

By: Senator(s) Parker, Harkins, Caughman, Sparks, Whaley, Boyd, McLendon, DeLano, Williams, Fillingane, Blackwell, Branning, England, McCaughn, Frazier, Butler, Suber

To: Finance; Economic and Workforce Development

SENATE BILL NO. 2822

1 AN ACT TO CREATE THE "MISSISSIPPI FLEXIBLE TAX INCENTIVE  
2 ACT"; TO DEFINE TERMS; TO ESTABLISH REQUIREMENTS AND STANDARDS FOR  
3 APPLICATION TO THE MISSISSIPPI DEVELOPMENT AUTHORITY FOR  
4 CERTIFICATION AND AWARD OF THE MISSISSIPPI FLEXIBLE TAX INCENTIVE;  
5 TO ESTABLISH REQUIREMENTS AND STANDARDS FOR THE CERTIFICATION AND  
6 AWARD OF THE MISSISSIPPI FLEXIBLE TAX INCENTIVE BY THE MISSISSIPPI  
7 DEVELOPMENT AUTHORITY TO A QUALIFIED BUSINESS OR INDUSTRY FOR A  
8 QUALIFIED ECONOMIC DEVELOPMENT PROJECT; TO PRESCRIBE THE MEANS OF  
9 CALCULATING AND APPLYING SUCH INCENTIVE; TO PROHIBIT UTILIZATION  
10 OF CERTAIN OTHER INCENTIVES IN COMBINATION WITH THE MISSISSIPPI  
11 FLEXIBLE TAX INCENTIVE; TO ESTABLISH REQUIREMENTS AND STANDARDS  
12 FOR ANNUAL REPORTING BY A QUALIFIED BUSINESS OR INDUSTRY,  
13 MODIFICATIONS TO PRIOR INCENTIVE AWARDS BY THE MISSISSIPPI  
14 DEVELOPMENT AUTHORITY AND DEADLINES FOR THE UTILIZATION OF SUCH  
15 INCENTIVE; TO AUTHORIZE AUDITS BY THE MISSISSIPPI DEPARTMENT OF  
16 REVENUE AND SHARING OF CERTAIN INFORMATION ABOUT CERTAIN INCENTIVE  
17 AWARDEES BETWEEN STATE AGENCIES; TO CLARIFY THAT THE MISSISSIPPI  
18 DEVELOPMENT AUTHORITY IS GRANTED EXCLUSIVE JURISDICTION TO  
19 CERTIFY, AWARD AND MAKE ANY ADJUSTMENTS TO A MISSISSIPPI FLEXIBLE  
20 TAX INCENTIVE FOR A QUALIFIED BUSINESS OR INDUSTRY; TO AUTHORIZE  
21 THE MISSISSIPPI DEVELOPMENT AUTHORITY AND THE MISSISSIPPI  
22 DEPARTMENT OF REVENUE TO PROMULGATE RULES AND REGULATIONS  
23 NECESSARY TO IMPLEMENT THIS ACT; TO AMEND SECTION 27-7-22,  
24 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE APPLICATION OF A  
25 MISSISSIPPI FLEXIBLE TAX INCENTIVE AS A CREDIT TO OFFSET STATE  
26 INCOME TAX LIABILITY; TO AMEND SECTION 27-7-309, MISSISSIPPI CODE  
27 OF 1972, TO AUTHORIZE THE APPLICATION OF A MISSISSIPPI FLEXIBLE  
28 TAX INCENTIVE AS A CREDIT TO OFFSET WITHHOLDING TAX LIABILITY; TO  
29 AMEND SECTION 27-7-311, MISSISSIPPI CODE OF 1972, TO EXCLUDE ANY  
30 MISSISSIPPI FLEXIBLE TAX INCENTIVE APPLIED AS A CREDIT TO OFFSET  
31 STATE INCOME TAX LIABILITY FROM THE ANNUAL STATEMENT REQUIRED TO  
32 BE FILED WITH THE COMMISSIONER OF REVENUE FOR AN EMPLOYEE; TO  
33 AMEND SECTION 27-13-5, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE  
34 APPLICATION OF A MISSISSIPPI FLEXIBLE TAX INCENTIVE AS A CREDIT TO



35 OFFSET FRANCHISE TAX LIABILITY OF MISSISSIPPI CORPORATIONS; TO  
36 AMEND SECTION 27-13-7, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE  
37 APPLICATION OF A MISSISSIPPI FLEXIBLE TAX INCENTIVE AS A CREDIT TO  
38 OFFSET FRANCHISE TAX LIABILITY OF FOREIGN CORPORATIONS; TO AMEND  
39 SECTION 27-65-93, MISSISSIPPI CODE OF 1972, TO REQUIRE THE  
40 DEPARTMENT OF REVENUE TO ISSUE A DIRECT PAY PERMIT TO A QUALIFIED  
41 BUSINESS OR INDUSTRY THAT IS AWARDED A MISSISSIPPI FLEXIBLE TAX  
42 INCENTIVE BY THE MISSISSIPPI DEVELOPMENT AUTHORITY; TO AMEND  
43 SECTION 27-67-17, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE  
44 APPLICATION OF A MISSISSIPPI FLEXIBLE TAX INCENTIVE AS A CREDIT TO  
45 OFFSET STATE USE TAX LIABILITY; TO AMEND SECTION 57-1-14,  
46 MISSISSIPPI CODE OF 1972, TO DELAY OR PRECLUDE CERTAIN INFORMATION  
47 PROVIDED IN APPLICATIONS AND ANNUAL REPORTS FOR THE MISSISSIPPI  
48 FLEXIBLE TAX INCENTIVE FROM DISCLOSURE PURSUANT TO THE MISSISSIPPI  
49 PUBLIC RECORDS ACT OF 1983; AND FOR RELATED PURPOSES.

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

51 **SECTION 1.** **Short title.** Sections 1 through 10 of this act  
52 shall be known and may be cited as the "Mississippi Flexible Tax  
53 Incentive Act."

54 **SECTION 2.** **Definitions.** For purposes of Sections 1 through  
55 10 of this act, the following words shall have the meanings  
56 ascribed herein unless the context otherwise requires:

57 (a) "Affiliate" means, with respect to a specified  
58 entity, (i) another person or entity that directly, or indirectly  
59 through one or more intermediaries, controls or is controlled by  
60 or is under common control with the specified person or entity,  
61 where the term "control" means the ownership or possession,  
62 directly or indirectly, of the power to direct more than fifty  
63 percent (50%) of the voting equity securities or a similar  
64 ownership interest in the specified controlled entity; or (ii) any  
65 member of an affiliated group of corporations, of which the  
66 specified entity is also a member, which are each subject to



67 income taxation in Mississippi and may elect to file a combined  
68 Mississippi income tax return in accordance with state law.

69 (b) "Authority" means the Mississippi Development  
70 Authority.

71 (c) "Annual report" means the report described in  
72 Section 7 of this act.

73 (d) "Applicable accounting rules" shall mean the  
74 accounting principles generally recognized as applicable to a  
75 qualified business or industry and pursuant to which such  
76 qualified business or industry regularly prepares and maintains  
77 its financial and accounting books and records, and which  
78 specifically incorporate Generally Accepted Accounting Principles  
79 or International Financial Reporting Standards, as appropriate.

80 (e) "Applicant" means any corporation, limited  
81 liability company, partnership, person or sole proprietorship,  
82 business trust or other legal entity and subunit or affiliate  
83 thereof that applies to the authority, in the manner prescribed by  
84 Sections 1 through 10 of this act, seeking (i) certification by  
85 the authority that such applicant is a qualified business or  
86 industry and that its proposed new project or expansion of an  
87 existing business or industrial operation is a qualified economic  
88 development project, and (ii) an award in connection therewith of  
89 a mFlex tax incentive.

90 (f) "Average state or county wage" shall mean, as of  
91 the project certification date, the lesser of the most recently



92 published average annual wage per person as determined and  
93 published by the Mississippi Department of Employment Security for  
94 the state or the county in which the qualified project is or will  
95 be located; provided that, if a qualified project is or will be  
96 located in two (2) or more counties, the average state or county  
97 wage, as used in Sections 1 through 10 of this act, shall mean, as  
98 of the project certification date, only the most recently  
99 published average annual wage per person as determined and  
100 published by the Mississippi Department of Employment Security for  
101 the state.

102 (g) "Average employer wage" means the qualified annual  
103 payroll for all new full-time jobs created in the State of  
104 Mississippi by a qualified business or industry divided by the  
105 number of new full-time jobs thereof for which such qualified  
106 annual payroll was paid or is otherwise payable.

107 (h) "Base full-time job" means a job (i) for which an  
108 employee was already hired by the qualified business or industry  
109 before, and is employed as of, the project certification date;  
110 (ii) that offers a minimum of one thousand eight hundred twenty  
111 (1,820) hours of an employee's time per year (i.e., thirty-five  
112 (35) hours per week on average) for a normal four (4) consecutive  
113 quarter period of the qualified business or industry's operations  
114 or a job for which the employee was hired before, and is employed  
115 as of, the project certification date and is compensated based on  
116 one thousand eight hundred twenty (1,820) hours for such annual



117 period (including in each case an employee who, after hiring,  
118 elects to take unpaid time off or is on short-term or long-term  
119 disability); and (iii) the employee holding such job receives  
120 salary or wages subject to state income tax withholdings. The  
121 term base full-time job also means a base leased employee.  
122 Part-time jobs may not be combined to add up to a base full-time  
123 job.

124 (i) "Base leased employee" means a nontemporary  
125 employee:

126 (i) Who was leased by the qualified business or  
127 industry before the project certification date from another  
128 business or enterprise that is 1. in the business of leasing  
129 employees, and 2. is registered with the Office of the Secretary  
130 of State and qualified to do business in the state;

131 (ii) Who is leased as of the project certification  
132 date;

133 (iii) Who is not otherwise an employee of such  
134 qualified business or industry;

135 (iv) Who, as of the project certification date,  
136 was already performing services for, and under the supervision of,  
137 the qualified business or industry pursuant to a leasing agreement  
138 between the qualified business or industry and such other employee  
139 leasing firm;

140 (v) Whose job-performing services for the  
141 qualified business or industry offers a minimum of one thousand



142 eight hundred twenty (1,820) hours of an employee's time per year  
143 (i.e., thirty-five (35) hours per week on average) for an entire  
144 normal work year of the qualified business or industry's  
145 operations or a job for which the employee is leased before the  
146 project certification date and is compensated based on one  
147 thousand eight hundred twenty (1,820) hours for such annual period  
148 (including in each case an employee who, after being leased,  
149 elects to take unpaid time off or is on short-term or long-term  
150 disability); and

151 (vi) Whose job receives salary or wages subject to  
152 state income tax withholdings. Individuals employed by an  
153 independent contractor performing one or more services for the  
154 qualified business or industry pursuant to a services or  
155 management agreement (e.g., security services, landscaping  
156 services, and cafeteria management and food services) shall not be  
157 considered as base leased employees.

158 (j) "Contractor tax" shall mean the tax levied by  
159 Section 27-65-21, except for the tax upon the sale of  
160 manufacturing or processing machinery for a manufacturer or custom  
161 processor.

162 (k) "Construction contract" shall mean any contract or  
163 portion of any contract for any one or more of the activities  
164 described in Section 27-65-21 for which the contractor tax applies  
165 and is payable by the contractor that is party thereto.



