

By: Senator(s) Fillingane

To: Finance

SENATE BILL NO. 2479  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 27-31-104, MISSISSIPPI CODE OF 1972,  
2 TO REDUCE FROM \$100,000,000.00 TO \$60,000,000.00 THE AMOUNT THAT A  
3 PROJECT BY CERTAIN NEW ENTERPRISES AND CERTAIN PRIVATE COMPANIES  
4 MUST TOTAL IN ORDER TO BE ELIGIBLE TO ENTER INTO A FEE-IN-LIEU  
5 AGREEMENT; TO AUTHORIZE COUNTY BOARDS OF SUPERVISORS AND MUNICIPAL  
6 AUTHORITIES TO ENTER INTO FEE-IN-LIEU AGREEMENTS WITH CERTAIN  
7 EXISTING ENTERPRISES FOR PROJECTS TOTALING OVER \$60,000,000.00; TO  
8 PROVIDE THAT COUNTY BOARDS OF SUPERVISORS AND MUNICIPAL  
9 AUTHORITIES MAY ENTER INTO FEE-IN-LIEU OF AD VALOREM TAXES  
10 AGREEMENTS FOR CERTAIN PROJECTS HAVING A MINIMUM CAPITAL  
11 INVESTMENT OF \$100,000,000.00 FROM ANY SOURCE OR COMBINATION OF  
12 SOURCES, PROVIDED THAT A MAJORITY OF THE CAPITAL INVESTMENT IS  
13 FROM PRIVATE SOURCES, WHEN SUCH A PROJECT IS LOCATED WITHIN A  
14 GEOGRAPHIC AREA FOR WHICH A PRESIDENTIAL DISASTER DECLARATION WAS  
15 ISSUED ON OR AFTER JANUARY 1, 2014; AND FOR RELATED PURPOSES.

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

17 **SECTION 1.** Section 27-31-104, Mississippi Code of 1972, is  
18 amended as follows:

19 **[Through June 30, 2022, this section shall read as follows:]**

20 27-31-104. (1) County boards of supervisors and municipal  
21 authorities are each hereby authorized and empowered to enter into  
22 an agreement with an enterprise granting, and pursuant to such  
23 agreement grant a fee-in-lieu of ad valorem taxes, including ad  
24 valorem taxes levied for school purposes, for the following:



25           (a) Projects totaling over \* \* \* Sixty Million Dollars  
26 (\$60,000,000.00) by any new enterprises enumerated in Section  
27 27-31-101 \* \* \*;

28           ( \* \* \*b) Projects by a private company (as such term  
29 is defined in Section 57-61-5 \* \* \*) having a minimum capital  
30 investment of \* \* \* Sixty Million Dollars (\$60,000,000.00); \* \* \*

31           ( \* \* \*c) Projects totaling over One Hundred Million  
32 Dollars (\$100,000,000.00) by a qualified business (as such term is  
33 defined in Section 57-117-3) meeting minimum criteria established  
34 by the Mississippi Development Authority \* \* \*;

35           (d) Projects totaling over Sixty Million Dollars  
36 (\$60,000,000.00) by an existing enterprise that has been doing  
37 business in the county or municipality for twenty-four (24)  
38 months. For purposes of this paragraph (d), the term "existing  
39 enterprise" includes those enterprises enumerated in Section  
40 27-31-101; or

41           (e) A private company (as such term is defined in  
42 Section 57-61-5) having a minimum capital investment of One  
43 Hundred Million Dollars (\$100,000,000.00) from any source or  
44 combination of sources, provided that a majority of the capital  
45 investment is from private sources, when such project is located  
46 within a geographic area for which a Presidential Disaster  
47 Declaration was issued on or after January 1, 2014.

48           (2) A county board of supervisors may enter into a  
49 fee-in-lieu agreement on behalf of the county and any county



50 school district, and a municipality may enter into such a  
51 fee-in-lieu agreement on behalf of the municipality and any  
52 municipal school district located in the municipality; however, if  
53 the project is located outside the limits of a municipality but  
54 within the boundaries of the municipal school district, then the  
55 county board of supervisors may enter into such a fee-in-lieu  
56 agreement on behalf of the school district granting a fee-in-lieu  
57 of ad valorem taxes for school district purposes.

58 (3) Any grant of a fee-in-lieu of ad valorem taxes shall be  
59 evidenced by a written agreement negotiated by the enterprise and  
60 the county board of supervisors and/or municipal authority, as the  
61 case may be, and given final approval by the Mississippi  
62 Development Authority as satisfying the requirements of this  
63 section.

