

By: Senator(s) Fillingane

To: Finance

SENATE BILL NO. 2271

1 AN ACT TO AMEND SECTION 57-113-21, MISSISSIPPI CODE OF 1972,
 2 TO REVISE THE DEFINITION OF THE TERM "BUSINESS ENTERPRISE" TO
 3 REDUCE THE REQUIREMENTS NECESSARY FOR A DATA CENTER TO BE INCLUDED
 4 IN SUCH DEFINITION; TO REVISE THE DEFINITION OF THE TERM "STATE
 5 TAX" TO INCLUDE INCOME TAXES AND FRANCHISE TAXES IN THE TAXES FROM
 6 WHICH A DATA CENTER MAY BE EXEMPTED UNDER THIS ARTICLE; TO AMEND
 7 SECTION 57-113-25, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
 8 BUSINESS ENTERPRISES SHALL BE EXEMPT FROM STATE TAXES FOR A PERIOD
 9 OF TEN YEARS AFTER CERTIFICATION FROM THE MISSISSIPPI DEVELOPMENT
 10 AUTHORITY DESIGNATING THE BUSINESS ENTERPRISE AS ELIGIBLE FOR THE
 11 TAX EXEMPTIONS AUTHORIZED BY THIS ARTICLE; TO AMEND SECTION
 12 27-65-107, MISSISSIPPI CODE OF 1972, TO EXEMPT FROM SALES TAXATION
 13 THE SALE OF CERTAIN UTILITIES TO DATA CENTERS THAT FALL WITHIN THE
 14 DEFINITION OF THE TERM "BUSINESS ENTERPRISE"; TO AMEND SECTIONS
 15 27-7-21, 27-13-5 AND 27-13-7, MISSISSIPPI CODE OF 1972, IN
 16 CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

18 **SECTION 1.** Section 57-113-21, Mississippi Code of 1972, is
 19 amended as follows:

20 57-113-21. As used in this article:

21 (a) "Business enterprise" means any business enterprise
 22 owning or operating a data center with a minimum capital
 23 investment in this state of * * * Twenty Million Dollars
 24 (\$20,000,000.00) which will create a minimum of * * * twenty (20)
 25 new, full-time jobs with a minimum average annual salary of not



26 less than * * * one hundred twenty-five percent (125%) of the
27 average annual state wage.

28 (b) "Data center" means a business enterprise that
29 utilizes hardware, software, technology, infrastructure and/or
30 workforce, to store, manage or manipulate digital data.

31 (c) "MDA" means the Mississippi Development Authority.

32 (d) "State tax" means:

33 (i) Any sales and use tax imposed on the business
34 enterprise pursuant to law related to the purchase or lease of
35 component building materials and equipment for initial
36 construction of facilities or expansion of facilities that are
37 certified by the Mississippi Development Authority; * * *

38 (ii) Any sales and use tax imposed by law on the
39 business enterprise pursuant to law related to the purchase of
40 replacement hardware, software or other necessary technology to
41 operate a data center * * *;

42 (iii) All income tax imposed pursuant to law on
43 income earned by the business enterprise certified by the
44 Mississippi Development Authority; and

45 (iv) Franchise tax imposed pursuant to law on the
46 value of capital used, invested or employed by the business
47 enterprise certified by the Mississippi Development Authority.

48 **SECTION 2.** Section 57-113-25, Mississippi Code of 1972, is
49 amended as follows:



50 57-113-25. (1) Upon approval of the application, the MDA
51 shall issue a certification designating the business enterprise as
52 eligible for the tax exemptions authorized by this article. This
53 certification shall document the date by which all commitments
54 must be met.

55 (2) Upon the issuance of the certification, the business
56 enterprise shall be exempt from state taxes for a period of ten
57 (10) years subject to the performance requirements set out in the
58 agreement required by subsection (3)(c) of this section.

