bear such date or dates, and shall mature at such time or  
738 times as such resolution may provide, except that no bond shall  
739 mature more than twenty-five (25) years from the date of issue.  
740 Bonds which are not subject to taxation shall bear interest at  
741 such rate or rates, be in such denominations, be in such form,  
742 carry such registration privileges, be executed in such manner, be  
743 payable in such medium of payment, at such place or places, and be  
744 subject to such terms of redemption, including redemption before  
745 maturity, as such resolution may provide. Except as expressly  
746 provided otherwise in Sections 57-10-401 through 57-10-445, the  
747 provisions of other laws of the state relating to the issuance of  
748 revenue bonds shall not apply to bonds issued by the corporation.

749 As to bonds issued hereunder and designated as taxable bonds by  
750 the corporation, any immunity to taxation by the United States  
751 government of interest on such bonds or notes is hereby waived.  
752 Bonds of the corporation may be sold by the corporation at public  
753 or private sale, from time to time, and at such price or prices as  
754 the corporation shall determine.

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

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

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

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

775 57-10-421. In addition to the requirements provided for in  
776 Section 57-10-419, any resolution authorizing the issuance of  
777 bonds under Sections 57-10-401 through 57-10-445 may contain  
778 provisions as to:

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



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

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

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

794           (e) Defining the act or omissions to act which shall  
795 constitute a default and the obligations or duties of the  
796 corporation to the holders of the bonds, and providing for the  
797 rights and remedies of the holders of the bonds in the event of  
798 default, which rights and remedies may include the general laws of  
799 the state and other provisions of Sections 57-10-401 through  
800 57-10-445; or

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

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

806           57-10-423. Any pledge made by the corporation shall be valid  
807 and binding from the time when the pledge was made. The revenues  
808 or properties so pledged and thereafter received by the  
809 corporation shall immediately be subject to the lien of such  
810 pledge without any physical delivery thereof or further act, and  
811 the lien of any such pledge shall be valid and binding as against  
812 all parties having claims of any kind in tort, contract or  
813 otherwise against the corporation, irrespective of whether the

814 parties have notice thereof. Neither the resolution nor any other  
815 instrument by which a pledge is created need be recorded.

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

818 57-10-425. The corporation, subject to the provisions in  
819 proceedings relating to outstanding bonds as may then exist, may  
820 purchase bonds out of any funds available therefor, which shall  
821 thereupon be canceled, at any reasonable price which, if the bonds  
822 are then redeemable, shall not exceed the redemption price (and  
823 premium, if any) then applicable plus accrued interest to the  
824 redemption date thereof.

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

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

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

845 57-10-429. In the event that any of the members or officers  
846 of the board of directors of the corporation shall cease to be

847 members or officers of the board prior to the delivery of any  
848 bonds signed by them, their signatures or facsimiles thereof shall  
849 nevertheless be valid and sufficient for all purposes, the same as  
850 if such members or officers had remained in office until such  
851 delivery.

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

854             57-10-431. The corporation may create and establish such  
855 funds and accounts as may be necessary or desirable for its  
856 purposes under Sections 57-10-401 through 57-10-445.

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

859             57-10-433. The corporation shall have the power to contract  
860 with the holders of any of its bonds issued under Sections  
861 57-10-401 through 57-10-445 as to the custody, collection,  
862 securing, investment and payment of any money of the corporation,  
863 and of any money held in trust or otherwise for the payment of  
864 bonds, and to carry out such contract. Money held in trust or  
865 otherwise for the payment of bonds or in any way to secure bonds  
866 and deposits of money may be secured in the same manner as money  
867 of the corporation, and all banks and trust companies are  
868 authorized to give security for the deposits.

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

871             57-10-435. Amendments to Sections 57-10-401 through  
872 57-10-445, enacted after July 1, 1993, shall not limit the rights  
873 vested in the corporation with respect to any agreements made  
874 with, or remedies available to, the holders of bonds issued under  
875 this article or Section 27-7-22.3 prior to the enactment of the  
876 amendments until the bonds, together with all interest thereon,  
877 and all costs and expenses in connection with any proceeding by or  
878 on behalf of the holders, are fully met and discharged.