166 (l) "Manufacturing machinery," as used in Sections 1  
167 through 10 of this act, shall have the same meaning ascribed to  
168 such term in Section 27-65-11, as interpreted by any regulations  
169 promulgated by the Department of Revenue with respect to such  
170 section.

171 (m) "mFlex agreement" means the written agreement  
172 entered into between a qualified business or industry and the  
173 authority in accordance with Section 5(d)(iii) of this act.

174 (n) "mFlex tax incentive" means the tax incentive  
175 authorized by Sections 1 through 10 of this act to be calculated  
176 and awarded by the authority, and thereafter applied as a credit  
177 to offset state taxes, in accordance with, and subject to,  
178 Sections 1 through 10 of this act.

179 (o) "Minimum job creation requirement" means the  
180 creation by the qualified business or industry, following the  
181 project certification date, of at least ten (10) new full-time  
182 jobs in the state.

183 (p) "Minimum qualified investment" means a qualified  
184 investment of not less than Two Million Five Hundred Thousand  
185 Dollars (\$2,500,000.00).

186 (q) "New full-time job" means a job:

187 (i) For which an employee is hired by the  
188 qualified business or industry after the project certification  
189 date;



190 (ii) That offers a minimum of one thousand eight  
191 hundred twenty (1,820) hours of an employee's time per year (i.e.,  
192 thirty-five (35) hours per week on average) for a normal four (4)  
193 consecutive quarter period of the qualified business or industry's  
194 operations or a job for which the employee is hired after the  
195 project certification date and is compensated based on one  
196 thousand eight hundred twenty (1,820) hours for such annual period  
197 (including in each case an employee who, after hiring, elects to  
198 take unpaid time off or is on short-term or long-term disability);  
199 and

200 (iii) The employee holding such job receives  
201 salary or wages subject to state income tax withholdings. The  
202 term new full-time job also means new leased employee. Part-time  
203 jobs may not be combined to add up to a new full-time job.

204 (r) "New leased employee" means a nontemporary  
205 employee:

206 (i) Who is leased by the qualified business or  
207 industry after the project certification date from another  
208 business or enterprise that is 1. in business of leasing  
209 employees, and 2. is registered with the Office of the Secretary  
210 of State and qualified to do business in the state;

211 (ii) Who is not otherwise an employee of such  
212 qualified business or industry;

213 (iii) Who performs services for the qualified  
214 business or industry pursuant to a leasing agreement between the





215 qualified business or industry and such other employee leasing  
216 firm;

217 (iv) Whose job-performing services for the  
218 qualified business or industry offers a minimum of one thousand  
219 eight hundred twenty (1,820) hours of an employee's time per year  
220 (i.e., thirty-five (35) hours per week on average) for an entire  
221 normal work year of the qualified business or industry's  
222 operations or a job for which the employee is leased after the  
223 project certification date and is compensated based on one  
224 thousand eight hundred twenty (1,820) hours for such annual period  
225 (including in each case an employee who, after being leased,  
226 elects to take unpaid time off or is on short-term or long-term  
227 disability); and

228 (v) Whose job receives salary or wages subject to  
229 state income tax withholdings. Individuals employed by an  
230 independent contractor performing one or more services for the  
231 qualified business or industry pursuant to a services or  
232 management agreement (e.g., security services, landscaping  
233 services, and cafeteria management and food services) shall not be  
234 considered as a new leased employees.

235 (s) "Nonmanufacturing equipment" means all tangible  
236 personal property that is not manufacturing machinery, including,  
237 but not limited to, office furniture, fixtures, office computers  
238 and communications equipment, and warehouse equipment such as  
239 racking and shelving.



240 (t) "Part-time job" means a job (i) for which an  
241 employee is hired by the qualified business or industry that  
242 requires fewer than one thousand eight hundred twenty (1,820)  
243 hours of an employee's time per year (i.e., requires fewer than  
244 thirty-five (35) hours per week on average) for an entire normal  
245 work year of the qualified business or industry's operations or a  
246 job for which the employee is hired and is compensated based on  
247 fewer than one thousand eight hundred twenty (1,820) hours for  
248 such annual period; and (iii) for which the employee holding such  
249 job receives salary or wages subject to state income tax  
250 withholdings.

251 (u) "Project certification date" means the actual date  
252 of the authority's certification, or the effective date of  
253 certification determined and prescribed by the authority, of the  
254 qualified business or industry and its qualified economic  
255 development project as eligible for the state tax credits  
256 determined and awarded by the authority, as authorized by, and in  
257 accordance with, Sections 1 through 10 of this act.

258 (v) "Qualified annual payroll" means the sum of the  
259 annual salary and wages for new full-time jobs of the qualified  
260 business or industry, excluding the amount or value of any  
261 benefits that are not subject to state income taxes.

262 (w) "Qualified business or industry" means any  
263 corporation, limited liability company, partnership, person or  
264 sole proprietorship, business trust or other legal entity and



265 subunit or affiliate thereof, which makes a qualified minimum  
266 investment in a qualified economic development project.

267 (x) "Qualified economic development project" or  
268 "qualified project" means the location in the state of one or more  
269 of the following enumerated enterprises for which a corporation,  
270 limited liability company, partnership, sole proprietorship,  
271 business trust or other legal entity, or subunit or affiliate  
272 thereof, makes or causes to be made from the minimum qualified  
273 investment and/or satisfies or causes to be satisfied the minimum  
274 job creation requirement:

275 (i) A new warehouse and/or distribution enterprise  
276 or an expansion of an existing warehouse and/or distribution  
277 enterprise; provided that, in any such instance, such warehouse  
278 and/or distribution enterprise or expansion thereof is certified  
279 by the authority to qualify as such;

280 (ii) A new manufacturing, remanufacturing,  
281 assembly, processing and/or refinery enterprise or an expansion of  
282 an existing manufacturing, remanufacturing, assembly, processing  
283 and/or refinery enterprise; provided that, in any such instance,  
284 such manufacturing, remanufacturing, assembly, processing and/or  
285 refinery enterprise or expansion thereof is certified by the  
286 authority to qualify as such;

287 (iii) A new research or research and development  
288 enterprise or an expansion of an existing research or research and  
289 development enterprise; provided that, in any such instance, such



290 research and development enterprise or an expansion thereof is  
291 certified by the authority to qualify as such;

292 (iv) A new regional or national headquarters of  
293 the qualified business or industry or an expansion of an existing  
294 regional or national headquarters of the qualified business or  
295 industry; provided that, in any such instance, such regional or  
296 national headquarters or expansion thereof is certified by the  
297 authority to qualify as such;

298 (v) An air transportation, repair and/or  
299 maintenance enterprise or an expansion of an existing air  
300 transportation, repair and/or maintenance enterprise; provided  
301 that, in either instance, such air transportation, repair and/or  
302 and maintenance enterprise or expansion thereof is certified by  
303 the authority to qualify as such;

304 (vi) A ship or other maritime vessel or barge  
305 transportation, repair and/or maintenance enterprise or an  
306 expansion of an existing ship or other maritime vessel or barge  
307 transportation, repair and/or maintenance enterprise; provided  
308 that, in either instance, the ship or other maritime vessel or  
309 barge transportation, repair and/or maintenance enterprise or  
310 expansion thereof is certified by the authority to qualify as  
311 such;

312 (vii) A new data/information processing enterprise  
313 or an expansion of an existing new data/information processing  
314 enterprise; provided that, in any such instance such



315 data/information processing enterprise or expansion thereof is  
316 certified by the authority to qualify as such;

317 (viii) A new technology intensive enterprise or an  
318 expansion of an existing technology intensive enterprise; provided  
319 that, in either instance, the technology intensive enterprise or  
320 expansion thereof is certified by the authority to qualify as  
321 such; provided further, that a business or enterprise primarily  
322 engaged in creating computer programming codes to develop  
323 applications, websites and/or software shall qualify as a  
324 technology intensive enterprise;

325 (ix) A new telecommunications enterprise  
326 principally engaged in the creation, display, management, storage,  
327 processing, transmission and/or distribution, for compensation, of  
328 images, text, voice, video or data by wire or by wireless means,  
329 or engaged in the construction, design, development, manufacture,  
330 maintenance or distribution for compensation of devices, products,  
331 software or structures used in the above activities, or an  
332 expansion of an existing telecommunications enterprise as herein  
333 described; provided that, in any such instance, any such  
334 telecommunications enterprise or expansion thereof is certified by  
335 the authority to qualify as such; provided, further that  
336 commercial broadcast radio stations, television stations or news  
337 organizations primarily serving in-state markets shall not be  
338 included within the definition of the term "telecommunications  
339 enterprise";



340 (x) A new data center enterprise principally  
341 engaged in the utilization of hardware, software, technology,  
342 infrastructure and/or workforce, to store, manage or manipulate  
343 digital data, or an expansion of an existing data center  
344 enterprise as herein described; provided that, in such instance,  
345 any such data center enterprise or expansion thereof is certified  
346 by the authority to qualify as such.

347 (y) "Qualified investment" means any expenditures made  
348 or caused to be made by the qualified business or industry  
349 following the project certification date for construction,  
350 installation, equipping and operation of a qualified economic  
351 development project from any source or combination of sources,  
352 excluding any funds contributed by the state or any agency or  
353 other political subdivision thereof, or by any local government or  
354 any agency or other political subdivision thereof, to the extent  
355 such expenditures can be capitalized under applicable accounting  
356 rules or otherwise by the Internal Revenue Code, whether or not  
357 the qualified business or industry elects to capitalize the same,  
358 as reflected in its financial statements, including, but not  
359 limited to, all costs associated with the acquisition,  
360 installation and/or construction of, or capital leasehold interest  
361 in, any buildings and other real property improvements, fixtures,  
362 equipment, machinery, landscaping, fire protection, depreciable  
363 fixed assets, engineering and design costs.



364 (z) "Reporting year" means the twelve-month period  
365 ending on the last day of the month during which the annual  
366 anniversary of a project certification date occurs, and for which  
367 an annual report must be filed with the authority by a qualified  
368 business or industry in accordance with Section 7 of this act.

369 (aa) "State" means the State of Mississippi.

370 (bb) "State tax" means:

371 (i) Any sales and use tax imposed on, and payable  
372 directly to the Department of Revenue by, the qualified business  
373 or industry in accordance with state law, except for contractor's  
374 tax and the taxes levied by Section 27-65-24(1)(b);

375 (ii) All income tax imposed pursuant to law on  
376 income earned by the qualified business or industry pursuant to  
377 state law;

378 (iii) Franchise tax imposed pursuant to state law  
379 on the value of capital used, invested or employed by the business  
380 enterprise certified by the Mississippi Development Authority; and

381 (iv) Withholding tax required to be deducted and  
382 withheld from employee wages pursuant to Section 27-7-301 et seq.

