

By: Representative Lamar

To: Ways and Means

HOUSE BILL NO. 627

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" means the accounting
74 principles generally recognized as applicable to a qualified
75 business or industry and pursuant to which such qualified business
76 or industry regularly prepares and maintains its financial and
77 accounting books and records, and which specifically incorporate
78 Generally Accepted Accounting Principles or International
79 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" means, as of the
91 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" means the tax levied by Section
159 27-65-21, except for the tax upon the sale of manufacturing or
160 processing machinery for a manufacturer or custom processor.

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

165 (l) "Manufacturing machinery," as used in Sections 1
166 through 10 of this act, shall have the same meaning ascribed to



167 such term in Section 27-65-11, as interpreted by any regulations
168 promulgated by the Department of Revenue with respect to such
169 section.

170 (m) "mFlex agreement" means the written agreement
171 entered into between a qualified business or industry and the
172 authority in accordance with Section 4(4)(c) of this act.

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

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

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

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

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

189 (ii) That offers a minimum of one thousand eight
190 hundred twenty (1,820) hours of an employee's time per year (i.e.,
191 thirty-five (35) hours per week on average) for a normal four (4)



192 consecutive quarter period of the qualified business or industry's
193 operations or a job for which the employee is hired after the
194 project certification date and is compensated based on one
195 thousand eight hundred twenty (1,820) hours for such annual period
196 (including in each case an employee who, after hiring, elects to
197 take unpaid time off or is on short-term or long-term disability);
198 and

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

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

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

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

212 (iii) Who performs services for the qualified
213 business or industry pursuant to a leasing agreement between the
214 qualified business or industry and such other employee leasing
215 firm;



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

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

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

239 (t) "Part-time job" means a job (i) for which an
240 employee is hired by the qualified business or industry that



241 requires fewer than one thousand eight hundred twenty (1,820)
242 hours of an employee's time per year (i.e., requires fewer than
243 thirty-five (35) hours per week on average) for an entire normal
244 work year of the qualified business or industry's operations or a
245 job for which the employee is hired and is compensated based on
246 fewer than one thousand eight hundred twenty (1,820) hours for
247 such annual period; and (iii) for which the employee holding such
248 job receives salary or wages subject to state income tax
249 withholdings.

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

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

261 (w) "Qualified business or industry" means any
262 corporation, limited liability company, partnership, person or
263 sole proprietorship, business trust or other legal entity and
264 subunit or affiliate thereof, which makes a qualified minimum
265 investment in a qualified economic development project.



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

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

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

286 (iii) A new research or research and development
287 enterprise or an expansion of an existing research or research and
288 development enterprise; provided that, in any such instance, such
289 research and development enterprise or an expansion thereof is
290 certified by the authority to qualify as such;



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

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

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

311 (vii) A new data/information processing enterprise
312 or an expansion of an existing new data/information processing
313 enterprise; provided that, in any such instance such
314 data/information processing enterprise or expansion thereof is
315 certified by the authority to qualify as such;



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

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

339 (x) A new data center enterprise principally
340 engaged in the utilization of hardware, software, technology,



341 infrastructure and/or workforce, to store, manage or manipulate
342 digital data, or an expansion of an existing data center
343 enterprise as herein described; provided that, in such instance,
344 any such data center enterprise or expansion thereof is certified
345 by the authority to qualify as such.

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

363 (z) "Reporting year" means the twelve-month period
364 ending on the last day of the month during which the annual
365 anniversary of a project certification date occurs, and for which



366 an annual report must be filed with the authority by a qualified
367 business or industry in accordance with Section 7 of this act.

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

369 (bb) "State tax" means:

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

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

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

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

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

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

388 (a) A brief overview of the applicant's business or
389 industry, including its formation type (e.g., corporation, limited
390 liability company, limited partnership, etc.) its date of



391 incorporation or formation thereof, and the location of its
392 principal headquarters, together with its principal place of
393 business in the state if the applicant already has one or more
394 facilities located in the state;

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

398 (c) A description of the proposed project;

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

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

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

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

411 (h) A description of benefits, including but not
412 limited to, health, dental and/or vision insurance, retirement
413 savings account, etc. made available to employees, as well as a
414 description of any employees to whom such benefits are not made
415 available (e.g., part-time employees);



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

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

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

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

435 **SECTION 4. Certification and award of mFlex tax incentive,**
436 **terms of such incentive, nontransferability of such certification**
437 **and incentive; mandatory and permissive conditions to**
438 **certifications and incentive awards.** (1) The authority shall
439 evaluate an application to determine whether the applicant's
440 proposed project is a qualified economic development project and



441 whether it is therefore eligible for an award by the authority of
442 an mFlex tax incentive, as calculated in accordance with Section 5
443 of this act.