59 (3) The following conditions, along with any other
60 conditions the MDA shall promulgate from time to time by rule or
61 regulation, shall apply to such exemptions:

62 (a) Any exemption provided under this article is
63 nontransferable and cannot be applied, used or assigned to any
64 other person or business or tax account without prior approval by
65 the MDA;

66 (b) No approved business enterprise may claim or use
67 the exemption granted under this article unless that enterprise is
68 in full compliance with all state and local tax laws, and related
69 ordinances and resolutions; and

70 (c) The business enterprise must enter into an
71 agreement with the MDA which sets out, at a minimum, the
72 performance requirements of the approved business enterprise
73 during the term of the exemption and provisions for the recapture



74 of all or a portion of the taxes exempted if the performance
75 requirements of the business enterprise are not met.

76 (4) Upon certifying a business enterprise as eligible for
77 the exemptions under this article, the MDA shall forward the
78 certification along with any other necessary information to the
79 Department of Revenue so that the exemptions can be implemented.
80 The Department of Revenue shall promulgate rules and regulations,
81 in accordance with the Mississippi Administrative Procedures Law,
82 for the implementation of the state tax exemptions granted under
83 this article.

84 **SECTION 3.** Section 27-65-107, Mississippi Code of 1972, is
85 amended as follows:

86 27-65-107. The exemptions from the provisions of this
87 chapter which relate to utilities or which are more properly
88 classified as utility exemptions than any other exemption
89 classification of this chapter shall be confined to those persons
90 or property exempted by this section or by provisions of the
91 Constitutions of the United States or the State of Mississippi.
92 No utility exemption as now provided by any other section shall be
93 valid as against the tax herein levied. Any subsequent utility
94 exemption from the tax levied hereunder shall be provided by
95 amendment to this section.

96 No exemption provided in this section shall apply to taxes
97 levied by Section 27-65-15 or 27-65-21, Mississippi Code of 1972.



98 The tax levied by this chapter shall not apply to the
99 following:

100 (a) Sales and rentals of locomotives, rail rolling
101 stock and materials for their repair, locomotive water, when made
102 to a railroad whose rates are fixed by the Interstate Commerce
103 Commission or the Mississippi Public Service Commission.

104 (b) Rentals of manufacturing machinery to a
105 manufacturer or custom processor where such manufacturer or custom
106 processor is engaged in, and such machinery is used in, the
107 manufacture of containers made from timber or wood for sale. The
108 tax, likewise, shall not apply to replacement or repair parts of
109 such machinery used in such manufacture.

110 (c) Sales of tangible personal property and services to
111 nonprofit water associations or corporations in which no part of
112 the net earnings inures to the benefit of any private shareholder,
113 group or individual. Only sales of property or services which are
114 ordinary and necessary to the operation of such organizations are
115 exempt from tax.

116 (d) Wholesale sales of tangible personal property for
117 resale under Section 27-65-19.

118 (e) From and after July 1, 2003, sales of fuel used to
119 produce electric power by a company primarily engaged in the
120 business of producing, generating or distributing electric power
121 for sale.



122 (f) Sales of electricity, current, power, steam, coal,
123 natural gas, liquefied petroleum gas or other fuel to a
124 manufacturer, custom processor, data center meeting the criteria
125 provided for in Section 57-113-21, technology intensive enterprise
126 meeting the criteria provided for in Section 27-65-17(1)(f), or
127 public service company for industrial purposes, which shall
128 include that used to generate electricity, to operate an
129 electrical distribution or transmission system, to operate
130 pipeline compressor or pumping stations, or to operate railroad
131 locomotives.

132 (g) Sales of electricity, current, power, steam, coal,
133 natural gas, liquefied petroleum gas or other fuel to a producer
134 or processor for use directly in the production of poultry or
135 poultry products, the production of livestock and livestock
136 products, the production of domesticated fish and domesticated
137 fish products, the production of marine aquaculture products, the
138 production of plants or food by commercial horticulturists, the
139 processing of milk and milk products, the processing of poultry
140 and livestock feed, and the irrigation of farm crops.

141 (h) Sales of electricity, current, power, steam, coal,
142 natural gas, liquefied petroleum gas or other fuel to a commercial
143 fisherman, shrimper or oysterman.

144 (i) Sales exempt under the Facilitating Business Rapid
145 Response to State Declared Disasters Act of 2015 (Sections
146 27-113-1 through 27-113-9).