64 (4) The minimum sum allowable as a fee-in-lieu shall not be  
65 less than one-third (1/3) of the ad valorem levy, including ad  
66 valorem taxes for school district purposes, and except as  
67 otherwise provided, the sum allowed shall be apportioned between  
68 the county or municipality, as appropriate, and the school  
69 districts in such amounts as may be determined by the county board  
70 of supervisors or municipal governing authority, as the case may  
71 be, however, except as otherwise provided in this section, from  
72 the sum allowed the apportionment to school districts shall not be  
73 less than the school districts' pro rata share based upon the  
74 proportion that the millage imposed for the school districts by



75 the appropriate levying authority bears to the millage imposed by  
76 such levying authority for all other county or municipal purposes.  
77 Any fee-in-lieu agreement entered into under this section shall  
78 become a binding obligation of the parties to the agreement, be  
79 effective upon its execution by the parties and approval by the  
80 Mississippi Development Authority and, except as otherwise  
81 provided in Section 17-25-23 or Section 57-75-33, or any other  
82 provision of law, continue in effect for a period not to  
83 exceed \* \* \* thirty (30) years commencing on the date that the  
84 fee-in-lieu granted thereunder begins in accordance with the  
85 agreement; however, no particular parcel of land, real property  
86 improvement or item of personal property shall be subject to a  
87 fee-in-lieu for a duration of more than ten (10) years. Any such  
88 agreement shall be binding, according to its terms, on future  
89 boards of supervisors of the county and/or governing authorities  
90 of a municipality, as the case may be, for the duration of the  
91 agreement.

92 (5) The fee-in-lieu may be a stated fraction or percentage  
93 of the ad valorem taxes otherwise payable or a stated dollar  
94 amount. If the fee is a fraction or percentage of the ad valorem  
95 tax levy, it shall be annually computed on all ad valorem taxes  
96 otherwise payable, including school taxes, as the same may vary  
97 from year to year based upon changes in the millage rate or  
98 assessed value and shall not be less than one-third (1/3) of that  
99 amount. If the fee is a stated dollar amount, said amount shall



100 be the higher of the sum provided for fixed payment or one-third  
101 (1/3) of the total of all ad valorem taxes otherwise payable as  
102 annually determined during each year of the fee-in-lieu.

103 (6) Notwithstanding Section 27-31-111, the parties to a  
104 fee-in-lieu may agree on terms and conditions providing for the  
105 reduction, suspension, termination or reinstatement of a  
106 fee-in-lieu agreement or any fee-in-lieu period granted thereunder  
107 upon the cessation of operations by project for twelve (12) or  
108 more consecutive months or due to other conditions set forth in  
109 the agreement.

110 (7) For a project as defined in Section 57-75-5(f)(xxi) and  
111 located in a county that is a member of a regional economic  
112 development alliance created under Section 57-64-1 et seq., the  
113 members of the regional economic development alliance may divide  
114 the sum allowed as a fee-in-lieu in a manner as determined by the  
115 alliance agreement, and the boards of supervisors of the member  
116 counties may then apportion the sum allowed between school  
117 district purposes and all other county purposes.

118 (8) For a project as defined in Section 57-75-5(f)(xxvi),  
119 the board of supervisors of the county in which the project is  
120 located may negotiate with the school district in which the  
121 project is located and apportion to the school district an amount  
122 of the fee-in-lieu that is agreed upon in the negotiations  
123 different than the amount provided for in subsection (3) of this  
124 section.



125 (9) For a project as defined in Section 57-75-5(f) (xxviii),  
126 the annual amount of the fee-in-lieu apportioned to the county  
127 shall not be less than the amount necessary to pay the debt  
128 service on bonds issued by the county pursuant to Section  
129 57-75-37(3) (c) .

130 **[From and after July 1, 2022, this section shall read as**  
131 **follows:]**

132 27-31-104. (1) County boards of supervisors and municipal  
133 authorities are each hereby authorized and empowered to enter into  
134 an agreement with an enterprise granting, and pursuant to such  
135 agreement grant a fee-in-lieu of ad valorem taxes, including ad  
136 valorem taxes levied for school purposes, for the following:

137 (a) Projects totaling over \* \* \* Sixty Million Dollars  
138 (\$60,000,000.00) by any new enterprises enumerated in Section  
139 27-31-101 \* \* \*;

140 (b) Projects by a private company (as such term is  
141 defined in Section 57-61-5, Mississippi Code of 1972) having a  
142 minimum capital investment of \* \* \* Sixty Million Dollars  
143 (\$60,000,000.00);

144 (c) Projects totaling over Sixty Million Dollars  
145 (\$60,000,000.00) by an existing enterprise that has been doing  
146 business in the county or municipality for twenty-four (24)  
147 months. For purposes of this paragraph (c), the term "existing  
148 enterprise" includes those enterprises enumerated in Section  
149 27-31-101; or



150           (d) A private company (as such term is defined in  
151 Section 57-61-5) having a minimum capital investment of One  
152 Hundred Million Dollars (\$100,000,000.00) from any source or  
153 combination of sources, provided that a majority of the capital  
154 investment is from private sources, when such project is located  
155 within a geographic area for which a Presidential Disaster  
156 Declaration was issued on or after January 1, 2014.