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

453 (3) Upon the issuance of the certification and execution of
454 the mFlex agreement by a qualified business or industry and the
455 authority, the qualified business or industry may apply the amount
456 of its mFlex tax incentive as a credit to offset (a) any state
457 taxes (except for withholding tax required to be deducted and
458 withheld from employee wages pursuant to Section 27-7-301 et
459 seq.), as incurred thereby, up to the full amount of the mFlex tax
460 incentive awarded by the authority for the associated qualified
461 economic development project, and (b) only up to twenty percent
462 (20%) of the mFlex tax incentive amount may be applied as a credit
463 during the course of any reporting year to offset withholding tax
464 deducted and withheld from employee wages pursuant to Section
465 27-7-301 et seq.; provided that the amount of the mFlex tax



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

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

484 (a) Any certification and mFlex tax incentive award
485 issued by the authority under Sections 1 through 10 of this act is
486 nontransferable and cannot be applied, used or assigned to any
487 other person or business or tax account without prior approval by
488 the authority, except for one or more affiliates of the qualified
489 business or industry disclosed thereby on its application or in a



490 subsequent annual report submitted to the authority in accordance
491 with Sections 1 through 10 of this act;

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

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



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

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

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

535 (7) Within thirty (30) days following the end of each
536 calendar quarter, the authority shall provide to the Governor,
537 Lieutenant Governor and the Speaker of the House of
538 Representatives a copy of each certification made, together with a



539 copy of each mFlex agreement approved and executed, during the
540 immediately preceding calendar quarter.

541 **SECTION 5. Calculation and application of an mFlex tax**

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

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

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

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



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

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

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

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



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

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

610 (a) For any new full-time job, any state income tax
611 credit authorized by Sections 27-7-22.17, 27-7-22.18, 27-7-22.19,



612 27-7-22.27, 27-7-22.29, 27-7-22.34, 27-7-22.36 and 57-73-21(2)
613 through (5);

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

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

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

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

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

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



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

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



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

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

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

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

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

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

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



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

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

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



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

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

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



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

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

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



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

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



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

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

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



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

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

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

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



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

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

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



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

865 (5) The State Auditor may conduct performance and compliance
866 audits under Sections 1 through 10 of this act according to
867 Section 7-7-211(o).

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

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

885 The authority and the Department of Revenue shall implement the



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

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

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



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

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

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

929 27-7-22. (1) For any qualified business, as defined in
930 Section 57-51-5, which is located in a county, or portion thereof,
931 designated as an enterprise zone pursuant to Title 57, Chapter 51,
932 Mississippi Code of 1972, there shall be allowed as a credit
933 against the tax imposed by this chapter, an amount equal to One
934 Thousand Dollars (\$1,000.00) per net full-time employee as
935 determined by the average annual employment of the business



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

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

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

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



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

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

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

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



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

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

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

1000 27-7-309. (1) (a) Except as otherwise provided in this
1001 subsection, every employer required to deduct and withhold from
1002 wages under this article shall, for each calendar quarter, on or
1003 before the fifteenth day of the month following the close of such
1004 calendar quarter, file a withholding return as prescribed by the
1005 commissioner and pay over to the commissioner the full amount
1006 required to be deducted and withheld from wages by such employer
1007 for the calendar quarter. Provided that the commissioner may, by
1008 regulation, provide that every such employer shall, on or before
1009 the fifteenth day of each month, pay over to the commissioner or a
1010 depository designated by the commissioner, the amount required to



1011 be deducted and withheld by such employer for the preceding month,
1012 if such amount is One Hundred Dollars (\$100.00) or more. Returns
1013 and payments placed in the mail must be postmarked by the due date
1014 in order to be timely filed, except when the due date falls on a
1015 weekend or holiday, returns and payments placed in the mail must
1016 be postmarked by the first working day following the due date in
1017 order to be considered timely filed.