383 **SECTION 3. Application for the mFlex tax incentive.**

384 Business or industrial enterprises wishing to apply for the mFlex  
385 tax incentive authorized by Sections 1 through 10 of this act  
386 shall make application to the authority, on a form prescribed  
387 thereby; provided that the application shall, at a minimum,  
388 contain:



389 (a) A brief overview of the applicant's business or  
390 industry, including its formation type (e.g., corporation, limited  
391 liability company, limited partnership, etc.) its date of  
392 incorporation or formation thereof, and the location of its  
393 principal headquarters, together with its principal place of  
394 business in the state if the applicant already has one or more  
395 facilities located in the state;

396 (b) The location of the selected project site or  
397 locations of selected project sites, if multiple locations will be  
398 involved;

399 (c) A description of the proposed project;

400 (d) The amount of the qualified investment proposed to  
401 be made as a result of the proposed project, including a breakout  
402 of projected expenditures for manufacturing machinery,  
403 nonmanufacturing equipment and component building materials to  
404 establish and equip the proposed project;

405 (e) If the proposed project will be an expansion of an  
406 existing business or industrial operation, the current number of  
407 base full-time jobs;

408 (f) The number of new full-time jobs proposed to be  
409 created as a result of the proposed project;

410 (g) The average employer wage proposed to be paid by  
411 the applicant for new full-time jobs disclosed in the application;

412 (h) A description of benefits, including but not  
413 limited to, health, dental and/or vision insurance, retirement





414 savings account, etc. made available to employees, as well as a  
415 description of any employees to whom such benefits are not made  
416 available (e.g., part-time employees);

417 (i) The length of time necessary for the applicant to  
418 meet its qualified investment and new full-time job creation  
419 projections;

420 (j) A list of all affiliates of the qualified business  
421 or industry known at the time of the application, including the  
422 Federal Employer Identification Number for each such affiliate,  
423 which have or are expected to have any state tax liability that  
424 may be offset by all or some portion of the mFlex tax incentives  
425 awarded to the qualified business or industry;

426 (k) An acknowledgment that the applicant, if awarded an  
427 mFlex tax incentives pursuant to Sections 1 through 10 of this  
428 act, will be required to provide the annual report prescribed by  
429 Section 7 of this act to demonstrate the actual amount of its  
430 qualified investment, including actual expenditures on  
431 manufacturing machinery, nonmanufacturing equipment and component  
432 building materials, and the number of new full-time jobs created  
433 and maintained as a result of the project; and

434 (l) Any other information as may be requested by the  
435 authority.

436 **SECTION 4. Certification and award of mFlex tax incentive,**  
437 **terms of such incentive, nontransferability of such certification**  
438 **and incentive; mandatory and permissive conditions to**



439 **certifications and incentive awards.** (1) The authority shall  
440 evaluate an application to determine whether the applicant's  
441 proposed project is a qualified economic development project and  
442 whether it is therefore eligible for an award by the authority of  
443 an mFlex tax incentive, as calculated in accordance with Section 5  
444 of this act.

445 (2) Upon approval of an applicant's application, the  
446 authority shall issue a certification (a) designating the  
447 applicant's project as a "qualified economic development project"  
448 and eligible for the mFlex tax incentive authorized by Sections 1  
449 through 10 of this act; (b) awarding the initial mFlex tax  
450 incentive calculated pursuant to Section 5 of this act; and (c)  
451 imposing those mandatory conditions pursuant to subsection (4) of  
452 this section and any discretionary conditions otherwise imposed by  
453 the authority.

454 (3) Upon the issuance of the certification and execution of  
455 the mFlex agreement by a qualified business or industry and the  
456 authority, the qualified business or industry may apply the amount  
457 of its mFlex tax incentive as a credit to offset (a) any state  
458 taxes (except for withholding tax required to be deducted and  
459 withheld from employee wages pursuant to Section 27-7-301 et  
460 seq.), as incurred thereby, up to the full amount of the mFlex tax  
461 incentive awarded by the authority for the associated qualified  
462 economic development project, and (b) only up to twenty percent  
463 (20%) of the mFlex tax incentive amount may be applied as a credit



464 during the course of any reporting year to offset withholding tax  
465 deducted and withheld from employee wages pursuant to Section  
466 27-7-301 et seq.; provided that the amount of the mFlex tax  
467 incentive available to be applied as a credit to offset such state  
468 taxes shall be subject to (a) any subsequent adjustments made by  
469 the authority to such award pursuant to Section 7 of this act, and  
470 (b) any performance requirements set out in the mFlex agreement.  
471 The amount of the mFlex tax incentive available to be applied as a  
472 credit to offset any state taxes described in Section 2(aa)(i) of  
473 this act shall be limited to those such taxes payable directly by  
474 the qualified business or industry to the Department of Revenue  
475 pursuant to a direct pay permit issued by the Department of  
476 Revenue under Section 27-65-93. The amount of the mFlex tax  
477 incentive available to be applied as a credit to offset any state  
478 taxes may not be applied as a credit to offset any state taxes  
479 incurred prior to the issuance of the certification by the  
480 authority and execution of the mFlex agreement by the qualified  
481 business or industry and the authority.

482 (4) The following conditions shall apply to each such  
483 certification made, and each mFlex tax incentive awarded, by the  
484 authority in accordance with Sections 1 through 10 of this act:

485 (a) Any certification and mFlex tax incentive award  
486 issued by the authority under Sections 1 through 10 of this act is  
487 nontransferable and cannot be applied, used or assigned to any  
488 other person or business or tax account without prior approval by



489 the authority, except for one or more affiliates of the qualified  
490 business or industry disclosed thereby on its application or in a  
491 subsequent annual report submitted to the authority in accordance  
492 with Sections 1 through 10 of this act;

493 (b) No qualified business or industry may claim or use  
494 the mFlex tax incentive awarded thereto under Sections 1 through  
495 10 of this act unless the qualified business or industry is in  
496 full compliance with all state and local tax laws, and related  
497 ordinances, permits and other applicable governmental approvals;  
498 and

499 (c) Each qualified business or industry must enter into  
500 an agreement with the authority which sets out, at a minimum, (i)  
501 the obligation of the business or industry to provide an annual  
502 report to the authority pursuant to Section 7 of this act that  
503 demonstrates the actual amount of its qualified investment,  
504 including actual expenditures on manufacturing machinery,  
505 nonmanufacturing equipment and component building materials, the  
506 number of new full-time jobs created and maintained as a result of  
507 the project, and any other relevant information as may be required  
508 by the authority; and (ii) terms for readjustment or recapture of  
509 all or a portion of the mFlex tax incentive awarded thereto  
510 pursuant to Section 7 of this act if the applicant 1. fails to  
511 satisfy the minimum job creation requirement if certification of  
512 the project is predicated on satisfaction of the minimum job  
513 creation requirement and not the minimum qualified investment, or



514 2. fails to satisfy the minimum qualified investment if  
515 certification of the project is predicated on satisfaction of the  
516 minimum job creation requirement and not the minimum qualified  
517 investment, and/or 3. fails to otherwise satisfy any other  
518 additional performance requirements of the qualified business or  
519 industry or its qualified economic development project that are  
520 imposed by the authority.

521 (5) In addition to those mandatory conditions prescribed by  
522 Sections 1 through 10 of this act that apply to each certification  
523 and award of a mFlex tax incentive made by the authority in  
524 accordance herewith, the authority is authorized to impose any  
525 other conditions upon any certification and award of an mFlex tax  
526 incentive made by the authority as it shall find best promotes  
527 economic development in the state.

528 (6) Upon certifying a qualified business or industry as  
529 eligible for, and awarding, an mFlex tax incentive under Sections  
530 1 through 10 of this act, the authority shall forward the  
531 certification along with any other necessary information to the  
532 Department of Revenue so that the mFlex tax incentive awarded to  
533 the qualified business or industry can be recorded by the  
534 Department of Revenue and used to verify each state tax credit  
535 subsequently applied by the qualified business or industry.

536 (7) Within thirty (30) days following the end of each  
537 calendar quarter, the authority shall provide to the Governor,  
538 Lieutenant Governor and the Speaker of the House of



539 Representatives a copy of each certification made, together with a  
540 copy of each mFlex agreement approved and executed, during the  
541 immediately preceding calendar quarter.

542 **SECTION 5. Calculation and application of an mFlex tax**  
543 **incentive award.** The total amount of the initial mFlex tax  
544 incentive determined and awarded by the authority to the certified  
545 applicant shall be calculated by the authority as follows:

546 (a) One and one-half percent (1.5%) of the total  
547 purchase or sales price, or value, including any installation  
548 costs thereof, as applicable, of all manufacturing or processing  
549 machinery acquired, leased or otherwise moved into the state  
550 following the project certification date to establish and equip  
551 the qualified economic development project; plus

552 (b) Seven percent (7%) of the total purchase or sales  
553 price, or value, including any installation costs thereof, as  
554 applicable, of all nonmanufacturing equipment, other than tagged  
555 over-the-road vehicles, acquired, leased or otherwise moved into  
556 the state following the project certification date to establish  
557 and equip the qualified economic development project; plus

558 (c) Two percent (2%) of the total contract price or  
559 compensation paid to any contractor pursuant to any construction  
560 contract entered into following the project certification date by  
561 the qualified business or industry or any affiliate thereof, to  
562 construct, build, erect, repair or add to any building, facility,  
563 structure or other improvement to real property described in



564 Section 27-65-21(1) (a) (i) to establish and construct the qualified  
565 economic development project; plus, if applicable,

566 (d) To the extent that the average employer wage is  
567 equal to or more than seventy-five percent (75%) of the average  
568 state or county wage, then an additional fifteen percent (15%) of  
569 the product derived by multiplying the average employer wage by  
570 the number of new full-time jobs; plus, if applicable,

571 (e) (i) To the extent that 1. the qualified economic  
572 development project is an enterprise enumerated in Section 2(x) (i)  
573 or Section 2(x) (ii) of this act; 2. the number of new full-time  
574 jobs totals fifty (50) or more; 3. the qualified investment totals  
575 Ten Million Dollars (\$10,000,000) or more; 4. the average employer  
576 wage is equal to or more than one hundred ten percent (110%) of  
577 the average state or county wage; and 5. all full-time employees  
578 are eligible for and offered health insurance coverage funded in  
579 whole or at least fifty percent (50%) by the qualified business or  
580 industry (or by a leasing company with respect to leased  
581 employees), then an additional thirty percent (30%) of the product  
582 derived by multiplying the average employer wage by the number of  
583 new full-time jobs; or

584 (ii) To the extent that subparagraph (i) of this  
585 paragraph (e) does not apply, but 1. the number of new full-time  
586 jobs totals twenty-five (25) or more; 2. the average employer wage  
587 is equal to or more than one hundred twenty-five percent (125%) of  
588 the average state or county wage; and 3. all full-time employees



589 are eligible for and offered health insurance coverage funded in  
590 whole or at least fifty percent (50%) by the qualified business or  
591 industry (or by a leasing company with respect to leased  
592 employees), then an additional thirty percent (30%) of the product  
593 derived by multiplying the average employer wage by the number of  
594 new full-time jobs; provided, however, that the initial mFlex tax  
595 incentive award amount determined by the authority and awarded on  
596 the project certification date shall be based upon estimates  
597 provided by the qualified business or industry to the authority  
598 with respect to paragraphs (a) through (d) of this section, which  
599 estimates shall be memorialized as project performance measures  
600 agreed to by the qualified business or industry in the mFlex  
601 agreement; provided, further, that such initial award amount shall  
602 be subject to any subsequent adjustments made by the authority  
603 pursuant to Section 7 of this act.