147 (j) Sales of electricity, current, power, steam, coal,
148 natural gas, liquefied petroleum gas or other fuel to a permanent
149 enterprise that is eligible for the exemption authorized in
150 Section 27-65-101(1)(ww) upon completion of the expansion upon
151 which such exemption is based; however, in order to be eligible
152 for the exemption authorized by this paragraph, the expansion
153 must:

154 (i) Create at least eighty-five (85) full-time
155 jobs in this state with an average annual wage of at least Sixty
156 Thousand Dollars (\$60,000.00); and

157 (ii) Have at least Eighty Million Dollars
158 (\$80,000,000.00) in new investment at the existing facility.

159 **SECTION 4.** Section 27-7-21, Mississippi Code of 1972, is
160 amended as follows:

161 27-7-21. (a) **Allowance of deductions.** In the case of a
162 resident individual, the exemptions provided by this section, as
163 applicable to individuals, shall be allowed as deductions in
164 computing taxable income.

165 (b) **Single individuals.** In the case of a single individual,
166 a personal exemption of Five Thousand Two Hundred Fifty Dollars
167 (\$5,250.00) for the 1979 and 1980 calendar years and Six Thousand
168 Dollars (\$6,000.00) for each calendar year thereafter.

169 (c) **Married individuals.** In the case of married individuals
170 living together, a joint personal exemption of Eight Thousand
171 Dollars (\$8,000.00) for the 1979 and 1980 calendar years and Nine



172 Thousand Five Hundred Dollars (\$9,500.00) for the 1981 through
173 1997 calendar years, Ten Thousand Dollars (\$10,000.00) for the
174 calendar year 1998, Eleven Thousand Dollars (\$11,000.00) for the
175 calendar year 1999, and Twelve Thousand Dollars (\$12,000.00) for
176 each calendar year thereafter. A husband and wife living together
177 shall receive but one (1) personal exemption in the amounts
178 provided for in this subsection for each calendar year against
179 their aggregate income.

180 (d) **Head of family individuals.** In the case of a head of
181 family individual, a personal exemption of Eight Thousand Dollars
182 (\$8,000.00) for the 1979 and 1980 calendar years and Nine Thousand
183 Five Hundred Dollars (\$9,500.00) for each calendar year
184 thereafter. The term "head of family" means an individual who is
185 single, or married but not living with his spouse for the entire
186 taxable year, who maintains a household which constitutes the
187 principal place of abode of himself and one or more individuals
188 who are dependents under the provisions of Section 152(a) of the
189 Internal Revenue Code of 1954, as amended. The head of family
190 individual shall be entitled to the additional dependent exemption
191 as provided in subsection (e) of this section only to the extent
192 of dependents in excess of the one (1) dependent needed to qualify
193 as head of family.

194 (e) **Additional exemption for dependents.** In the case of any
195 individual having a dependent, other than husband or wife, an
196 additional personal exemption of One Thousand Five Hundred Dollars



197 (\$1,500.00) for each such dependent, except as otherwise provided
198 in subsection (d) of this section. The term "dependent" as used
199 in this subsection shall mean any person or individual who
200 qualifies as a dependent under the provisions of Section 152,
201 Internal Revenue Code of 1954, as amended.

202 (f) **Additional exemption for taxpayer or spouse aged**
203 **sixty-five (65) or more.** In the case of any taxpayer or the
204 spouse of the taxpayer who has attained the age of sixty-five (65)
205 before the close of his taxable year, an additional exemption of
206 One Thousand Five Hundred Dollars (\$1,500.00).

207 (g) **Additional exemption for blindness of taxpayer or**
208 **spouse.** In the case of any taxpayer or the spouse of the taxpayer
209 who is blind at the close of the taxable year, an additional
210 exemption of One Thousand Five Hundred Dollars (\$1,500.00). For
211 the purpose of this subsection, an individual is blind only if his
212 central visual acuity does not exceed 20/200 in the better eye
213 with correcting lenses, or if his visual acuity is greater than
214 20/200 but is accompanied by a limitation in the fields of vision
215 such that the widest diameter of the visual field subtends an
216 angle no greater than twenty (20) degrees.