1018 (b) The commissioner may promulgate rules and
1019 regulations to require or permit filing periods of any duration,
1020 in lieu of monthly or quarterly filing periods, for any taxpayer
1021 or group thereof.

1022 (2) Notwithstanding any of the other provisions of this
1023 section, all transient employers and all employers engaged in any
1024 business which is seasonal shall make return and pay over to the
1025 commissioner on a monthly basis, the full amounts required to be
1026 deducted and withheld from the wages by such employer for the
1027 calendar month. Such returns and payments to the commissioner by
1028 such employers shall be made on or before the fifteenth day of the
1029 month following the month for which such amounts were deducted and
1030 withheld from the wages of his employees. The commissioner shall
1031 have the authority to issue reasonable rules and regulations
1032 designating or classifying those transient and seasonal employers.

1033 (3) If the commissioner, in any case, has justifiable reason
1034 to believe that the collection of funds required to be withheld by
1035 any employer as provided herein is in jeopardy, he may require the



1036 employer to file a return and pay such amount required to be
1037 withheld at any time.

1038 (4) Every employer who fails to withhold or pay to the
1039 commissioner any sums required by this article to be withheld and
1040 paid, shall be personally and individually liable therefor, except
1041 as provided in Section 27-7-307; and any sum or sums withheld in
1042 accordance with the provisions of this article shall be deemed to
1043 be held in trust for the State of Mississippi and shall be
1044 recorded by the employer in a ledger account so as to clearly
1045 indicate the amount of tax withheld and that the amount is the
1046 property of the State of Mississippi.

1047 (5) Once an employer has become liable to a quarterly return
1048 of withholding, he must continue to file a quarterly report, even
1049 though no tax has been withheld, until such time as he notifies
1050 the commissioner, in writing, that he no longer has employees or
1051 that he is no longer liable for such quarterly returns.

1052 (6) Once an employer has become liable to a monthly return
1053 of withholding, he must continue to file a monthly report, even
1054 though no tax has been withheld until such time as he notifies the
1055 commissioner, in writing, that he no longer has employees or that
1056 he is no longer liable for such monthly returns.

1057 (7) Magnetic media reporting may be required in a manner to
1058 be determined by the commissioner.

1059 (8) Any employer who is required to deduct and withhold from
1060 wages for any monthly or quarterly period pursuant to this



1061 article, and who is also eligible to apply as a credit against any
1062 amount to be deducted and withheld for such period from wages by
1063 such employer under this article a tax credit awarded by the
1064 Mississippi Development Authority in accordance with the
1065 Mississippi Flexible Tax Incentive Act, may apply the tax credit
1066 in the amount available for such purpose, or such lesser amount
1067 determined by such employer, pursuant to the Mississippi Flexible
1068 Tax Incentive Act. The credit applied for any monthly or
1069 quarterly reporting period shall be reflected on the form of the
1070 return in the manner prescribed by the commissioner.

1071 **SECTION 13.** Section 27-7-311, Mississippi Code of 1972, is
1072 amended as follows:

1073 27-7-311. Every employer shall file an annual statement of
1074 withholding for each employee. The annual statement shall be in
1075 the form prescribed by the commissioner and shall be filed with
1076 the commissioner and two (2) copies thereof furnished the employee
1077 on or before the thirty-first day of January following the close
1078 of the calendar year. Provided, if the employment of the employee
1079 is terminated during the calendar year, the employer shall furnish
1080 such statement to the employee at the time of the termination of
1081 employment. Such statement shall show:

1082 (1) The name and withholding account number of the
1083 employer;

1084 (2) The name of the employee and his social security
1085 account number;



1086 (3) The total compensation paid to the employee; and
1087 (4) The total amount withheld by the employer pursuant
1088 to this article for the year or part of a calendar year where the
1089 employee worked for less than a full calendar year, and such other
1090 information as the commissioner shall require by rule or
1091 regulation. The total amount withheld by the employer shall
1092 reflect the gross amount withheld by the employer pursuant to this
1093 article for such year or part of such calendar year prior to, and
1094 expressly excluding, the application of any credit applied and
1095 taken by the employer of any tax credit awarded by the Mississippi
1096 Development Authority in accordance with the Mississippi Flexible
1097 Tax Incentive Act.