604 **SECTION 6. Exclusive utilization of mFlex tax incentive.** A  
605 qualified business or industry awarded any mFlex tax incentive by  
606 the authority for its qualified economic development project  
607 pursuant to Sections 1 through 10 of this act shall not be  
608 eligible for, nor shall it apply for or claim, any one or more of  
609 the following tax credits, exemptions or incentives for such  
610 qualified project:

611 (a) For any new full-time job, any state income tax  
612 credit authorized by Sections 27-7-22.17, 22-7-22.18, 22-7-22-19,





613 277-22.27, 27-7-22.29, 27-7-22.34, 27-7-22.36 and 57-73-21(2)  
614 through (5);

615 (b) For any new full-time job, any withholding tax  
616 rebate authorized by Sections 57-62-1 through 57-62-7 or Sections  
617 57-100-1 through 57-100-9;

618 (c) Any exemption from state income tax authorized by  
619 Section 27-7-30, Sections 57-80-1 through 57-80-11, Sections  
620 57-113-1 through 57-113-7, and Sections 57-113-21 through  
621 57-113-27;

622 (d) Any state income tax credit authorized by Section  
623 27-7-22.20 or Section 22-7-22.35;

624 (e) Any exemption from state sales or use tax  
625 authorized by Section 27-65-101(1)(q), (r), (v), (w), (x), (y),  
626 (cc), (dd), (ff), (gg), (hh), (kk), (ll), (mm), (nn), (qq), (uu),  
627 (vv), (2) or (3); Sections 57-10-255(2) and 57-10-439(2); Sections  
628 57-80-1 through 57-80-11; Sections 57-113-1 through 57-113-7; and  
629 Sections 57-113-21 through 57-113-27;

630 (f) Any exemption from state franchise tax authorized  
631 by Section 27-13-5(4), Section 27-13-7(4), Sections 57-80-1  
632 through 57-80-11, Sections 57-113-1 through 57-113-7, and Sections  
633 57-113-21 through 57-113-27.

634 **SECTION 7. Taxpayer annual performance reporting to, and**  
635 **reviews by, the Mississippi Development Authority; subsequent**  
636 **adjustments by the Mississippi Development Authority to mFlex tax**  
637 **incentive award; deadline for mFlex tax incentive utilization.**



638 (1) Unless its mFlex agreement prescribes a longer reporting  
639 period or additional reporting requirements, each qualified  
640 business or industry shall file an annual report with the  
641 authority for each qualified economic development project which  
642 has been certified, and for which any mFlex tax incentive has been  
643 awarded, by the authority in accordance with Sections 1 through 10  
644 of this act, for the longer of the following periods: (a) until  
645 the reporting year during which all or any remaining portion of  
646 the mFlex tax incentive amount awarded to such qualified business  
647 or industry has been applied to offset state taxes, or (b) until  
648 the seventh reporting year, provided that an annual report shall  
649 in either instance be due in the final reporting year prescribed  
650 hereby or by the mFlex agreement. Each annual report shall be due  
651 to the authority no later than the last business day of the month  
652 following the month during which the annual anniversary of its  
653 project certification date occurred. Each annual report shall  
654 include the information set forth in this section, together with  
655 any other information required to be provided by the qualified  
656 business or industry pursuant to its mFlex agreement, for the  
657 immediately preceding twelve-month period ending on the last day  
658 of the month during which the annual anniversary of its project  
659 certification date occurred.

660 (2) Each annual report submitted to the authority by a  
661 qualified business or industry shall, at a minimum, contain the  
662 following information:



663 (a) The total qualified investment made between the  
664 project certification date through the end of the reporting year,  
665 including a breakout of actual expenditures made by the qualified  
666 business or industry for manufacturing machinery, nonmanufacturing  
667 equipment and component building materials to establish and equip  
668 the qualified economic development project;

669 (b) The incremental qualified investment made during  
670 the reporting year, including a breakout of actual expenditures  
671 made by the qualified business or industry for manufacturing  
672 machinery, nonmanufacturing equipment and component building  
673 materials to establish and equip the qualified economic  
674 development project;

675 (c) If applicable, the total number of base full-time  
676 jobs;

677 (d) The total number of people employed in new  
678 full-time jobs as of the last day the year preceding the reporting  
679 year;

680 (e) The total number of people employed in new  
681 full-time jobs as of the last day the year of the reporting year;

682 (f) The average employer wage for the reporting year;

683 (g) The percentage and number, as of the last day of  
684 the reporting year, of new full-time employees who are eligible  
685 for and offered a health insurance coverage funded in whole or at  
686 least fifty percent (50%) by the qualified business or industry  
687 (or by a leasing company with respect to leased employees);



688 (h) A description of employee benefits, including but  
689 not limited to, health, dental and/or vision insurance, retirement  
690 savings account, etc. made available to employees, as well as a  
691 description of any employees to whom the benefits are not made  
692 available (e.g., part-time employees);

693 (i) The total amount of the mFlex tax incentive awarded  
694 thereto, which the qualified business or industry has already  
695 applied and taken as a credit to offset state taxes through the  
696 end of the reporting period;

697 (j) A list of all affiliates of the qualified business  
698 or industry, including the Federal Employer Identification Number  
699 for each affiliate, for which any state tax liability thereof has  
700 been or is expected to be offset by all or some portion of the  
701 mFlex tax incentives awarded to the qualified business or  
702 industry, which list shall further identify (i) any affiliate of  
703 the qualified business or industry that was not disclosed as such  
704 on its application or annual report submitted for the prior  
705 reporting period, whichever was more recent, but which has either  
706 become an affiliate of the qualified business or industry as of  
707 the date the current annual report or which the qualified business  
708 or industry desires to utilize all or a portion of its mFlex tax  
709 incentive as a credit to offset the affiliate's state tax  
710 liability following the date of the current annual report; (ii)  
711 any change in the name of any previously disclosed affiliate since  
712 the date the qualified business or industry filed its application



713 or annual report for the prior reporting period, whichever was  
714 more recent; (iii) any prior affiliate of the qualified business  
715 or industry disclosed as such on its application or annual report  
716 for the prior reporting period, whichever was more recent, and  
717 which is no longer an affiliate of the qualified business or  
718 industry as of the date the current annual report; and (iv) any  
719 affiliate of the qualified business or industry disclosed as such  
720 on its application or annual report for the prior reporting  
721 period, whichever was more recent, and which the qualified  
722 business or industry no longer desires that the affiliate utilize  
723 all or a portion of its mFlex tax incentive as a credit to offset  
724 the affiliate's state tax liability following the date of the  
725 current annual report.

726 (3) The authority shall prescribe a form or forms for the  
727 annual report.

728 (4) Notwithstanding the obligation of a qualified business  
729 or industry to file an annual report with the authority for each  
730 qualified economic development project which has been certified,  
731 and for which any mFlex tax incentive has been awarded, the  
732 authority is authorized to request from the qualified business or  
733 industry at any other time any of the information set forth herein  
734 that must be included in an annual report for purposes of  
735 determining whether a qualified business or industry has met any  
736 of the project performance measures set forth in its mFlex  
737 agreement on or before the respective deadlines imposed with



738 respect thereto. Upon any such written request by the authority,  
739 the qualified business or industry shall, within thirty (30) days  
740 after receipt of the request, provide to the authority a certified  
741 copy of the information requested.

742 (5) If a qualified business or industry fails to either file  
743 an annual report with the authority on or before the deadline  
744 mandated by subsection (1) of this section, or provide any  
745 information requested by the authority pursuant to subsection (4)  
746 of this section within the time period mandated by such  
747 subsection, the authority shall provide written notice to the  
748 qualified business or industry of the failure to report, and the  
749 qualified business or industry shall have thirty (30) additional  
750 days to cure the reporting failure following its receipt of the  
751 notice. If the qualified business or industry thereafter fails to  
752 file its annual report with the authority, or provide such  
753 information requested by the authority within the thirty-day-cure  
754 period, the authority is authorized to suspend or revoke, at the  
755 discretion thereof, all or a portion of the amount of the mFlex  
756 tax incentive previously awarded to the qualified business or  
757 industry for its qualified economic development project.

758 (6) If a qualified business or industry either fails to  
759 achieve or exceeds any project performance measure set forth in  
760 its mFlex agreement within or for any time period required by such  
761 agreement, the authority shall, following its (a) review of any  
762 annual report filed by the qualified business or industry or of



763 any certified information provided by the qualified business or  
764 industry pursuant to subsection (4) of this section, and (b)  
765 verification based upon such information that the qualified  
766 business or industry either failed to achieve or exceeded any of  
767 the project performance measures set forth in its mFlex agreement  
768 within or for any time period required by such agreement, adjust  
769 the mFlex tax incentive awarded thereto for its qualified economic  
770 development project such that the award is no longer based upon  
771 any one or more of the performance measures set forth in its mFlex  
772 agreement but is instead based upon one or more of the following,  
773 as applicable, as of the end of the most recent reporting year for  
774 which the annual report was filed: (a) the actual expenditures  
775 made by the qualified business or industry for purposes of the  
776 calculation prescribed by Section 5(a), (b) and (c) of this act;  
777 and (b) (i) the actual number of new full-time jobs created by the  
778 qualified business or industry, together with (ii) the actual  
779 average employer wage associated therewith, for purposes of the  
780 calculations prescribed by Section 5(d) and (e) of this act.

781 (7) A qualified business or industry and the authority may,  
782 at any time, amend or amend and restate an mFlex agreement in  
783 order to modify the performance measures of the qualified business  
784 or industry with respect to its qualified economic development  
785 project, and in connection with such amendment or amendment and  
786 restatement, the authority shall modify the amount of the mFlex  
787 tax incentive awarded for the qualified economic development



788 project to comport with the modified performance measures;  
789 provided that the modified award amount shall thereafter be  
790 subject to the adjustment requirements of subsection (6) of this  
791 section.

792 (8) If the authority adjusts any mFlex tax incentive award  
793 pursuant to subsection (6) or subsection (7) of this section, the  
794 authority shall issue an amended certification of the  
795 corresponding qualified economic development project, which shall  
796 specify the amount of mFlex tax incentive award adjustment. The  
797 authority shall forward the amended certification, along with any  
798 other necessary information, to the Department of Revenue so that  
799 the mFlex tax incentive award adjustment for the qualified  
800 business or industry can be recorded by the Department of Revenue  
801 and used to verify each state tax credit subsequently applied by  
802 the qualified business or industry.

803 (9) If at any time the authority reduces the mFlex tax  
804 incentive award granted for the qualified economic development  
805 project to an amount less than the total amount of credits already  
806 applied and taken by the qualified business or industry, or by one  
807 or more affiliates thereof eligible to utilize such credit, to  
808 offset state taxes thereof, the Department of Revenue shall charge  
809 the qualified business or industry, or such affiliate or  
810 affiliates, with an assessment for the amount of state taxes for  
811 which no mFlex tax incentive is available, following such  
812 reduction by the authority, for application as a tax credit,





813 beginning with those state taxes against which the qualified  
814 business or industry most recently applied the credit, and such  
815 state tax assessment shall be immediately due and payable.

816 (10) Any portion of an mFlex tax incentive awarded to the  
817 qualified business or industry by the authority for its qualified  
818 economic development project pursuant to Sections 1 through 10 of  
819 this act that has not been applied, on or before the tenth annual  
820 anniversary of the project certificate date, as a credit by such  
821 qualified business or industry, or by one or more affiliates  
822 thereof eligible to utilize such credit, to offset state taxes  
823 otherwise payable, shall expire.

824 (11) Within thirty (30) days following the end of each  
825 calendar quarter, the authority shall provide to the Governor,  
826 Lieutenant Governor and the Speaker of the House of  
827 Representatives a copy of each amendment to any certification  
828 made, together with a copy of each amendment to any mFlex  
829 agreement approved and executed, during the immediately preceding  
830 calendar quarter.