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

881           57-10-437. All expenses incurred by the corporation in  
882 carrying out the provisions of Sections 57-10-401 through  
883 57-10-445 shall be payable solely from funds provided under  
884 Sections 57-10-401 through 57-10-445, or other funds of the  
885 corporation. Nothing in Sections 57-10-401 through 57-10-445  
886 shall be construed to authorize the corporation to incur  
887 indebtedness or liability on behalf of or payable by the state or  
888 any other political subdivision thereof.

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

891           57-10-439. (1) The corporation is hereby declared to be  
892 performing a public function and to be a public body corporate and  
893 a political subdivision of the state. Accordingly, the income,  
894 including any profit made on the sale thereof from all bonds  
895 issued by the corporation, shall at all times be exempt from all  
896 taxation by the state or any political subdivision thereof. If,  
897 after all indebtedness and other obligations of the corporation  
898 are discharged, the corporation is dissolved, its remaining assets  
899 shall inure to the benefit of the state.

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

912 Chapter 7, Title 27, Mississippi Code of 1972, and except ad  
913 valorem taxes levied for school district purposes.

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

916 57-10-441. The bonds issued by and under the authority of  
917 Sections 57-10-401 through 57-10-445 by the corporation are  
918 declared to be legal investments in which all public officers or  
919 public bodies of the state, its political subdivisions, all  
920 municipalities and municipal subdivisions, all insurance companies  
921 and associations, and other persons carrying on insurance  
922 business, all banks, bankers, banking associations, trust  
923 companies, savings associations, including savings and loan  
924 associations, building and loan associations, investment  
925 companies, and other persons carrying on a banking business, all  
926 administrators, guardians, executors, trustees and other  
927 fiduciaries, and all other persons who are now or may later be  
928 authorized to invest in bonds or in other obligations of the  
929 state, may invest funds, including capital, in their control or  
930 belonging to them. Such bonds are also hereby made securities  
931 which may be deposited with and received by all public officers  
932 and bodies of the state or any agency or political subdivision of  
933 the state and all municipalities and public corporations for any  
934 purpose for which the deposit of bonds or other obligations of the  
935 state is now or may be later authorized by law.

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

938 57-10-443. The corporation, within one hundred twenty (120)  
939 days of the close of each fiscal year, shall submit an annual  
940 report of its activities in regard to Sections 57-10-401 through  
941 57-10-445 for the preceding year to the Governor. The Clerk of  
942 the House of Representatives and the Secretary of the Senate each  
943 shall receive a copy of the report by making a request for it to  
944 the corporation. Each report shall set forth a complete operating

945 and financial statement in regard to Sections 57-10-401 through  
946 57-10-445 for the corporation during the fiscal year it covers.

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

949 57-10-445. Nothing contained in Sections 57-10-401 through  
950 57-10-445 is to be construed as a restriction or limitation upon  
951 any powers which the corporation might otherwise have under any  
952 other law of the state. Insofar as the provisions of Sections  
953 57-10-401 through 57-10-445 are inconsistent with the provisions  
954 of any other law, the provisions of Sections 57-10-401 through  
955 57-10-445 shall be controlling, and the powers conferred by  
956 Sections 57-10-401 through 57-10-445 shall be regarded as  
957 supplemental and additional to powers conferred by any other laws.  
958 No proceedings, notice or approval shall be required for the  
959 issuance of any bonds or any instrument or the security therefor,  
960 except as provided in Sections 57-10-401 through 57-10-445.

961 The provisions of Sections 57-10-401 through 57-10-445 shall  
962 be liberally construed to accomplish the purposes of Sections  
963 57-10-401 through 57-10-445.

964 The powers granted and the duties imposed in Sections  
965 57-10-401 through 57-10-445 shall be construed to be independent  
966 and severable. If any one or more sections, subsections,  
967 sentences or parts of any of Sections 57-10-401 through 57-10-445  
968 shall be adjudged unconstitutional or invalid, such adjudication  
969 shall not affect, impair or invalidate the remaining provisions  
970 thereof, but shall be confined in its operation to the specific  
971 provisions so held unconstitutional or invalid.

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

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

978           27-7-22.3. (1) For taxpayers who are required to pay a job  
979 assessment fee as provided in Section 57-10-413, there shall be  
980 allowed as a credit against the taxes imposed by this chapter, an  
981 amount equal to the amount of the job assessment fee imposed upon  
982 such taxpayer pursuant to Section 57-10-413. If the amount  
983 allowable as a credit exceeds the tax imposed by this article and  
984 Section 27-7-22.3, the amount of such excess shall not be  
985 refundable or carried forward to any other taxable year.