1098 **SECTION 14.** Section 27-13-5, Mississippi Code of 1972, is
1099 amended as follows:

1100 27-13-5. (1) (a) **Franchise tax levy.** Except as otherwise
1101 provided in subsections (3), (4), (5) and (7) of this section,
1102 there is hereby imposed, to be paid and collected as hereinafter
1103 provided, a franchise or excise tax upon every corporation,
1104 association or joint-stock company or partnership treated as a
1105 corporation under the income tax laws or regulations, organized or
1106 created for pecuniary gain, having privileges not possessed by
1107 individuals, and having authorized capital stock now existing in
1108 this state, or hereafter organized, created or established, under
1109 and by virtue of the laws of the State of Mississippi, equal to:



1110 (i) For tax years beginning before January 1,
1111 2018, Two Dollars and Fifty Cents (\$2.50) for each One Thousand
1112 Dollars (\$1,000.00), or fraction thereof, of the value of the
1113 capital used, invested or employed in the exercise of any power,
1114 privilege or right enjoyed by such organization within this state,
1115 except as hereinafter provided.

1116 (ii) For tax years beginning on or after January
1117 1, 2018, but before January 1, 2019, Two Dollars and Fifty Cents
1118 (\$2.50) for each One Thousand Dollars (\$1,000.00), or fraction
1119 thereof, in excess of One Hundred Thousand Dollars (\$100,000.00),
1120 of the value of the capital used, invested or employed in the
1121 exercise of any power, privilege or right enjoyed by such
1122 organization within this state, except as hereinafter provided.

1123 (iii) For tax years beginning on or after January
1124 1, 2019, but before January 1, 2020, Two Dollars and Twenty-five
1125 Cents (\$2.25) for each One Thousand Dollars (\$1,000.00), or
1126 fraction thereof, in excess of One Hundred Thousand Dollars
1127 (\$100,000.00), of the value of the capital used, invested or
1128 employed in the exercise of any power, privilege or right enjoyed
1129 by such organization within this state, except as hereinafter
1130 provided.

1131 (iv) For tax years beginning on or after January
1132 1, 2020, but before January 1, 2021, Two Dollars (\$2.00) for each
1133 One Thousand Dollars (\$1,000.00), or fraction thereof, in excess
1134 of One Hundred Thousand Dollars (\$100,000.00), of the value of the



1135 capital used, invested or employed in the exercise of any power,
1136 privilege or right enjoyed by such organization within this state,
1137 except as hereinafter provided.

1138 (v) For tax years beginning on or after January 1,
1139 2021, but before January 1, 2022, One Dollar and Seventy-five
1140 Cents (\$1.75) for each One Thousand Dollars (\$1,000.00), or
1141 fraction thereof, in excess of One Hundred Thousand Dollars
1142 (\$100,000.00), of the value of the capital used, invested or
1143 employed in the exercise of any power, privilege or right enjoyed
1144 by such organization within this state, except as hereinafter
1145 provided.

1146 (vi) For tax years beginning on or after January
1147 1, 2022, but before January 1, 2023, One Dollar and Fifty Cents
1148 (\$1.50) for each One Thousand Dollars (\$1,000.00), or fraction
1149 thereof, in excess of One Hundred Thousand Dollars (\$100,000.00),
1150 of the value of the capital used, invested or employed in the
1151 exercise of any power, privilege or right enjoyed by such
1152 organization within this state, except as hereinafter provided.

1153 (vii) For tax years beginning on or after January
1154 1, 2023, but before January 1, 2024, One Dollar and Twenty-five
1155 Cents (\$1.25) for each One Thousand Dollars (\$1,000.00), or
1156 fraction thereof, in excess of One Hundred Thousand Dollars
1157 (\$100,000.00), of the value of the capital used, invested or
1158 employed in the exercise of any power, privilege or right enjoyed



1159 by such organization within this state, except as hereinafter
1160 provided.

1161 (viii) For tax years beginning on or after January
1162 1, 2024, but before January 1, 2025, One Dollar (\$1.00) for each
1163 One Thousand Dollars (\$1,000.00), or fraction thereof, in excess
1164 of One Hundred Thousand Dollars (\$100,000.00), of the value of the
1165 capital used, invested or employed in the exercise of any power,
1166 privilege or right enjoyed by such organization within this state,
1167 except as hereinafter provided.