217 (h) **Husband and wife--claiming exemptions.** In the case of
218 husband and wife living together and filing combined returns, the
219 personal and additional exemptions authorized and allowed by this
220 section may be taken by either, or divided between them in any
221 manner they may choose. If the husband and wife fail to choose,



222 the commissioner shall divide the exemptions between husband and
223 wife in an equitable manner. In the case of a husband and wife
224 filing separate returns, the personal and additional exemptions
225 authorized and allowed by this section shall be divided equally
226 between the spouses.

227 (i) **Nonresidents.** A nonresident individual shall be allowed
228 the same personal and additional exemptions as are authorized for
229 resident individuals in subsection (a) of this section; however,
230 the nonresident individual is entitled only to that proportion of
231 the personal and additional exemptions as his net income from
232 sources within the State of Mississippi bears to his total or
233 entire net income from all sources.

234 A nonresident individual who is married and whose spouse has
235 income from independent sources must declare the joint income of
236 himself and his spouse from sources within and without Mississippi
237 and claim as a personal exemption that proportion of the
238 authorized personal and additional exemptions which the total net
239 income from Mississippi sources bears to the total net income of
240 both spouses from all sources. If both spouses have income from
241 sources within Mississippi and wish to file separate returns,
242 their combined personal and additional exemptions shall be that
243 proration of the exemption which their combined net income from
244 Mississippi sources is of their total combined net income from all
245 sources. The amount of the personal and additional exemptions so
246 computed may be divided between them in any manner they choose.



247 In the case of married individuals where one (1) spouse is a
248 resident and the other is a nonresident, the personal exemption of
249 the resident individual shall be prorated on the same basis as if
250 both were nonresidents having net income from within and without
251 the State of Mississippi.

252 For the purpose of this subsection, the term "net income"
253 means gross income less business expenses incurred in the
254 taxpayer's regular trade or business and computed in accordance
255 with the provisions of the Mississippi Income Tax Law.

256 (j) **Part-year residents.** An individual who is a resident of
257 Mississippi for only a part of his taxable year by reason of
258 either moving into the state or moving from the state shall be
259 allowed the same personal and additional exemptions as authorized
260 for resident individuals in subsection (a) of this section; the
261 part-year resident shall prorate his exemption on the same basis
262 as nonresidents having net income from within and without the
263 state.

264 (k) **Estates.** In the case of an estate, a specific exemption
265 of Six Hundred Dollars (\$600.00).

266 (l) **Trusts.** In the case of a trust which, under its
267 governing instrument, is required to distribute all of its income
268 currently, a specific exemption of Three Hundred Dollars
269 (\$300.00). In the case of all other trusts, a specific exemption
270 of One Hundred Dollars (\$100.00).



271 (m) **Corporations, foundations, joint ventures, associations.**

272 In the case of a corporation, foundation, joint venture or
273 association taxable herein, there shall be allowed no specific
274 exemption, except as provided under the Growth and Prosperity
275 Act, * * * Sections 57-113-1 through 57-113-7, and Sections
276 57-113-21 through 57-113-27.

277 (n) **Status.** The status on the last day of the taxable year,
278 except in the case of the head of family as provided in subsection
279 (d) of this section, shall determine the right to the exemptions
280 provided in this section; provided, that a taxpayer shall be
281 entitled to such exemptions, otherwise allowable, if the husband
282 or wife or dependent has died during the taxable year.

283 (o) **Fiscal-year taxpayers.** Individual taxpayers reporting
284 on a fiscal year basis shall prorate their exemptions in a manner
285 established by regulations promulgated by the commissioner.

286 **SECTION 5.** Section 27-13-5, Mississippi Code of 1972, is
287 amended as follows:

288 27-13-5. (1) (a) **Franchise tax levy.** Except as otherwise
289 provided in subsections (3), (4), (5) and (7) of this section,
290 there is hereby imposed, to be paid and collected as hereinafter
291 provided, a franchise or excise tax upon every corporation,
292 association or joint-stock company or partnership treated as a
293 corporation under the income tax laws or regulations, organized or
294 created for pecuniary gain, having privileges not possessed by
295 individuals, and having authorized capital stock now existing in



296 this state, or hereafter organized, created or established, under
297 and by virtue of the laws of the State of Mississippi, equal to:

298 (i) For tax years beginning before January 1,
299 2018, Two Dollars and Fifty Cents (\$2.50) for each One Thousand
300 Dollars (\$1,000.00), or fraction thereof, of the value of the
301 capital used, invested or employed in the exercise of any power,
302 privilege or right enjoyed by such organization within this state,
303 except as hereinafter provided.