831 **SECTION 8. Audits and interagency cooperation.** (1) No  
832 provisions of Sections 1 through 10 of this act shall in any way  
833 limit or restrict the authority of the Department of Revenue to  
834 perform audits for all state tax liabilities for any qualified  
835 business or industry that is awarded any mFlex tax incentives by  
836 the authority.



837           (2) The Department of Revenue is authorized to provide to  
838 the authority any information received, obtained or produced, or  
839 findings or determinations made, thereby as a result of the  
840 performance by Department of Revenue of any audit of state tax  
841 liabilities of any qualified business or industry that is awarded  
842 any mFlex tax incentives by the authority, and any such  
843 information, findings or determinations provided to the authority  
844 by the Department of Revenue shall be exempt from the provisions  
845 of the Mississippi Public Records Act of 1983, as amended.

846           (3) If any audit by the Department of Revenue results in a  
847 reclassification of component building materials, manufacturing  
848 equipment or nonmanufacturing equipment, as previously reported by  
849 a qualified business or industry, to a different property  
850 classification, or a change in the number of new full-time  
851 employees or average employer wage, as previously reported by a  
852 qualified business or industry, the authority is authorized to  
853 adjust the amount of the mFlex tax incentive awarded to the  
854 qualified business or industry for a qualified economic  
855 development project to comport with any property reclassification  
856 or change in the number of new full-time employees or average  
857 employer wage in the manner prescribed by Section 7 of this act.

858           (4) The Department of Employment Security is authorized to  
859 provide to the authority any information received, obtained or  
860 produced, or findings or determinations made, thereby with respect  
861 to any qualified business or industry that is awarded any mFlex



862 tax incentives by the authority, and any such information,  
863 findings or determinations provided to the authority by the  
864 Department of Revenue shall be exempt from the provisions of the  
865 Mississippi Public Records Act of 1983, Section 25-61-1 et seq.

866 (5) The State Auditor may conduct performance and compliance  
867 audits under Sections 1 through 10 of this act according to  
868 Section 7-72-11(o).

869 (6) Upon written request made by the Director of the  
870 University Research Center Division of the Mississippi  
871 Institutions of Higher Learning, the authority shall provide to  
872 the director a copy of any certification, together with any  
873 amendments thereto, made by the authority, and/or any mFlex  
874 agreement, together with any amendments thereto, approved and  
875 executed by the authority pursuant to Sections 1 through 10 of  
876 this act, described in such request for the purpose of the  
877 University Research Center conducting an economic impact analysis  
878 and other analyses performed by the University Research Center  
879 with respect thereto; provided that any such analyses conducted by  
880 the University Research Center with respect to one or more  
881 particular qualified economic development projects shall be  
882 communicated and provided only to the Governor, Lieutenant  
883 Governor, Speaker of the House of Representatives and/or the  
884 authority.

885 **SECTION 9. Implementation and exclusive jurisdiction.** (1)

886 The authority and the Department of Revenue shall implement the



887 provisions of Sections 1 through 10 of this act and exercise all  
888 powers as authorized in Sections 1 through 10 of this act;  
889 however, the application of Sections 1 through 10 of this act and  
890 the offering and awarding of any mFlex tax incentive as to any  
891 particular qualified business or industry shall be carried out at  
892 the discretion of the authority subject to, and in compliance  
893 with, Sections 1 through 10 of this act. The exercise of powers  
894 conferred by Sections 1 through 10 of this act shall be deemed and  
895 held to be the performance of essential public purposes.

896 (2) The authority shall have sole and exclusive jurisdiction  
897 and authority to determine whether an applicant qualifies as a  
898 qualified business or industry, whether an applicant's project  
899 qualifies as a qualified economic development project, whether to  
900 certify an applicant and its project as a qualified business or  
901 industry undertaking a qualified economic development project and  
902 the eligibility thereof for the mFlex tax incentive, the initial  
903 calculation of any mFlex tax incentive award, any terms or  
904 conditions or further requirements to be included in any mFlex  
905 agreement, and any subsequent adjustments any mFlex tax incentive  
906 award or any revocation thereof, in all instances in accordance  
907 with Sections 1 through 10 of this act.

908 (3) Nothing in Sections 1 through 10 of this act shall be  
909 construed to constitute a guarantee or assumption by the State of  
910 Mississippi of any debt of any corporation, limited liability  
911 company, partnership, person or sole proprietorship, business



912 trust or other legal entity and subunit or affiliate thereof nor  
913 to authorize the credit of the state to be given, pledged or  
914 loaned to any corporation, limited liability company, partnership,  
915 person or sole proprietorship, business trust or other legal  
916 entity and subunit or affiliate thereof. Further, nothing in  
917 Sections 1 through 10 of this act gives any right to any qualified  
918 business or industry to the incentives authorized by Sections 1  
919 through 10 of this act unless such incentive is awarded by  
920 Sections 1 through 10 of this act.

921 **SECTION 10.** **Promulgation of rules and regulations.** The  
922 authority and the Department of Revenue shall promulgate rules and  
923 regulations, in accordance with the Mississippi Administrative  
924 Procedures Law, Section 25-43-1.101 et seq. and all application  
925 forms and other forms necessary to implement their respective  
926 duties and responsibilities under the provisions of Sections 1  
927 through 10 of this act.

928 **SECTION 11.** Section 27-7-22, Mississippi Code of 1972, is  
929 amended as follows:

930 27-7-22. (1) For any qualified business, as defined in  
931 Section 57-51-5, which is located in a county, or portion thereof,  
932 designated as an enterprise zone pursuant to Title 57, Chapter 51,  
933 Mississippi Code of 1972, there shall be allowed as a credit  
934 against the tax imposed by this chapter, an amount equal to One  
935 Thousand Dollars (\$1,000.00) per net full-time employee as  
936 determined by the average annual employment of the business



937 reported to the Employment Security Commission. Such credit shall  
938 be allowed annually to each qualified business for a period not to  
939 exceed ten (10) years. If the amount allowable as a credit  
940 exceeds the tax imposed by this chapter, the amount of such excess  
941 shall not be refundable or carried forward to any other taxable  
942 year.

943 For the purpose of determining the credit allowed to a  
944 qualified business which is an existing trade or business having  
945 expanded its buildings and facilities, the number of net full-time  
946 employees shall be the difference between the average annual  
947 employment of such business before and after such expansion.

948 If the Mississippi Enterprise Zone Act is repealed, any  
949 qualified business which had been granted a tax credit under this  
950 subsection prior to the date of such repeal shall be entitled to  
951 such tax credit until the period for which it was granted expires.

952 (2) For any qualified business, as defined in Section  
953 57-54-5, there shall be allowed as a credit against the tax  
954 imposed by this chapter, an amount equal to One Thousand Dollars  
955 (\$1,000.00) per net full-time employee as determined by the  
956 average annual employment of the business reported to the  
957 Employment Security Commission. Such credit shall be allowed  
958 annually to each qualified business for a period not to exceed ten  
959 (10) years. If the amount allowable as a credit exceeds the tax  
960 imposed by this chapter, the amount of such excess shall not be  
961 refundable or carried forward to any other taxable year.



962 For the purpose of determining the credit allowed to a  
963 qualified business which is an existing trade or business having  
964 expanded its buildings and facilities, the number of net full-time  
965 employees shall be the difference between the average annual  
966 employment of such business before and after such expansion.

967 If the Mississippi Advanced Technology Initiative Act is  
968 repealed, any qualified business which had been granted a tax  
969 credit under this subsection prior to the date of such repeal  
970 shall be entitled to such tax credit until the period for which it  
971 was granted expires.

972 (3) For any qualified company, certified as such by the  
973 Mississippi Board of Economic Development under Section 57-53-1,  
974 there shall be allowed as a credit against the tax imposed by this  
975 chapter, an amount equal to One Thousand Dollars (\$1,000.00) per  
976 net full-time employee in this state, provided there is a minimum  
977 of seventy-five (75) net full-time employees, as determined by the  
978 average annual employment of the company in this state reported to  
979 the Employment Security Commission. Such credit shall be allowed  
980 annually to each qualified company for a period not to exceed ten  
981 (10) years. If the amount allowable as a credit exceeds the tax  
982 imposed by this chapter, the amount of such excess shall not be  
983 refundable or carried forward to any other taxable year.

984 For the purpose of determining the credit allowed to a  
985 qualified company which has expanded its existing buildings and  
986 facilities, the number of net full-time employees shall be the



987 difference between the average annual employment of such company  
988 before and after such expansion.

989 (4) For any qualified business or industry, which is  
990 certified as such by the Mississippi Board of Economic Development  
991 pursuant to the Mississippi Flexible Tax Incentive Act and awarded  
992 any mFlex tax incentive amount for such qualified business's or  
993 industry's qualified economic development project, certified as  
994 such by the Mississippi Board of Economic Development pursuant to  
995 the Mississippi Flexible Tax Incentive Act, there shall be allowed  
996 as a credit against the tax imposed by this chapter, an amount  
997 prescribed by, and subject to, the Mississippi Flexible Tax  
998 Incentive Act.

999 **SECTION 12.** Section 27-7-309, Mississippi Code of 1972, is  
1000 amended as follows:

1001 27-7-309. (1) (a) Except as otherwise provided in this  
1002 subsection, every employer required to deduct and withhold from  
1003 wages under this article shall, for each calendar quarter, on or  
1004 before the fifteenth day of the month following the close of such  
1005 calendar quarter, file a withholding return as prescribed by the  
1006 commissioner and pay over to the commissioner the full amount  
1007 required to be deducted and withheld from wages by such employer  
1008 for the calendar quarter. Provided that the commissioner may, by  
1009 regulation, provide that every such employer shall, on or before  
1010 the fifteenth day of each month, pay over to the commissioner or a  
1011 depository designated by the commissioner, the amount required to





1012 be deducted and withheld by such employer for the preceding month,  
1013 if such amount is One Hundred Dollars (\$100.00) or more. Returns  
1014 and payments placed in the mail must be postmarked by the due date  
1015 in order to be timely filed, except when the due date falls on a  
1016 weekend or holiday, returns and payments placed in the mail must  
1017 be postmarked by the first working day following the due date in  
1018 order to be considered timely filed.

1019 (b) An employer having an average monthly withholding  
1020 tax liability of at least Fifty Thousand Dollars (\$50,000.00) for  
1021 the preceding calendar year shall pay to the Department of Revenue  
1022 on or before June 25, 2014, and on or before the twenty-fifth day  
1023 of June of each succeeding year thereafter, an amount equal to at  
1024 least seventy-five percent (75%) of such employer's estimated  
1025 withholding tax liability for the month of June of the current  
1026 taxable year, or an amount equal to at least seventy-five percent  
1027 (75%) of the employer's withholding tax liability for the month of  
1028 June of the preceding taxable year. Payments required to be made  
1029 under this paragraph must be received by the Department of Revenue  
1030 no later than June 25 in order to be considered timely made. An  
1031 employer that fails to comply with the requirements of this  
1032 paragraph may be assessed a penalty in an amount equal to ten  
1033 percent (10%) of the difference between any amount the taxpayer  
1034 pays pursuant to this paragraph and the employer's actual  
1035 withholding tax liability for the month of June for which the  
1036 estimated payment was required to be made. This paragraph shall



1037 not apply to any agency, department or instrumentality of the  
1038 United States, any agency, department, institution,  
1039 instrumentality or political subdivision of the State of  
1040 Mississippi, or any agency, department, institution or  
1041 instrumentality of any political subdivision of the State of  
1042 Mississippi. Payments made pursuant to this paragraph for the  
1043 month of June, less One Hundred Thousand Dollars (\$100,000.00)  
1044 thereof to be retained by the Department of Revenue each year to  
1045 defray the costs of collection, shall be deposited by the  
1046 Department of Revenue into the State General Fund.