1168 (ix) For tax years beginning on or after January
1169 1, 2025, but before January 1, 2026, Seventy-five Cents (75¢) for
1170 each One Thousand Dollars (\$1,000.00), or fraction thereof, in
1171 excess of One Hundred Thousand Dollars (\$100,000.00), of the value
1172 of the capital used, invested or employed in the exercise of any
1173 power, privilege or right enjoyed by such organization within this
1174 state, except as hereinafter provided.

1175 (x) For tax years beginning on or after January 1,
1176 2026, but before January 1, 2027, Fifty Cents (50¢) for each One
1177 Thousand Dollars (\$1,000.00), or fraction thereof, in excess of
1178 One Hundred Thousand Dollars (\$100,000.00), of the value of the
1179 capital used, invested or employed in the exercise of any power,
1180 privilege or right enjoyed by such organization within this state,
1181 except as hereinafter provided.

1182 (xi) For tax years beginning on or after January
1183 1, 2027, but before January 1, 2028, Twenty-five Cents (25¢) for



1184 each One Thousand Dollars (\$1,000.00), or fraction thereof, in
1185 excess of One Hundred Thousand Dollars (\$100,000.00), of the value
1186 of the capital used, invested or employed in the exercise of any
1187 power, privilege or right enjoyed by such organization within this
1188 state, except as hereinafter provided.

1189 (b) In no case shall the franchise tax due for the
1190 accounting period be less than Twenty-five Dollars (\$25.00).

1191 (c) It is the purpose of this section to require the
1192 payment to the State of Mississippi of this tax for the right
1193 granted by the laws of this state to exist as such organization,
1194 and to enjoy, under the protection of the laws of this state, the
1195 powers, rights, privileges and immunities derived from the state
1196 by the form of such existence.

1197 (2) **Annual report of domestic corporations.** Each domestic
1198 corporation shall file an annual report as required by the
1199 provisions of Section 79-4-16.22.

1200 (3) (a) A corporation that has negotiated a fee-in-lieu as
1201 defined in Section 57-75-5 shall not be subject to the tax levied
1202 by this section on such project; however, the fee-in-lieu payment
1203 shall be otherwise treated in the same manner as the payment of
1204 franchise taxes.

1205 (b) (i) As used in this paragraph:

1206 1. "Authority" shall have the meaning
1207 ascribed to such term in Section 57-75-5(b);



1208 2. "Project" shall have the meaning ascribed
1209 to such term in Section 57-75-5(f) (xxix); and

1210 3. "Enterprise" shall mean the corporation
1211 authorized for the project pursuant to Section 57-75-5(f) (xxix).

1212 (ii) The term of the franchise tax fee-in-lieu
1213 agreement negotiated under this subsection and authorized by
1214 Section 57-75-5(j), between the authority and the enterprise for
1215 the project shall not exceed twenty-five (25) years. The
1216 franchise tax fee-in-lieu agreement shall apply only to new
1217 franchise tax liability attributable to the project, and shall not
1218 apply to any existing franchise tax liability of the enterprise in
1219 connection with any current operations in this state.

1220 (iii) In the event that the annual number of
1221 full-time jobs maintained by the enterprise falls below the
1222 minimum annual number of full-time jobs required by the authority
1223 pursuant to a written agreement between the authority and the
1224 enterprise for two (2) consecutive years, the franchise tax
1225 fee-in-lieu for the project shall be suspended until the first tax
1226 year during which the annual number of full-time jobs maintained
1227 by the enterprise reaches the minimum annual number of full-time
1228 jobs required by the authority pursuant to a written agreement
1229 between the authority and the enterprise.

1230 (iv) The enterprise shall be entitled to utilize a
1231 single sales apportionment factor in the calculation of its
1232 liability for franchise tax imposed by this chapter which is



1233 attributable to the project for any year for which it files a
1234 Mississippi franchise tax return. The enterprise shall be
1235 entitled to continue to utilize such single sales apportionment
1236 factor notwithstanding a suspension of the franchise tax
1237 fee-in-lieu pursuant to subparagraph (iii) of this paragraph.

1238 (4) An approved business enterprise as defined in the Growth
1239 and Prosperity Act shall not be subject to the tax levied by this
1240 section on the value of capital used, invested or employed by the
1241 approved business enterprise in a growth and prosperity county or
1242 supervisors district as provided in the Growth and Prosperity Act.