304 (ii) For tax years beginning on or after January
305 1, 2018, but before January 1, 2019, Two Dollars and Fifty Cents
306 (\$2.50) for each One Thousand Dollars (\$1,000.00), or fraction
307 thereof, in excess of One Hundred Thousand Dollars (\$100,000.00),
308 of the value of the capital used, invested or employed in the
309 exercise of any power, privilege or right enjoyed by such
310 organization within this state, except as hereinafter provided.

311 (iii) For tax years beginning on or after January
312 1, 2019, but before January 1, 2020, Two Dollars and Twenty-five
313 Cents (\$2.25) for each One Thousand Dollars (\$1,000.00), or
314 fraction thereof, in excess of One Hundred Thousand Dollars
315 (\$100,000.00), of the value of the capital used, invested or
316 employed in the exercise of any power, privilege or right enjoyed
317 by such organization within this state, except as hereinafter
318 provided.

319 (iv) For tax years beginning on or after January
320 1, 2020, but before January 1, 2021, Two Dollars (\$2.00) for each



321 One Thousand Dollars (\$1,000.00), or fraction thereof, in excess
322 of One Hundred Thousand Dollars (\$100,000.00), of the value of the
323 capital used, invested or employed in the exercise of any power,
324 privilege or right enjoyed by such organization within this state,
325 except as hereinafter provided.

326 (v) For tax years beginning on or after January 1,
327 2021, but before January 1, 2022, One Dollar and Seventy-five
328 Cents (\$1.75) for each One Thousand Dollars (\$1,000.00), or
329 fraction thereof, in excess of One Hundred Thousand Dollars
330 (\$100,000.00), of the value of the capital used, invested or
331 employed in the exercise of any power, privilege or right enjoyed
332 by such organization within this state, except as hereinafter
333 provided.

334 (vi) For tax years beginning on or after January
335 1, 2022, but before January 1, 2023, One Dollar and Fifty Cents
336 (\$1.50) for each One Thousand Dollars (\$1,000.00), or fraction
337 thereof, in excess of One Hundred Thousand Dollars (\$100,000.00),
338 of the value of the capital used, invested or employed in the
339 exercise of any power, privilege or right enjoyed by such
340 organization within this state, except as hereinafter provided.

341 (vii) For tax years beginning on or after January
342 1, 2023, but before January 1, 2024, One Dollar and Twenty-five
343 Cents (\$1.25) for each One Thousand Dollars (\$1,000.00), or
344 fraction thereof, in excess of One Hundred Thousand Dollars
345 (\$100,000.00), of the value of the capital used, invested or



346 employed in the exercise of any power, privilege or right enjoyed
347 by such organization within this state, except as hereinafter
348 provided.

349 (viii) For tax years beginning on or after January
350 1, 2024, but before January 1, 2025, One Dollar (\$1.00) for each
351 One Thousand Dollars (\$1,000.00), or fraction thereof, in excess
352 of One Hundred Thousand Dollars (\$100,000.00), of the value of the
353 capital used, invested or employed in the exercise of any power,
354 privilege or right enjoyed by such organization within this state,
355 except as hereinafter provided.

356 (ix) For tax years beginning on or after January
357 1, 2025, but before January 1, 2026, Seventy-five Cents (75¢) for
358 each One Thousand Dollars (\$1,000.00), or fraction thereof, in
359 excess of One Hundred Thousand Dollars (\$100,000.00), of the value
360 of the capital used, invested or employed in the exercise of any
361 power, privilege or right enjoyed by such organization within this
362 state, except as hereinafter provided.

363 (x) For tax years beginning on or after January 1,
364 2026, but before January 1, 2027, Fifty Cents (50¢) for each One
365 Thousand Dollars (\$1,000.00), or fraction thereof, in excess of
366 One Hundred Thousand Dollars (\$100,000.00), of the value of the
367 capital used, invested or employed in the exercise of any power,
368 privilege or right enjoyed by such organization within this state,
369 except as hereinafter provided.