1047 (c) The commissioner may promulgate rules and  
1048 regulations to require or permit filing periods of any duration,  
1049 in lieu of monthly or quarterly filing periods, for any taxpayer  
1050 or group thereof.

1051 (2) Notwithstanding any of the other provisions of this  
1052 section, all transient employers and all employers engaged in any  
1053 business which is seasonal shall make return and pay over to the  
1054 commissioner on a monthly basis, the full amounts required to be  
1055 deducted and withheld from the wages by such employer for the  
1056 calendar month. Such returns and payments to the commissioner by  
1057 such employers shall be made on or before the fifteenth day of the  
1058 month following the month for which such amounts were deducted and  
1059 withheld from the wages of his employees. The commissioner shall  
1060 have the authority to issue reasonable rules and regulations  
1061 designating or classifying those transient and seasonal employers.



1062 (3) If the commissioner, in any case, has justifiable reason  
1063 to believe that the collection of funds required to be withheld by  
1064 any employer as provided herein is in jeopardy, he may require the  
1065 employer to file a return and pay such amount required to be  
1066 withheld at any time.

1067 (4) Every employer who fails to withhold or pay to the  
1068 commissioner any sums required by this article to be withheld and  
1069 paid, shall be personally and individually liable therefor, except  
1070 as provided in Section 27-7-307; and any sum or sums withheld in  
1071 accordance with the provisions of this article shall be deemed to  
1072 be held in trust for the State of Mississippi and shall be  
1073 recorded by the employer in a ledger account so as to clearly  
1074 indicate the amount of tax withheld and that the amount is the  
1075 property of the State of Mississippi.

1076 (5) Once an employer has become liable to a quarterly return  
1077 of withholding, he must continue to file a quarterly report, even  
1078 though no tax has been withheld, until such time as he notifies  
1079 the commissioner, in writing, that he no longer has employees or  
1080 that he is no longer liable for such quarterly returns.

1081 (6) Once an employer has become liable to a monthly return  
1082 of withholding, he must continue to file a monthly report, even  
1083 though no tax has been withheld until such time as he notifies the  
1084 commissioner, in writing, that he no longer has employees or that  
1085 he is no longer liable for such monthly returns.



1086 (7) Magnetic media reporting may be required in a manner to  
1087 be determined by the commissioner.

1088 (8) Any employer who is required to deduct and withhold from  
1089 wages for any monthly or quarterly period pursuant to this  
1090 article, and who is also eligible to apply as a credit against any  
1091 amount to be deducted and withheld for such period from wages by  
1092 such employer under this article a tax credit awarded by the  
1093 Mississippi Development Authority in accordance with the  
1094 Mississippi Flexible Tax incentive Act, may apply the tax credit  
1095 in the amount available for such purpose, or such lesser amount  
1096 determined by such employer, pursuant to the Mississippi Flexible  
1097 Tax Incentive Act. The credit applied for any monthly or  
1098 quarterly reporting period shall be reflected on the form of the  
1099 return in the manner prescribed by the commissioner.

1100 **SECTION 13.** Section 27-7-311, Mississippi Code of 1972, is  
1101 amended as follows:

1102 27-7-311. Every employer shall file an annual statement of  
1103 withholding for each employee. The annual statement shall be in  
1104 the form prescribed by the commissioner and shall be filed with  
1105 the commissioner and two (2) copies thereof furnished the employee  
1106 on or before the thirty-first day of January following the close  
1107 of the calendar year. Provided, if the employment of the employee  
1108 is terminated during the calendar year, the employer shall furnish  
1109 such statement to the employee at the time of the termination of  
1110 employment. Such statement shall show:



1111           (1) The name and withholding account number of the  
1112 employer;  
1113           (2) The name of the employee and his social security  
1114 account number;  
1115           (3) The total compensation paid to the employee; and  
1116           (4) The total amount withheld by the employer pursuant  
1117 to this article for the year or part of a calendar year where the  
1118 employee worked for less than a full calendar year, and such other  
1119 information as the commissioner shall require by rule or  
1120 regulation. The total amount withheld by the employer shall  
1121 reflect the gross amount withheld by the employer pursuant to this  
1122 article for such year or part of such calendar year prior to, and  
1123 expressly excluding, the application of any credit applied and  
1124 taken by the employer of any tax credit awarded by the Mississippi  
1125 Development Authority in accordance with the Mississippi Flexible  
1126 Tax Incentive Act.

1127           **SECTION 14.** Section 27-13-5, Mississippi Code of 1972, is  
1128 amended as follows:

1129           27-13-5. (1) (a) **Franchise tax levy.** Except as otherwise  
1130 provided in subsections (3), (4), (5) and (7) of this section,  
1131 there is hereby imposed, to be paid and collected as hereinafter  
1132 provided, a franchise or excise tax upon every corporation,  
1133 association or joint-stock company or partnership treated as a  
1134 corporation under the income tax laws or regulations, organized or  
1135 created for pecuniary gain, having privileges not possessed by



1136 individuals, and having authorized capital stock now existing in  
1137 this state, or hereafter organized, created or established, under  
1138 and by virtue of the laws of the State of Mississippi, equal to:

1139 (i) For tax years beginning before January 1,  
1140 2018, Two Dollars and Fifty Cents (\$2.50) for each One Thousand  
1141 Dollars (\$1,000.00), or fraction thereof, of the value of the  
1142 capital used, invested or employed in the exercise of any power,  
1143 privilege or right enjoyed by such organization within this state,  
1144 except as hereinafter provided.

1145 (ii) For tax years beginning on or after January  
1146 1, 2018, but before January 1, 2019, Two Dollars and Fifty Cents  
1147 (\$2.50) for each One Thousand Dollars (\$1,000.00), or fraction  
1148 thereof, in excess of One Hundred Thousand Dollars (\$100,000.00),  
1149 of the value of the capital used, invested or employed in the  
1150 exercise of any power, privilege or right enjoyed by such  
1151 organization within this state, except as hereinafter provided.

1152 (iii) For tax years beginning on or after January  
1153 1, 2019, but before January 1, 2020, Two Dollars and Twenty-five  
1154 Cents (\$2.25) for each One Thousand Dollars (\$1,000.00), or  
1155 fraction thereof, in excess of One Hundred Thousand Dollars  
1156 (\$100,000.00), of the value of the capital used, invested or  
1157 employed in the exercise of any power, privilege or right enjoyed  
1158 by such organization within this state, except as hereinafter  
1159 provided.



1160 (iv) For tax years beginning on or after January  
1161 1, 2020, but before January 1, 2021, Two Dollars (\$2.00) for each  
1162 One Thousand Dollars (\$1,000.00), or fraction thereof, in excess  
1163 of One Hundred Thousand Dollars (\$100,000.00), of the value of the  
1164 capital used, invested or employed in the exercise of any power,  
1165 privilege or right enjoyed by such organization within this state,  
1166 except as hereinafter provided.

1167 (v) For tax years beginning on or after January 1,  
1168 2021, but before January 1, 2022, One Dollar and Seventy-five  
1169 Cents (\$1.75) for each One Thousand Dollars (\$1,000.00), or  
1170 fraction thereof, in excess of One Hundred Thousand Dollars  
1171 (\$100,000.00), of the value of the capital used, invested or  
1172 employed in the exercise of any power, privilege or right enjoyed  
1173 by such organization within this state, except as hereinafter  
1174 provided.

1175 (vi) For tax years beginning on or after January  
1176 1, 2022, but before January 1, 2023, One Dollar and Fifty Cents  
1177 (\$1.50) for each One Thousand Dollars (\$1,000.00), or fraction  
1178 thereof, in excess of One Hundred Thousand Dollars (\$100,000.00),  
1179 of the value of the capital used, invested or employed in the  
1180 exercise of any power, privilege or right enjoyed by such  
1181 organization within this state, except as hereinafter provided.

1182 (vii) For tax years beginning on or after January  
1183 1, 2023, but before January 1, 2024, One Dollar and Twenty-five  
1184 Cents (\$1.25) for each One Thousand Dollars (\$1,000.00), or



1185 fraction thereof, in excess of One Hundred Thousand Dollars  
1186 (\$100,000.00), of the value of the capital used, invested or  
1187 employed in the exercise of any power, privilege or right enjoyed  
1188 by such organization within this state, except as hereinafter  
1189 provided.

1190 (viii) For tax years beginning on or after January  
1191 1, 2024, but before January 1, 2025, One Dollar (\$1.00) for each  
1192 One Thousand Dollars (\$1,000.00), or fraction thereof, in excess  
1193 of One Hundred Thousand Dollars (\$100,000.00), of the value of the  
1194 capital used, invested or employed in the exercise of any power,  
1195 privilege or right enjoyed by such organization within this state,  
1196 except as hereinafter provided.

1197 (ix) For tax years beginning on or after January  
1198 1, 2025, but before January 1, 2026, Seventy-five Cents (75¢) for  
1199 each One Thousand Dollars (\$1,000.00), or fraction thereof, in  
1200 excess of One Hundred Thousand Dollars (\$100,000.00), of the value  
1201 of the capital used, invested or employed in the exercise of any  
1202 power, privilege or right enjoyed by such organization within this  
1203 state, except as hereinafter provided.

1204 (x) For tax years beginning on or after January 1,  
1205 2026, but before January 1, 2027, Fifty Cents (50¢) for each One  
1206 Thousand Dollars (\$1,000.00), or fraction thereof, in excess of  
1207 One Hundred Thousand Dollars (\$100,000.00), of the value of the  
1208 capital used, invested or employed in the exercise of any power,





1209 privilege or right enjoyed by such organization within this state,  
1210 except as hereinafter provided.

1211 (xi) For tax years beginning on or after January  
1212 1, 2027, but before January 1, 2028, Twenty-five Cents (25¢) for  
1213 each One Thousand Dollars (\$1,000.00), or fraction thereof, in  
1214 excess of One Hundred Thousand Dollars (\$100,000.00), of the value  
1215 of the capital used, invested or employed in the exercise of any  
1216 power, privilege or right enjoyed by such organization within this  
1217 state, except as hereinafter provided.

1218 (b) In no case shall the franchise tax due for the  
1219 accounting period be less than Twenty-five Dollars (\$25.00).

1220 (c) It is the purpose of this section to require the  
1221 payment to the State of Mississippi of this tax for the right  
1222 granted by the laws of this state to exist as such organization,  
1223 and to enjoy, under the protection of the laws of this state, the  
1224 powers, rights, privileges and immunities derived from the state  
1225 by the form of such existence.

1226 (2) **Annual report of domestic corporations.** Each domestic  
1227 corporation shall file an annual report as required by the  
1228 provisions of Section 79-4-16.22.

1229 (3) (a) A corporation that has negotiated a fee-in-lieu as  
1230 defined in Section 57-75-5 shall not be subject to the tax levied  
1231 by this section on such project; however, the fee-in-lieu payment  
1232 shall be otherwise treated in the same manner as the payment of  
1233 franchise taxes.