1243 (5) A business enterprise operating a project as defined in
1244 Section 57-64-33, in a county that is a member of a regional
1245 economic development alliance created under the Regional Economic
1246 Development Act shall not be subject to the tax levied by this
1247 section on the value of capital used, invested or employed by the
1248 business enterprise in such a county as provided in Section
1249 57-64-33.

1250 (6) The tax levied by this chapter and paid by a business
1251 enterprise located in a redevelopment project area under Sections
1252 57-91-1 through 57-91-11 shall be deposited into the Redevelopment
1253 Project Incentive Fund created in Section 57-91-9.

1254 (7) A business enterprise as defined in Section 57-113-1 or
1255 57-113-21 that is exempt from certain state taxes under Section
1256 57-113-5 or 57-113-25 shall not be subject to the tax levied by



1257 this section on the value of capital used, invested or employed by
1258 the business enterprise.

1259 (8) A taxpayer who is eligible to apply as a credit against
1260 the tax levied by this chapter a tax credit awarded by the
1261 Mississippi Development Authority in accordance with the
1262 Mississippi Flexible Tax Incentive Act may apply the tax credit in
1263 the amount available for such purpose, or such lesser amount
1264 determined by the taxpayer, pursuant to the Mississippi Flexible
1265 Tax Incentive Act. The credit applied for a tax-reporting period
1266 shall be reflected on the form of the return in the manner
1267 prescribed by the commissioner.

1268 **SECTION 15.** Section 27-13-7, Mississippi Code of 1972, is
1269 amended as follows:

1270 27-13-7. (1) (a) **Franchise tax levy.** Except as otherwise
1271 provided in subsections (3), (4), (5) and (7) of this section,
1272 there is hereby imposed, levied and assessed upon every
1273 corporation, association or joint-stock company, or partnership
1274 treated as a corporation under the income tax laws or regulations
1275 as hereinbefore defined, organized and existing under and by
1276 virtue of the laws of some other state, territory or country, or
1277 organized and existing without any specific statutory authority,
1278 now or hereafter doing business or exercising any power, privilege
1279 or right within this state, as hereinbefore defined, a franchise
1280 or excise tax equal to:



1281 (i) For tax years beginning before January 1,
1282 2018, Two Dollars and Fifty Cents (\$2.50) of each One Thousand
1283 Dollars (\$1,000.00), or fraction thereof, of the value of capital
1284 used, invested or employed within this state, except as
1285 hereinafter provided.

1286 (ii) For tax years beginning on or after January
1287 1, 2018, but before January 1, 2019, Two Dollars and Fifty Cents
1288 (\$2.50) for each One Thousand Dollars (\$1,000.00), or fraction
1289 thereof, in excess of One Hundred Thousand Dollars (\$100,000.00),
1290 of the value of the capital used, invested or employed in the
1291 exercise of any power, privilege or right enjoyed by such
1292 organization within this state, except as hereinafter provided.

1293 (iii) For tax years beginning on or after January
1294 1, 2019, but before January 1, 2020, Two Dollars and Twenty-five
1295 Cents (\$2.25) for each One Thousand Dollars (\$1,000.00), or
1296 fraction thereof, in excess of One Hundred Thousand Dollars
1297 (\$100,000.00), of the value of the capital used, invested or
1298 employed in the exercise of any power, privilege or right enjoyed
1299 by such organization within this state, except as hereinafter
1300 provided.

1301 (iv) For tax years beginning on or after January
1302 1, 2020, but before January 1, 2021, Two Dollars (\$2.00) for each
1303 One Thousand Dollars (\$1,000.00), or fraction thereof, in excess
1304 of One Hundred Thousand Dollars (\$100,000.00), of the value of the
1305 capital used, invested or employed in the exercise of any power,



1306 privilege or right enjoyed by such organization within this state,
1307 except as hereinafter provided.

1308 (v) For tax years beginning on or after January 1,
1309 2021, but before January 1, 2022, One Dollar and Seventy-five
1310 Cents (\$1.75) for each One Thousand Dollars (\$1,000.00), or
1311 fraction thereof, in excess of One Hundred Thousand Dollars
1312 (\$100,000.00), of the value of the capital used, invested or
1313 employed in the exercise of any power, privilege or right enjoyed
1314 by such organization within this state, except as hereinafter
1315 provided.