370 (xi) For tax years beginning on or after January
371 1, 2027, but before January 1, 2028, Twenty-five Cents (25¢) for
372 each One Thousand Dollars (\$1,000.00), or fraction thereof, in
373 excess of One Hundred Thousand Dollars (\$100,000.00), of the value
374 of the capital used, invested or employed in the exercise of any
375 power, privilege or right enjoyed by such organization within this
376 state, except as hereinafter provided.

377 (b) In no case shall the franchise tax due for the
378 accounting period be less than Twenty-five Dollars (\$25.00).

379 (c) It is the purpose of this section to require the
380 payment to the State of Mississippi of this tax for the right
381 granted by the laws of this state to exist as such organization,
382 and to enjoy, under the protection of the laws of this state, the
383 powers, rights, privileges and immunities derived from the state
384 by the form of such existence.

385 (2) **Annual report of domestic corporations.** Each domestic
386 corporation shall file an annual report as required by the
387 provisions of Section 79-4-16.22.

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

393 (b) (i) As used in this paragraph:



394 1. "Authority" shall have the meaning
395 ascribed to such term in Section 57-75-5(b);

396 2. "Project" shall have the meaning ascribed
397 to such term in Section 57-75-5(f)(xxix); and

398 3. "Enterprise" shall mean the corporation
399 authorized for the project pursuant to Section 57-75-5(f)(xxix).

400 (ii) The term of the franchise tax fee-in-lieu
401 agreement negotiated under this subsection and authorized by
402 Section 57-75-5(j), between the authority and the enterprise for
403 the project shall not exceed twenty-five (25) years. The
404 franchise tax fee-in-lieu agreement shall apply only to new
405 franchise tax liability attributable to the project, and shall not
406 apply to any existing franchise tax liability of the enterprise in
407 connection with any current operations in this state.

408 (iii) In the event that the annual number of
409 full-time jobs maintained by the enterprise falls below the
410 minimum annual number of full-time jobs required by the authority
411 pursuant to a written agreement between the authority and the
412 enterprise for two (2) consecutive years, the franchise tax
413 fee-in-lieu for the project shall be suspended until the first tax
414 year during which the annual number of full-time jobs maintained
415 by the enterprise reaches the minimum annual number of full-time
416 jobs required by the authority pursuant to a written agreement
417 between the authority and the enterprise.



418 (iv) The enterprise shall be entitled to utilize a
419 single sales apportionment factor in the calculation of its
420 liability for franchise tax imposed by this chapter which is
421 attributable to the project for any year for which it files a
422 Mississippi franchise tax return. The enterprise shall be
423 entitled to continue to utilize such single sales apportionment
424 factor notwithstanding a suspension of the franchise tax
425 fee-in-lieu pursuant to subparagraph (iii) of this paragraph.

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

431 (5) A business enterprise operating a project as defined in
432 Section 57-64-33, in a county that is a member of a regional
433 economic development alliance created under the Regional Economic
434 Development Act shall not be subject to the tax levied by this
435 section on the value of capital used, invested or employed by the
436 business enterprise in such a county as provided in Section
437 57-64-33.

438 (6) The tax levied by this chapter and paid by a business
439 enterprise located in a redevelopment project area under Sections
440 57-91-1 through 57-91-11 shall be deposited into the Redevelopment
441 Project Incentive Fund created in Section 57-91-9.



442 (7) A business enterprise as defined in Section 57-113-1 or
443 57-113-21 that is exempt from certain state taxes under Section
444 57-113-5 or 57-113-25 shall not be subject to the tax levied by
445 this section on the value of capital used, invested or employed by
446 the business enterprise.