157           (2) A county board of supervisors may enter into a  
158 fee-in-lieu agreement on behalf of the county and any county  
159 school district, and a municipality may enter into such a  
160 fee-in-lieu agreement on behalf of the municipality and any  
161 municipal school district located in the municipality; however, if  
162 the project is located outside the limits of a municipality but  
163 within the boundaries of the municipal school district, then the  
164 county board of supervisors may enter into such a fee-in-lieu  
165 agreement on behalf of the school district granting a fee-in-lieu  
166 of ad valorem taxes for school district purposes.

167           (3) Any grant of a fee-in-lieu of ad valorem taxes shall be  
168 evidenced by a written agreement negotiated by the enterprise and  
169 the county board of supervisors and/or municipal authority, as the  
170 case may be, and given final approval by the Mississippi  
171 Development Authority as satisfying the requirements of this  
172 section.

173           (4) The minimum sum allowable as a fee-in-lieu shall not be  
174 less than one-third (1/3) of the ad valorem levy, including ad



175 valorem taxes for school district purposes, and except as  
176 otherwise provided, the sum allowed shall be apportioned between  
177 the county or municipality, as appropriate, and the school  
178 districts in such amounts as may be determined by the county board  
179 of supervisors or municipal governing authority, as the case may  
180 be, however, except as otherwise provided in this section, from  
181 the sum allowed the apportionment to school districts shall not be  
182 less than the school districts' pro rata share based upon the  
183 proportion that the millage imposed for the school districts by  
184 the appropriate levying authority bears to the millage imposed by  
185 such levying authority for all other county or municipal purposes.  
186 Any fee-in-lieu agreement entered into under this section shall  
187 become a binding obligation of the parties to the agreement, be  
188 effective upon its execution by the parties and approval by the  
189 Mississippi Development Authority and, except as otherwise  
190 provided in Section 17-25-23 or Section 57-75-33, or any other  
191 provision of law, continue in effect for a period not to  
192 exceed \* \* \* thirty (30) years commencing on the date that the  
193 fee-in-lieu granted thereunder begins in accordance with the  
194 agreement; however, no particular parcel of land, real property  
195 improvement or item of personal property shall be subject to a  
196 fee-in-lieu for a duration of more than ten (10) years. Any such  
197 agreement shall be binding, according to its terms, on future  
198 boards of supervisors of the county and/or governing authorities





199 of a municipality, as the case may be, for the duration of the  
200 agreement.

201 (5) The fee-in-lieu may be a stated fraction or percentage  
202 of the ad valorem taxes otherwise payable or a stated dollar  
203 amount. If the fee is a fraction or percentage of the ad valorem  
204 tax levy, it shall be annually computed on all ad valorem taxes  
205 otherwise payable, including school taxes, as the same may vary  
206 from year to year based upon changes in the millage rate or  
207 assessed value and shall not be less than one-third (1/3) of that  
208 amount. If the fee is a stated dollar amount, said amount shall  
209 be the higher of the sum provided for fixed payment or one-third  
210 (1/3) of the total of all ad valorem taxes otherwise payable as  
211 annually determined during each year of the fee-in-lieu.

212 (6) Notwithstanding Section 27-31-111, the parties to a  
213 fee-in-lieu may agree on terms and conditions providing for the  
214 reduction, suspension, termination or reinstatement of a  
215 fee-in-lieu agreement or any fee-in-lieu period granted thereunder  
216 upon the cessation of operations by project for twelve (12) or  
217 more consecutive months or due to other conditions set forth in  
218 the agreement.

219 (7) For a project as defined in Section 57-75-5(f)(xxi) and  
220 located in a county that is a member of a regional economic  
221 development alliance created under Section 57-64-1 et seq., the  
222 members of the regional economic development alliance may divide  
223 the sum allowed as a fee-in-lieu in a manner as determined by the



224 alliance agreement, and the boards of supervisors of the member  
225 counties may then apportion the sum allowed between school  
226 district purposes and all other county purposes.

227 (8) For a project as defined in Section 57-75-5(f) (xxvi),  
228 the board of supervisors of the county in which the project is  
229 located may negotiate with the school district in which the  
230 project is located and apportion to the school district an amount  
231 of the fee-in-lieu that is agreed upon in the negotiations  
232 different than the amount provided for in subsection (3) of this  
233 section.

234 (9) For a project as defined in Section 57-75-5(f) (xxviii),  
235 the annual amount of the fee-in-lieu apportioned to the county  
236 shall not be less than the amount necessary to pay the annual debt  
237 service on bonds issued by the county pursuant to Section  
238 57-75-37(3) (c) .

239 **SECTION 2.** The minimum capital investment requirements of  
240 Section 27-31-104(1) (e) in the version of that section effective  
241 through June 30, 2022, and Section 27-31-104(1) (d) in the version  
242 of that section effective from and after July 1, 2022, as amended  
243 by this act, shall apply to any project for which initial capital  
244 investment for the project was made on or after July 1, 2014.

245 **SECTION 3.** This act shall take effect and be in force from  
246 and after July 1, 2018.

