

By: Senator(s) McDaniel

To: Finance

SENATE BILL NO. 2131

1 AN ACT TO AMEND SECTIONS 27-13-5 AND 27-13-7, MISSISSIPPI
2 CODE OF 1972, TO PHASE OUT THE CORPORATION FRANCHISE TAX EFFECTIVE
3 JANUARY 1, 2014; TO REPEAL, EFFECTIVE JANUARY 1, 2014, SECTIONS
4 27-13-1 THROUGH 27-13-67, MISSISSIPPI CODE OF 1972, WHICH ARE THE
5 CORPORATION FRANCHISE TAX LAW; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 27-13-5, Mississippi Code of 1972, is
8 amended as follows:

9 27-13-5. (1) **Franchise tax levy.**

10 (a) Except as otherwise provided in subsections (3),
11 (4) and (5) of this section, there is hereby imposed, to be paid
12 and collected as hereinafter provided, a franchise or excise tax
13 upon every corporation, association or joint-stock company or
14 partnership treated as a corporation under the income tax laws or
15 regulations, organized or created for pecuniary gain, having
16 privileges not possessed by individuals, and having authorized
17 capital stock now existing in this state, or hereafter organized,
18 created or established, under and by virtue of the laws of the
19 State of Mississippi, equal to:

20 (i) For tax years beginning before January 1,
21 2010, Two Dollars and Fifty Cents (\$2.50) for each One Thousand
22 Dollars (\$1,000.00), or fraction thereof, of the value of the
23 capital used, invested or employed in the exercise of any power,
24 privilege or right enjoyed by such organization within this
25 state * * *.

26 (ii) For tax years beginning on or after January
27 1, 2010, but before January 1, 2011, Two Dollars (\$2.00) for each
28 One Thousand Dollars (\$1,000.00), or fraction thereof, of the



29 value of the capital used, invested or employed in the exercise of
30 any power, privilege or right enjoyed by such organization within
31 this state.

32 (iii) For tax years beginning on or after January
33 1, 2011, but before January 1, 2012, One Dollar and Fifty Cents
34 (\$1.50) for each One Thousand Dollars (\$1,000.00), or fraction
35 thereof, of the value of the capital used, invested or employed in
36 the exercise of any power, privilege or right enjoyed by such
37 organization within this state.

38 (iv) For tax years beginning on or after January
39 1, 2012, but before January 1, 2013, One Dollar (\$1.00) for each
40 One Thousand Dollars (\$1,000.00), or fraction thereof, of the
41 value of the capital used, invested or employed in the exercise of
42 any power, privilege or right enjoyed by such organization within
43 this state.

44 (v) For tax years beginning on or after January 1,
45 2013, but before January 1, 2014, Fifty Cents (50¢) for each One
46 Thousand Dollars (\$1,000.00), or fraction thereof, of the value of
47 the capital used, invested or employed in the exercise of any
48 power, privilege or right enjoyed by such organization within this
49 state.

50 (b) * * * It is the purpose of this section to require
51 the payment to the State of Mississippi of this tax for the right
52 granted by the laws of this state to exist as such organization,
53 and to enjoy, under the protection of the laws of this state, the
54 powers, rights, privileges and immunities derived from the state
55 by the form of such existence.

56 (2) **Annual report of domestic corporations.** Each domestic
57 corporation shall file, within the time prescribed by Section
58 79-3-251, an annual report as required by the provisions of
59 Section 79-3-249.

60 (3) A corporation that has negotiated a fee-in-lieu as
61 defined in Section 57-75-5 shall not be subject to the tax levied



62 by this section on such project; provided, however, that the
63 fee-in-lieu payment shall be otherwise treated in the same manner
64 as the payment of franchise taxes.

65 (4) An approved business enterprise as defined in the Growth
66 and Prosperity Act shall not be subject to the tax levied by this
67 section on the value of capital used, invested or employed by the
68 approved business enterprise in a growth and prosperity county or
69 supervisors district as provided in the Growth and Prosperity Act.

70 (5) A business enterprise operating a project as defined in
71 Section 57-64-33, in a county that is a member of a regional
72 economic development alliance created under the Regional Economic
73 Development Act shall not be subject to the tax levied by this
74 section on the value of capital used, invested or employed by the
75 business enterprise in such a county as provided in Section
76 57-64-33.

77 (6) The tax levied by this chapter and paid by a business
78 enterprise located in a redevelopment project area under Sections
79 57-91-1 through 57-91-11 shall be deposited into the Redevelopment
80 Project Incentive Fund created in Section 57-91-9.

81 (7) This section shall stand repealed from and after January
82 1, 2014.