1316 (vi) For tax years beginning on or after January
1317 1, 2022, but before January 1, 2023, One Dollar and Fifty Cents
1318 (\$1.50) for each One Thousand Dollars (\$1,000.00), or fraction
1319 thereof, in excess of One Hundred Thousand Dollars (\$100,000.00),
1320 of the value of the capital used, invested or employed in the
1321 exercise of any power, privilege or right enjoyed by such
1322 organization within this state, except as hereinafter provided.

1323 (vii) For tax years beginning on or after January
1324 1, 2023, but before January 1, 2024, One Dollar and Twenty-five
1325 Cents (\$1.25) for each One Thousand Dollars (\$1,000.00), or
1326 fraction thereof, in excess of One Hundred Thousand Dollars
1327 (\$100,000.00), of the value of the capital used, invested or
1328 employed in the exercise of any power, privilege or right enjoyed
1329 by such organization within this state, except as hereinafter
1330 provided.



1331 (viii) For tax years beginning on or after January
1332 1, 2024, but before January 1, 2025, One Dollar (\$1.00) for each
1333 One Thousand Dollars (\$1,000.00), or fraction thereof, in excess
1334 of One Hundred Thousand Dollars (\$100,000.00), of the value of the
1335 capital used, invested or employed in the exercise of any power,
1336 privilege or right enjoyed by such organization within this state,
1337 except as hereinafter provided.

1338 (ix) For tax years beginning on or after January
1339 1, 2025, but before January 1, 2026, Seventy-five Cents (75¢) for
1340 each One Thousand Dollars (\$1,000.00), or fraction thereof, in
1341 excess of One Hundred Thousand Dollars (\$100,000.00), of the value
1342 of the capital used, invested or employed in the exercise of any
1343 power, privilege or right enjoyed by such organization within this
1344 state, except as hereinafter provided.

1345 (x) For tax years beginning on or after January 1,
1346 2026, but before January 1, 2027, Fifty Cents (50¢) for each One
1347 Thousand Dollars (\$1,000.00), or fraction thereof, in excess of
1348 One Hundred Thousand Dollars (\$100,000.00), of the value of the
1349 capital used, invested or employed in the exercise of any power,
1350 privilege or right enjoyed by such organization within this state,
1351 except as hereinafter provided.

1352 (xi) For tax years beginning on or after January
1353 1, 2027, but before January 1, 2028, Twenty-five Cents (25¢) for
1354 each One Thousand Dollars (\$1,000.00), or fraction thereof, in
1355 excess of One Hundred Thousand Dollars (\$100,000.00), of the value



1356 of the capital used, invested or employed in the exercise of any
1357 power, privilege or right enjoyed by such organization within this
1358 state, except as hereinafter provided.

1359 (b) In no case shall the franchise tax due for the
1360 accounting period be less than Twenty-five Dollars (\$25.00).

1361 (c) It is the purpose of this section to require the
1362 payment of a tax by all organizations not organized under the laws
1363 of this state, measured by the amount of capital or its
1364 equivalent, for which such organization receives the benefit and
1365 protection of the government and laws of the state.

1366 (2) **Annual report of foreign corporations.** Each foreign
1367 corporation authorized to transact business in this state shall
1368 file an annual report as required by the provisions of Section
1369 79-4-16.22.

1370 (3) (a) A corporation that has negotiated a fee-in-lieu as
1371 defined in Section 57-75-5 shall not be subject to the tax levied
1372 by this section on such project; however, the fee-in-lieu payment
1373 shall be otherwise treated in the same manner as the payment of
1374 franchise taxes.

1375 (b) (i) As used in this paragraph:

1376 1. "Authority" shall have the meaning
1377 ascribed to such term in Section 57-75-5(b);

1378 2. "Project" shall have the meaning ascribed
1379 to such term in Section 57-75-5(f)(xxix); and



1380 3. "Enterprise" shall mean the corporation
1381 authorized for the project pursuant to Section 57-75-5(f) (xxix).

1382 (ii) The term of the franchise tax fee-in-lieu
1383 agreement negotiated under this subsection and authorized by
1384 Section 57-75-5(j), between the authority and the enterprise for
1385 the project shall not exceed twenty-five (25) years. The
1386 franchise tax fee-in-lieu agreement shall apply only to new
1387 franchise tax liability attributable to the project, and shall not
1388 apply to any existing franchise tax liability of the enterprise in
1389 connection with any current operations in this state.