447 **SECTION 6.** Section 27-13-7, Mississippi Code of 1972, is
448 amended as follows:

449 27-13-7. (1) (a) **Franchise tax levy.** Except as otherwise
450 provided in subsections (3), (4), (5) and (7) of this section,
451 there is hereby imposed, levied and assessed upon every
452 corporation, association or joint-stock company, or partnership
453 treated as a corporation under the income tax laws or regulations
454 as hereinbefore defined, organized and existing under and by
455 virtue of the laws of some other state, territory or country, or
456 organized and existing without any specific statutory authority,
457 now or hereafter doing business or exercising any power, privilege
458 or right within this state, as hereinbefore defined, a franchise
459 or excise tax equal to:

460 (i) For tax years beginning before January 1,
461 2018, Two Dollars and Fifty Cents (\$2.50) of each One Thousand
462 Dollars (\$1,000.00), or fraction thereof, of the value of capital
463 used, invested or employed within this state, except as
464 hereinafter provided.

465 (ii) For tax years beginning on or after January
466 1, 2018, but before January 1, 2019, Two Dollars and Fifty Cents



467 (\$2.50) for each One Thousand Dollars (\$1,000.00), or fraction
468 thereof, in excess of One Hundred Thousand Dollars (\$100,000.00),
469 of the value of the capital used, invested or employed in the
470 exercise of any power, privilege or right enjoyed by such
471 organization within this state, except as hereinafter provided.

472 (iii) For tax years beginning on or after January
473 1, 2019, but before January 1, 2020, Two Dollars and Twenty-five
474 Cents (\$2.25) for each One Thousand Dollars (\$1,000.00), or
475 fraction thereof, in excess of One Hundred Thousand Dollars
476 (\$100,000.00), of the value of the capital used, invested or
477 employed in the exercise of any power, privilege or right enjoyed
478 by such organization within this state, except as hereinafter
479 provided.

480 (iv) For tax years beginning on or after January
481 1, 2020, but before January 1, 2021, Two Dollars (\$2.00) for each
482 One Thousand Dollars (\$1,000.00), or fraction thereof, in excess
483 of One Hundred Thousand Dollars (\$100,000.00), of the value of the
484 capital used, invested or employed in the exercise of any power,
485 privilege or right enjoyed by such organization within this state,
486 except as hereinafter provided.

487 (v) For tax years beginning on or after January 1,
488 2021, but before January 1, 2022, One Dollar and Seventy-five
489 Cents (\$1.75) for each One Thousand Dollars (\$1,000.00), or
490 fraction thereof, in excess of One Hundred Thousand Dollars
491 (\$100,000.00), of the value of the capital used, invested or



492 employed in the exercise of any power, privilege or right enjoyed
493 by such organization within this state, except as hereinafter
494 provided.

495 (vi) For tax years beginning on or after January
496 1, 2022, but before January 1, 2023, One Dollar and Fifty Cents
497 (\$1.50) for each One Thousand Dollars (\$1,000.00), or fraction
498 thereof, in excess of One Hundred Thousand Dollars (\$100,000.00),
499 of the value of the capital used, invested or employed in the
500 exercise of any power, privilege or right enjoyed by such
501 organization within this state, except as hereinafter provided.

502 (vii) For tax years beginning on or after January
503 1, 2023, but before January 1, 2024, One Dollar and Twenty-five
504 Cents (\$1.25) for each One Thousand Dollars (\$1,000.00), or
505 fraction thereof, in excess of One Hundred Thousand Dollars
506 (\$100,000.00), of the value of the capital used, invested or
507 employed in the exercise of any power, privilege or right enjoyed
508 by such organization within this state, except as hereinafter
509 provided.

510 (viii) For tax years beginning on or after January
511 1, 2024, but before January 1, 2025, One Dollar (\$1.00) for each
512 One Thousand Dollars (\$1,000.00), or fraction thereof, in excess
513 of One Hundred Thousand Dollars (\$100,000.00), of the value of the
514 capital used, invested or employed in the exercise of any power,
515 privilege or right enjoyed by such organization within this state,
516 except as hereinafter provided.



517 (ix) For tax years beginning on or after January
518 1, 2025, but before January 1, 2026, Seventy-five Cents (75¢) for
519 each One Thousand Dollars (\$1,000.00), or fraction thereof, in
520 excess of One Hundred Thousand Dollars (\$100,000.00), of the value
521 of the capital used, invested or employed in the exercise of any
522 power, privilege or right enjoyed by such organization within this
523 state, except as hereinafter provided.