1234 (b) (i) As used in this paragraph:

1235 1. "Authority" shall have the meaning  
1236 ascribed to such term in Section 57-75-5(b);

1237 2. "Project" shall have the meaning ascribed  
1238 to such term in Section 57-75-5(f)(xxix); and

1239 3. "Enterprise" shall mean the corporation  
1240 authorized for the project pursuant to Section 57-75-5(f)(xxix).

1241 (ii) The term of the franchise tax fee-in-lieu  
1242 agreement negotiated under this subsection and authorized by  
1243 Section 57-75-5(j), between the authority and the enterprise for  
1244 the project shall not exceed twenty-five (25) years. The  
1245 franchise tax fee-in-lieu agreement shall apply only to new  
1246 franchise tax liability attributable to the project, and shall not  
1247 apply to any existing franchise tax liability of the enterprise in  
1248 connection with any current operations in this state.

1249 (iii) In the event that the annual number of  
1250 full-time jobs maintained by the enterprise falls below the  
1251 minimum annual number of full-time jobs required by the authority  
1252 pursuant to a written agreement between the authority and the  
1253 enterprise for two (2) consecutive years, the franchise tax  
1254 fee-in-lieu for the project shall be suspended until the first tax  
1255 year during which the annual number of full-time jobs maintained  
1256 by the enterprise reaches the minimum annual number of full-time  
1257 jobs required by the authority pursuant to a written agreement  
1258 between the authority and the enterprise.



1259                   (iv) The enterprise shall be entitled to utilize a  
1260 single sales apportionment factor in the calculation of its  
1261 liability for franchise tax imposed by this chapter which is  
1262 attributable to the project for any year for which it files a  
1263 Mississippi franchise tax return. The enterprise shall be  
1264 entitled to continue to utilize such single sales apportionment  
1265 factor notwithstanding a suspension of the franchise tax  
1266 fee-in-lieu pursuant to subparagraph (iii) of this paragraph.

1267           (4) An approved business enterprise as defined in the Growth  
1268 and Prosperity Act shall not be subject to the tax levied by this  
1269 section on the value of capital used, invested or employed by the  
1270 approved business enterprise in a growth and prosperity county or  
1271 supervisors district as provided in the Growth and Prosperity Act.

1272           (5) A business enterprise operating a project as defined in  
1273 Section 57-64-33, in a county that is a member of a regional  
1274 economic development alliance created under the Regional Economic  
1275 Development Act shall not be subject to the tax levied by this  
1276 section on the value of capital used, invested or employed by the  
1277 business enterprise in such a county as provided in Section  
1278 57-64-33.

1279           (6) The tax levied by this chapter and paid by a business  
1280 enterprise located in a redevelopment project area under Sections  
1281 57-91-1 through 57-91-11 shall be deposited into the Redevelopment  
1282 Project Incentive Fund created in Section 57-91-9.



1283 (7) A business enterprise as defined in Section 57-113-1 or  
1284 57-113-21 that is exempt from certain state taxes under Section  
1285 57-113-5 or 57-113-25 shall not be subject to the tax levied by  
1286 this section on the value of capital used, invested or employed by  
1287 the business enterprise.

1288 (8) A taxpayer who is eligible to apply as a credit against  
1289 the tax levied by this chapter a tax credit awarded by the  
1290 Mississippi Development Authority in accordance with the  
1291 Mississippi Flexible Tax incentive Act may apply the tax credit in  
1292 the amount available for such purpose, or such lesser amount  
1293 determined by the taxpayer, pursuant to the Mississippi Flexible  
1294 Tax Incentive Act. The credit applied for a tax-reporting period  
1295 shall be reflected on the form of the return in the manner  
1296 prescribed by the commissioner.

1297 **SECTION 15.** Section 27-13-7, Mississippi Code of 1972, is  
1298 amended as follows:

1299 27-13-7. (1) (a) **Franchise tax levy.** Except as otherwise  
1300 provided in subsections (3), (4), (5) and (7) of this section,  
1301 there is hereby imposed, levied and assessed upon every  
1302 corporation, association or joint-stock company, or partnership  
1303 treated as a corporation under the income tax laws or regulations  
1304 as hereinbefore defined, organized and existing under and by  
1305 virtue of the laws of some other state, territory or country, or  
1306 organized and existing without any specific statutory authority,  
1307 now or hereafter doing business or exercising any power, privilege



1308 or right within this state, as hereinbefore defined, a franchise  
1309 or excise tax equal to:

1310 (i) For tax years beginning before January 1,  
1311 2018, Two Dollars and Fifty Cents (\$2.50) of each One Thousand  
1312 Dollars (\$1,000.00), or fraction thereof, of the value of capital  
1313 used, invested or employed within this state, except as  
1314 hereinafter provided.

1315 (ii) For tax years beginning on or after January  
1316 1, 2018, but before January 1, 2019, Two Dollars and Fifty Cents  
1317 (\$2.50) for each One Thousand Dollars (\$1,000.00), or fraction  
1318 thereof, in excess of One Hundred Thousand Dollars (\$100,000.00),  
1319 of the value of the capital used, invested or employed in the  
1320 exercise of any power, privilege or right enjoyed by such  
1321 organization within this state, except as hereinafter provided.

1322 (iii) For tax years beginning on or after January  
1323 1, 2019, but before January 1, 2020, Two Dollars and Twenty-five  
1324 Cents (\$2.25) for each One Thousand Dollars (\$1,000.00), or  
1325 fraction thereof, in excess of One Hundred Thousand Dollars  
1326 (\$100,000.00), of the value of the capital used, invested or  
1327 employed in the exercise of any power, privilege or right enjoyed  
1328 by such organization within this state, except as hereinafter  
1329 provided.

1330 (iv) For tax years beginning on or after January  
1331 1, 2020, but before January 1, 2021, Two Dollars (\$2.00) for each  
1332 One Thousand Dollars (\$1,000.00), or fraction thereof, in excess



1333 of One Hundred Thousand Dollars (\$100,000.00), of the value of the  
1334 capital used, invested or employed in the exercise of any power,  
1335 privilege or right enjoyed by such organization within this state,  
1336 except as hereinafter provided.

1337 (v) For tax years beginning on or after January 1,  
1338 2021, but before January 1, 2022, One Dollar and Seventy-five  
1339 Cents (\$1.75) for each One Thousand Dollars (\$1,000.00), or  
1340 fraction thereof, in excess of One Hundred Thousand Dollars  
1341 (\$100,000.00), of the value of the capital used, invested or  
1342 employed in the exercise of any power, privilege or right enjoyed  
1343 by such organization within this state, except as hereinafter  
1344 provided.

1345 (vi) For tax years beginning on or after January  
1346 1, 2022, but before January 1, 2023, One Dollar and Fifty Cents  
1347 (\$1.50) for each One Thousand Dollars (\$1,000.00), or fraction  
1348 thereof, in excess of One Hundred Thousand Dollars (\$100,000.00),  
1349 of the value of the capital used, invested or employed in the  
1350 exercise of any power, privilege or right enjoyed by such  
1351 organization within this state, except as hereinafter provided.

1352 (vii) For tax years beginning on or after January  
1353 1, 2023, but before January 1, 2024, One Dollar and Twenty-five  
1354 Cents (\$1.25) for each One Thousand Dollars (\$1,000.00), or  
1355 fraction thereof, in excess of One Hundred Thousand Dollars  
1356 (\$100,000.00), of the value of the capital used, invested or  
1357 employed in the exercise of any power, privilege or right enjoyed



1358 by such organization within this state, except as hereinafter  
1359 provided.

1360 (viii) For tax years beginning on or after January  
1361 1, 2024, but before January 1, 2025, One Dollar (\$1.00) for each  
1362 One Thousand Dollars (\$1,000.00), or fraction thereof, in excess  
1363 of One Hundred Thousand Dollars (\$100,000.00), of the value of the  
1364 capital used, invested or employed in the exercise of any power,  
1365 privilege or right enjoyed by such organization within this state,  
1366 except as hereinafter provided.

1367 (ix) For tax years beginning on or after January  
1368 1, 2025, but before January 1, 2026, Seventy-five Cents (75¢) for  
1369 each One Thousand Dollars (\$1,000.00), or fraction thereof, in  
1370 excess of One Hundred Thousand Dollars (\$100,000.00), of the value  
1371 of the capital used, invested or employed in the exercise of any  
1372 power, privilege or right enjoyed by such organization within this  
1373 state, except as hereinafter provided.

1374 (x) For tax years beginning on or after January 1,  
1375 2026, but before January 1, 2027, Fifty Cents (50¢) for each One  
1376 Thousand Dollars (\$1,000.00), or fraction thereof, in excess of  
1377 One Hundred Thousand Dollars (\$100,000.00), of the value of the  
1378 capital used, invested or employed in the exercise of any power,  
1379 privilege or right enjoyed by such organization within this state,  
1380 except as hereinafter provided.

1381 (xi) For tax years beginning on or after January  
1382 1, 2027, but before January 1, 2028, Twenty-five Cents (25¢) for



1383 each One Thousand Dollars (\$1,000.00), or fraction thereof, in  
1384 excess of One Hundred Thousand Dollars (\$100,000.00), of the value  
1385 of the capital used, invested or employed in the exercise of any  
1386 power, privilege or right enjoyed by such organization within this  
1387 state, except as hereinafter provided.

1388 (b) In no case shall the franchise tax due for the  
1389 accounting period be less than Twenty-five Dollars (\$25.00).

1390 (c) It is the purpose of this section to require the  
1391 payment of a tax by all organizations not organized under the laws  
1392 of this state, measured by the amount of capital or its  
1393 equivalent, for which such organization receives the benefit and  
1394 protection of the government and laws of the state.

1395 (2) **Annual report of foreign corporations.** Each foreign  
1396 corporation authorized to transact business in this state shall  
1397 file an annual report as required by the provisions of Section  
1398 79-4-16.22.

1399 (3) (a) A corporation that has negotiated a fee-in-lieu as  
1400 defined in Section 57-75-5 shall not be subject to the tax levied  
1401 by this section on such project; however, the fee-in-lieu payment  
1402 shall be otherwise treated in the same manner as the payment of  
1403 franchise taxes.

1404 (b) (i) As used in this paragraph:

1405 1. "Authority" shall have the meaning  
1406 ascribed to such term in Section 57-75-5(b);





1407                   2. "Project" shall have the meaning ascribed  
1408 to such term in Section 57-75-5(f) (xxix); and

1409                   3. "Enterprise" shall mean the corporation  
1410 authorized for the project pursuant to Section 57-75-5(f) (xxix).

1411                   (ii) The term of the franchise tax fee-in-lieu  
1412 agreement negotiated under this subsection and authorized by  
1413 Section 57-75-5(j), between the authority and the enterprise for  
1414 the project shall not exceed twenty-five (25) years. The  
1415 franchise tax fee-in-lieu agreement shall apply only to new  
1416 franchise tax liability attributable to the project, and shall not  
1417 apply to any existing franchise tax liability of the enterprise in  
1418 connection with any current operations in this state.

1419                   (iii) In the event that the annual number of  
1420 full-time jobs maintained by the enterprise falls below the  
1421 minimum annual number of full-time jobs required by the authority  
1422 pursuant to a written agreement between the authority and the  
1423 enterprise for two (2) consecutive years, the franchise tax  
1424 fee-in-lieu for the project shall be suspended until the first tax  
1425 year during which the annual number of full-time jobs maintained  
1426 by the enterprise reaches the minimum annual number of full-time  
1427 jobs required by the authority pursuant to a written agreement  
1428 between the authority and the enterprise.