83 **SECTION 2.** Section 27-13-7, Mississippi Code of 1972, is
84 amended as follows:

85 27-13-7. (1) **Franchise tax levy.**

86 (a) Except as otherwise provided in subsections (3),
87 (4) and (5) of this section, there is hereby imposed, levied and
88 assessed upon every corporation, association or joint-stock
89 company, or partnership treated as a corporation under the Income
90 Tax Laws or regulations as hereinbefore defined, organized and
91 existing under and by virtue of the laws of some other state,
92 territory or country, or organized and existing without any
93 specific statutory authority, now or hereafter doing business or
94 exercising any power, privilege or right within this state, as



95 hereinbefore defined, a franchise or excise tax equal to the
96 following:

97 (i) For tax years that begin before January 1,
98 2010, Two Dollars and Fifty Cents (\$2.50) of each One Thousand
99 Dollars (\$1,000.00), or fraction thereof, of the value of capital
100 used, invested or employed within this state * * *.

101 (ii) For tax years beginning on or after January
102 1, 2010, but before January 1, 2011, Two Dollars (\$2.00) for each
103 One Thousand Dollars (\$1,000.00), or fraction thereof, of the
104 value of the capital used, invested or employed in the exercise of
105 any power, privilege or right enjoyed by such organization within
106 this state.

107 (iii) For tax years beginning on or after January
108 1, 2011, but before January 1, 2012, One Dollar and Fifty Cents
109 (\$1.50) for each One Thousand Dollars (\$1,000.00), or fraction
110 thereof, of the value of the capital used, invested or employed in
111 the exercise of any power, privilege or right enjoyed by such
112 organization within this state.

113 (iv) For tax years beginning on or after January
114 1, 2012, but before January 1, 2013, One Dollar (\$1.00) for each
115 One Thousand Dollars (\$1,000.00), or fraction thereof, of the
116 value of the capital used, invested or employed in the exercise of
117 any power, privilege or right enjoyed by such organization within
118 this state.

119 (v) For tax years beginning on or after January 1,
120 2013, but before January 1, 2014, Fifty Cents (50¢) for each One
121 Thousand Dollars (\$1,000.00), or fraction thereof, of the value of
122 the capital used, invested or employed in the exercise of any
123 power, privilege or right enjoyed by such organization within this
124 state.

125 (b) It is the purpose of this section to require the
126 payment of a tax by all organizations not organized under the laws
127 of this state, measured by the amount of capital or its



128 equivalent, for which such organization receives the benefit and
129 protection of the government and laws of the state.

130 (2) **Annual report of foreign corporations.** Each foreign
131 corporation authorized to transact business in this state shall
132 file, within the time prescribed by Section 79-3-251, an annual
133 report as required by the provisions of Section 79-3-249.

134 (3) A corporation that has negotiated a fee-in-lieu as
135 defined in Section 57-75-5 shall not be subject to the tax levied
136 by this section on such project; provided, however, that the
137 fee-in-lieu payment shall be otherwise treated in the same manner
138 as the payment of franchise taxes.

139 (4) An approved business enterprise as defined in the Growth
140 and Prosperity Act shall not be subject to the tax levied by this
141 section on the value of capital used, invested or employed by the
142 approved business enterprise in a growth and prosperity county or
143 supervisors district as provided in the Growth and Prosperity Act.

144 (5) A business enterprise operating a project as defined in
145 Section 57-64-33, in a county that is a member of a regional
146 economic development alliance created under the Regional Economic
147 Development Act shall not be subject to the tax levied by this
148 section on the value of capital used, invested or employed by the
149 business enterprise in such a county as provided in Section
150 57-64-33.

151 (6) The tax levied by this chapter and paid by a business
152 enterprise located in a redevelopment project area under Sections
153 57-91-1 through 57-91-11 shall be deposited into the Redevelopment
154 Project Incentive Fund created in Section 57-91-9.

155 **SECTION 3.** Sections 27-13-1, 27-13-3, 27-13-5, 27-13-7,
156 27-13-8, 27-13-9, 27-13-11, 27-13-13, 27-13-17, 27-13-19,
157 27-13-21, 27-13-23, 27-13-25, 27-13-27, 27-13-29, 27-13-31,
158 27-13-33, 27-13-35, 27-13-37, 27-13-39, 27-13-41, 27-13-47,
159 27-13-49, 27-13-51, 27-13-53, 27-13-55, 27-13-57, 27-13-59,
160 27-13-61, 27-13-63, 27-13-65 and 27-13-67, Mississippi Code of



161 1972, which are the corporation franchise tax law, are repealed
162 from and after January 1, 2014.

163 **SECTION 4.** Nothing in this act shall affect or defeat any
164 claim, assessment, appeal, suit, right or cause of action for
165 taxes due or accrued under the corporation franchise tax laws
166 before January 1, 2014, whether such claims, assessments, appeals
167 suits or actions have been begun before the date on which this act
168 becomes effective or are begun thereafter; and the provisions of
169 the corporation franchise tax laws are expressly continued in full
170 force, effect and operation for the purpose of the assessment,
171 collection and enrollment of liens for any taxes due or accrued
172 and the execution of any warrant under such laws before January 1,
173 2014, and for the imposition of any penalties, forfeitures or
174 claims for failure to comply with such laws.

175 **SECTION 5.** This act shall take effect and be in force from
176 and after its passage.