986           (2) For any approved company as defined in Section  
987 57-10-401, there shall be allowed against the taxes imposed by  
988 this chapter on the income of the approved company generated by or  
989 arising out of the economic development project (as defined in  
990 Section 57-10-401), a credit in an amount not to exceed the total  
991 debt service paid under a financing agreement entered into under  
992 Section 57-10-409. The tax credit allowed in this subsection  
993 shall not exceed the amount of taxes due the State of Mississippi.

994           **[In cases involving an economic development project for which**  
995 **the Mississippi Business Finance Corporation has not issued bonds**  
996 **for the purpose of financing the approved costs of such project**  
997 **prior to July 1, 1994, but has issued bonds for such project prior**  
998 **to July 1, 1997, or in cases involving an economic development**  
999 **project which has been induced by a resolution of the Board of**  
1000 **Directors of the Mississippi Business Finance Corporation that has**  
1001 **been filed with the State Tax Commission prior to July 1, 1997,**  
1002 **this section shall read as follows:]**

1003           27-7-22.3. (1) For taxpayers who are required to pay a job  
1004 assessment fee as provided in Section 57-10-413, there shall be  
1005 allowed as a credit against the taxes imposed by this chapter, an  
1006 amount equal to the amount of the job assessment fee imposed upon  
1007 such taxpayer pursuant to Section 57-10-413. If the amount  
1008 allowable as a credit exceeds the tax imposed by this article and  
1009 Section 27-7-22.3, the amount of such excess shall not be  
1010 refundable or carried forward to any other taxable year.

1011           (2) For any approved company as defined in Section  
1012 57-10-401, there shall be allowed against the taxes imposed by  
1013 this chapter on the income of the approved company generated by or  
1014 arising out of the economic development project (as defined in  
1015 Section 57-10-401), a credit in an amount not to exceed the total  
1016 debt service paid under a financing agreement entered into under  
1017 Section 57-10-409. The tax credit allowed in this subsection  
1018 shall not exceed the amount of taxes due the State of Mississippi.  
1019 The amount of income of the approved company generated by or  
1020 arising out of the economic development project shall be  
1021 determined by a formula adopted by the Mississippi Business  
1022 Finance Corporation.

1023           **[In cases involving an economic development project for which**  
1024 **the Mississippi Business Finance Corporation has not issued bonds**  
1025 **for the purpose of financing the approved costs of such project**  
1026 **prior to July 1, 1997, or in cases involving an economic**  
1027 **development project which has not been induced by a resolution of**  
1028 **the Board of Directors of the Mississippi Business Finance**  
1029 **Corporation that has been filed with the State Tax Commission**  
1030 **prior to July 1, 1997, this section shall read as follows:]**

1031           27-7-22.3. For any approved company as defined in Section  
1032 57-10-401, there shall be allowed against the taxes imposed by  
1033 this chapter on the income of the approved company generated by or  
1034 arising out of the economic development project (as defined in  
1035 Section 57-10-401), a credit in an amount not to exceed the total  
1036 debt service paid under a financing agreement entered into under  
1037 Section 57-10-409; provided, however, that the tax credit allowed  
1038 in this subsection shall not exceed eighty percent (80%) of the  
1039 amount of taxes due the State of Mississippi prior to the  
1040 application of the credit. To the extent that financing agreement  
1041 annual payments exceed the amount of the credit authorized  
1042 pursuant to this section in any taxable year, such excess payment  
1043 may be recouped from excess credits in succeeding years not to



1044 exceed three (3) years following the date upon which the credit  
1045 was earned. The amount of income of the approved company  
1046 generated by or arising out of the economic development project  
1047 shall be determined by a formula adopted by the Mississippi  
1048 Business Finance Corporation.

1049         **SECTION 25.** Section 57-10-449, Mississippi Code of 1972, is  
1050 amended as follows:

1051         57-10-449. Sections 57-10-401 through 57-10-445 and  
1052 27-7-22.3 shall be repealed from and after October 1, 2011.

1053         **SECTION 26.** This act shall take effect and be in force from  
1054 and after October 1, 2007.