1429                   (iv) The enterprise shall be entitled to utilize a  
1430 single sales apportionment factor in the calculation of its  
1431 liability for franchise tax imposed by this chapter which is



1432 attributable to the project for any year for which it files a  
1433 Mississippi franchise tax return. The enterprise shall be  
1434 entitled to continue to utilize such single sales apportionment  
1435 factor notwithstanding a suspension of the franchise tax  
1436 fee-in-lieu pursuant to subparagraph (iii) of this paragraph.

1437 (4) An approved business enterprise as defined in the Growth  
1438 and Prosperity Act shall not be subject to the tax levied by this  
1439 section on the value of capital used, invested or employed by the  
1440 approved business enterprise in a growth and prosperity county or  
1441 supervisors district as provided in the Growth and Prosperity Act.

1442 (5) A business enterprise operating a project as defined in  
1443 Section 57-64-33, in a county that is a member of a regional  
1444 economic development alliance created under the Regional Economic  
1445 Development Act shall not be subject to the tax levied by this  
1446 section on the value of capital used, invested or employed by the  
1447 business enterprise in such a county as provided in Section  
1448 57-64-33.

1449 (6) The tax levied by this chapter and paid by a business  
1450 enterprise located in a redevelopment project area under Sections  
1451 57-91-1 through 57-91-11 shall be deposited into the Redevelopment  
1452 Project Incentive Fund created in Section 57-91-9.

1453 (7) A business enterprise as defined in Section 57-113-1 or  
1454 57-113-21 that is exempt from certain state taxes under Section  
1455 57-113-5 or 57-113-25 shall not be subject to the tax levied by



1456 this section on the value of capital used, invested or employed by  
1457 the business enterprise.

1458 (8) A taxpayer who is eligible to apply as a credit against  
1459 the tax levied by this chapter a tax credit awarded by the  
1460 Mississippi Development Authority in accordance with the  
1461 Mississippi Flexible Tax incentive Act may apply the tax credit in  
1462 the amount available for such purpose, or such lesser amount  
1463 determined by the taxpayer, pursuant to the Mississippi Flexible  
1464 Tax Incentive Act. The credit applied for a tax-reporting period  
1465 shall be reflected on the form of the return in the manner  
1466 prescribed by the commissioner.

1467 **SECTION 16.** Section 27-65-93, Mississippi Code of 1972, is  
1468 amended as follows:

1469 27-65-93. (1) The commissioner shall, from time to time,  
1470 promulgate rules and regulations, not inconsistent with the  
1471 provisions of the sales tax law, for making returns and for the  
1472 ascertainment, assessment and collection of the tax imposed by the  
1473 sales tax law as he may deem necessary to enforce its provisions;  
1474 and, upon request, he shall furnish any taxpayer with a copy of  
1475 the rules and regulations.

1476 (2) All forms, necessary for the enforcement of the sales  
1477 tax law, shall be prescribed, printed and furnished by the  
1478 commissioner.

1479 (3) The commissioner may adopt rules and regulations  
1480 providing for the issuance of permits to manufacturers, utilities,



1481 construction contractors, companies receiving bond financing  
1482 through the Mississippi Business Finance Corporation or the  
1483 Mississippi Development Authority, and other taxpayers as  
1484 determined by the commissioner, and the commissioner shall adopt  
1485 rules and regulations providing for the issuance of a permit to  
1486 any qualified business or industry, which is certified as such by  
1487 the Mississippi Development Authority pursuant to the Mississippi  
1488 Flexible Tax Incentive Act and awarded any mFlex tax incentive  
1489 amount for such qualified business's or industry's qualified  
1490 economic development project, certified as such by the Mississippi  
1491 Development Authority pursuant to the Mississippi Flexible Tax  
1492 Incentive Act, to purchase tangible personal property taxed under  
1493 Section 27-65-17, items taxed under Section 27-65-18, items taxed  
1494 under Section 27-65-19, services taxed under Section 27-65-23,  
1495 items taxed under Section 27-65-24, and items taxed under Section  
1496 27-65-26 without the payment to the vendor of the tax imposed by  
1497 the sales and use tax laws, and providing for persons to report  
1498 and pay the tax directly to the commissioner in instances where  
1499 the commissioner determines that these provisions will facilitate  
1500 and expedite the collection of the tax at the proper rates which  
1501 may be due on purchases by the permittee. Under the provisions of  
1502 this chapter, the vendor is relieved of collecting and remitting  
1503 the taxes specified hereunder and the person holding the permit  
1504 shall become liable for such taxes instead of the seller. The



1505 full enforcement provisions of the sales tax law shall apply in  
1506 the collection of the tax from the permittee.

1507         **SECTION 17.** Section 27-67-17, Mississippi Code of 1972, is  
1508 amended as follows:

1509         27-67-17. (1) Except as otherwise provided in this section,  
1510 the commissioner shall collect the tax imposed by this article,  
1511 and every person subject to its provisions shall remit to the  
1512 commissioner, on or before the twentieth day of each month, the  
1513 amount of tax due by such person for the preceding calendar month.  
1514 Returns and payments placed in the mail must be postmarked by the  
1515 due date in order to be timely filed, except that when the due  
1516 date falls on a weekend or holiday, returns and payments placed in  
1517 the mail must be postmarked by the first working day following the  
1518 due date in order to be considered timely filed. Every taxpayer  
1519 shall file a return with his remittance, which return shall be  
1520 prescribed by the commissioner and shall show for the calendar  
1521 month preceding the tax payment date, the total sale or purchase  
1522 price, or value of tangible personal property or specified digital  
1523 products sold, used, stored or consumed by him for benefit  
1524 received or service performed, and such other information as the  
1525 commissioner may deem pertinent and necessary for determining the  
1526 amount of tax due thereunder.

1527         (2) The commissioner, in his discretion, may authorize in  
1528 writing the filing of returns and the payment of tax on a  
1529 quarterly basis by any person required or authorized to pay the



1530 tax imposed, such authority to be subject to revocation for good  
1531 cause by the commissioner.

1532 (3) In instances where it is impractical to file returns and  
1533 pay the tax monthly or quarterly, the commissioner may authorize  
1534 the filing of semiannual or annual returns.

1535 (4) A taxpayer required to collect use taxes under this  
1536 article and having an average monthly use tax liability of at  
1537 least Fifty Thousand Dollars (\$50,000.00) for the preceding  
1538 calendar year shall pay to the Department of Revenue on or before  
1539 June 25, 2014, and on or before the twenty-fifth day of June of  
1540 each succeeding year thereafter, an amount equal to at least  
1541 seventy-five percent (75%) of such taxpayer's estimated use tax  
1542 liability for the month of June of the current calendar year, or  
1543 an amount equal to at least seventy-five percent (75%) of the  
1544 taxpayer's use tax liability for the month of June of the  
1545 preceding calendar year. Payments required to be made under this  
1546 subsection must be received by the Department of Revenue no later  
1547 than June 25 in order to be considered timely made. A taxpayer  
1548 that fails to comply with the requirements of this subsection may  
1549 be assessed a penalty in an amount equal to ten percent (10%) of  
1550 the difference between any amount the taxpayer pays pursuant to  
1551 this subsection and the taxpayer's actual use tax liability for  
1552 the month of June for which the estimated payment was required to  
1553 be made. Payments made by a taxpayer under this subsection shall  
1554 not be considered to be collected for the purposes of any use tax



1555 diversions required by law until the taxpayer files a return for  
1556 the actual use taxes collected during the month of June. This  
1557 subsection shall not apply to any agency, department or  
1558 instrumentality of the United States, any agency, department,  
1559 institution, instrumentality or political subdivision of the State  
1560 of Mississippi, or any agency, department, institution or  
1561 instrumentality of any political subdivision of the State of  
1562 Mississippi.

1563 (5) The commissioner, in his discretion, may authorize the  
1564 computation of the tax on the basis of a formula in lieu of direct  
1565 accounting of specific properties in instances where such method  
1566 will expedite, simplify or provide a more equitable means of  
1567 determining liability under this article. All formulas shall be  
1568 subject to revocation for good cause by the commissioner.

1569 (6) A taxpayer who is eligible to apply as a credit against  
1570 the tax levied by this chapter a tax credit awarded by the  
1571 Mississippi Development Authority in accordance with the  
1572 Mississippi Flexible Tax Incentive Act may apply the tax credit in  
1573 the amount available for such purpose, or such lesser amount  
1574 determined by the taxpayer, pursuant to the Mississippi Flexible  
1575 Tax Incentive Act. The credit applied for a tax-reporting period  
1576 shall be reflected on the form of the return in the manner  
1577 prescribed by the commissioner.

1578 **SECTION 18.** Section 57-1-14, Mississippi Code of 1972, is  
1579 amended as follows:



1580           57-1-14. (1) Except as otherwise provided in subsection (3)  
1581 of this section, any records of the Mississippi Development  
1582 Authority which contain client information concerning development  
1583 projects shall be exempt from the provisions of the Mississippi  
1584 Public Records Act of 1983 for a period of two (2) years after  
1585 receipt of the information by the department. Confidential client  
1586 information as described in this section shall not include the  
1587 information which must be disclosed by the certified applicant  
1588 related to a qualified economic development project in the annual  
1589 report described in Section 57-1-759.

1590           (2) Except as otherwise provided in subsection (3) of this  
1591 section, confidential client information in public records held by  
1592 the department shall be exempt from the provisions of the  
1593 Mississippi Public Records Act of 1983 during the period of review  
1594 and negotiation on a project proposal and for a period of thirty  
1595 (30) days after approval, disapproval or abandonment of the  
1596 proposal not to exceed one (1) year by the department in writing.

1597           (3) Any breakouts or subcategories of the total qualified  
1598 investment amounts reported pursuant to Sections 3(d), 7(2)(a) and  
1599 7(2)(b) of this act, and information reported pursuant to Sections  
1600 3(g), 3(h), 3(j), 7(2)(f), 7(2)(g), 7(2)(h) and 7(2)(i) of this  
1601 act shall not be subject to any disclosure under the Mississippi  
1602 Public Records Act of 1983. In addition, any information and  
1603 documentation, including without limitation, copies of any  
1604 certifications, together with any amendments thereto, made by the





1605 Mississippi Development Authority, and copies of any mFlex  
1606 agreements, together with any amendments thereto, approved and  
1607 executed by the Mississippi Development Authority, pursuant to the  
1608 Mississippi Flexible Tax Incentive Act, which are (a) provided by  
1609 the authority to the Governor, Lieutenant Governor and/or Speaker  
1610 of the House of Representatives pursuant to Section 4(7) or  
1611 Section 7(11) of this act; (b) provided by the authority to the  
1612 University Research Center division of the Mississippi  
1613 Institutions of Higher Learning pursuant to Section 8(5) of this  
1614 act; and (c) provided by the University Research Center division  
1615 of the Mississippi Institutions of Higher Learning to the  
1616 Governor, Lieutenant Governor, Speaker of the House of  
1617 Representatives and/or the authority, shall not be subject to any  
1618 disclosure under the Mississippi Public Records Act of 1983.

1619       **SECTION 19.** This act shall take effect and be in force from  
1620 and after July 1, 2021.