524 (x) For tax years beginning on or after January 1,
525 2026, but before January 1, 2027, Fifty Cents (50¢) for each One
526 Thousand Dollars (\$1,000.00), or fraction thereof, in excess of
527 One Hundred Thousand Dollars (\$100,000.00), of the value of the
528 capital used, invested or employed in the exercise of any power,
529 privilege or right enjoyed by such organization within this state,
530 except as hereinafter provided.

531 (xi) For tax years beginning on or after January
532 1, 2027, but before January 1, 2028, Twenty-five Cents (25¢) for
533 each One Thousand Dollars (\$1,000.00), or fraction thereof, in
534 excess of One Hundred Thousand Dollars (\$100,000.00), of the value
535 of the capital used, invested or employed in the exercise of any
536 power, privilege or right enjoyed by such organization within this
537 state, except as hereinafter provided.

538 (b) In no case shall the franchise tax due for the
539 accounting period be less than Twenty-five Dollars (\$25.00).

540 (c) It is the purpose of this section to require the
541 payment of a tax by all organizations not organized under the laws



542 of this state, measured by the amount of capital or its
543 equivalent, for which such organization receives the benefit and
544 protection of the government and laws of the state.

545 (2) **Annual report of foreign corporations.** Each foreign
546 corporation authorized to transact business in this state shall
547 file an annual report as required by the provisions of Section
548 79-4-16.22.

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

554 (b) (i) As used in this paragraph:

555 1. "Authority" shall have the meaning
556 ascribed to such term in Section 57-75-5(b);

557 2. "Project" shall have the meaning ascribed
558 to such term in Section 57-75-5(f)(xxix); and

559 3. "Enterprise" shall mean the corporation
560 authorized for the project pursuant to Section 57-75-5(f)(xxix).

561 (ii) The term of the franchise tax fee-in-lieu
562 agreement negotiated under this subsection and authorized by
563 Section 57-75-5(j), between the authority and the enterprise for
564 the project shall not exceed twenty-five (25) years. The
565 franchise tax fee-in-lieu agreement shall apply only to new
566 franchise tax liability attributable to the project, and shall not



567 apply to any existing franchise tax liability of the enterprise in
568 connection with any current operations in this state.

569 (iii) In the event that the annual number of
570 full-time jobs maintained by the enterprise falls below the
571 minimum annual number of full-time jobs required by the authority
572 pursuant to a written agreement between the authority and the
573 enterprise for two (2) consecutive years, the franchise tax
574 fee-in-lieu for the project shall be suspended until the first tax
575 year during which the annual number of full-time jobs maintained
576 by the enterprise reaches the minimum annual number of full-time
577 jobs required by the authority pursuant to a written agreement
578 between the authority and the enterprise.

579 (iv) The enterprise shall be entitled to utilize a
580 single sales apportionment factor in the calculation of its
581 liability for franchise tax imposed by this chapter which is
582 attributable to the project for any year for which it files a
583 Mississippi franchise tax return. The enterprise shall be
584 entitled to continue to utilize such single sales apportionment
585 factor notwithstanding a suspension of the franchise tax
586 fee-in-lieu pursuant to subparagraph (iii) of this paragraph.

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



592 (5) A business enterprise operating a project as defined in
593 Section 57-64-33, in a county that is a member of a regional
594 economic development alliance created under the Regional Economic
595 Development Act shall not be subject to the tax levied by this
596 section on the value of capital used, invested or employed by the
597 business enterprise in such a county as provided in Section
598 57-64-33.

599 (6) The tax levied by this chapter and paid by a business
600 enterprise located in a redevelopment project area under Sections
601 57-91-1 through 57-91-11 shall be deposited into the Redevelopment
602 Project Incentive Fund created in Section 57-91-9.

603 (7) A business enterprise as defined in Section 57-113-1 or
604 57-113-21 that is exempt from certain state taxes under Section
605 57-113-5 or 57-113-25 shall not be subject to the tax levied by
606 this section on the value of capital used, invested or employed by
607 the business enterprise.

608 **SECTION 7.** This act shall take effect and be in force from
609 and after July 1, 2019.