1390 (iii) In the event that the annual number of
1391 full-time jobs maintained by the enterprise falls below the
1392 minimum annual number of full-time jobs required by the authority
1393 pursuant to a written agreement between the authority and the
1394 enterprise for two (2) consecutive years, the franchise tax
1395 fee-in-lieu for the project shall be suspended until the first tax
1396 year during which the annual number of full-time jobs maintained
1397 by the enterprise reaches the minimum annual number of full-time
1398 jobs required by the authority pursuant to a written agreement
1399 between the authority and the enterprise.

1400 (iv) The enterprise shall be entitled to utilize a
1401 single sales apportionment factor in the calculation of its
1402 liability for franchise tax imposed by this chapter which is
1403 attributable to the project for any year for which it files a
1404 Mississippi franchise tax return. The enterprise shall be



1405 entitled to continue to utilize such single sales apportionment
1406 factor notwithstanding a suspension of the franchise tax
1407 fee-in-lieu pursuant to subparagraph (iii) of this paragraph.

1408 (4) An approved business enterprise as defined in the Growth
1409 and Prosperity Act shall not be subject to the tax levied by this
1410 section on the value of capital used, invested or employed by the
1411 approved business enterprise in a growth and prosperity county or
1412 supervisors district as provided in the Growth and Prosperity Act.

1413 (5) A business enterprise operating a project as defined in
1414 Section 57-64-33, in a county that is a member of a regional
1415 economic development alliance created under the Regional Economic
1416 Development Act shall not be subject to the tax levied by this
1417 section on the value of capital used, invested or employed by the
1418 business enterprise in such a county as provided in Section
1419 57-64-33.

1420 (6) The tax levied by this chapter and paid by a business
1421 enterprise located in a redevelopment project area under Sections
1422 57-91-1 through 57-91-11 shall be deposited into the Redevelopment
1423 Project Incentive Fund created in Section 57-91-9.

1424 (7) A business enterprise as defined in Section 57-113-1 or
1425 57-113-21 that is exempt from certain state taxes under Section
1426 57-113-5 or 57-113-25 shall not be subject to the tax levied by
1427 this section on the value of capital used, invested or employed by
1428 the business enterprise.



1429 (8) A taxpayer who is eligible to apply as a credit against
1430 the tax levied by this chapter a tax credit awarded by the
1431 Mississippi Development Authority in accordance with the
1432 Mississippi Flexible Tax Incentive Act may apply the tax credit in
1433 the amount available for such purpose, or such lesser amount
1434 determined by the taxpayer, pursuant to the Mississippi Flexible
1435 Tax Incentive Act. The credit applied for a tax-reporting period
1436 shall be reflected on the form of the return in the manner
1437 prescribed by the commissioner.

1438 **SECTION 16.** Section 27-65-93, Mississippi Code of 1972, is
1439 amended as follows:

1440 27-65-93. (1) The commissioner shall, from time to time,
1441 promulgate rules and regulations, not inconsistent with the
1442 provisions of the sales tax law, for making returns and for the
1443 ascertainment, assessment and collection of the tax imposed by the
1444 sales tax law as he may deem necessary to enforce its provisions;
1445 and, upon request, he shall furnish any taxpayer with a copy of
1446 the rules and regulations.

1447 (2) All forms, necessary for the enforcement of the sales
1448 tax law, shall be prescribed, printed and furnished by the
1449 commissioner.

1450 (3) The commissioner may adopt rules and regulations
1451 providing for the issuance of permits to manufacturers, utilities,
1452 construction contractors, companies receiving bond financing
1453 through the Mississippi Business Finance Corporation or the



1454 Mississippi Development Authority, and other taxpayers as
1455 determined by the commissioner, and the commissioner shall adopt
1456 rules and regulations providing for the issuance of a permit to
1457 any qualified business or industry, which is certified as such by
1458 the Mississippi Development Authority pursuant to the Mississippi
1459 Flexible Tax Incentive Act and awarded any mFlex tax incentive
1460 amount for such qualified business's or industry's qualified
1461 economic development project, certified as such by the Mississippi
1462 Development Authority pursuant to the Mississippi Flexible Tax
1463 Incentive Act, to purchase tangible personal property taxed under
1464 Section 27-65-17, items taxed under Section 27-65-18, items taxed
1465 under Section 27-65-19, services taxed under Section 27-65-23,
1466 items taxed under Section 27-65-24, and items taxed under Section
1467 27-65-26 without the payment to the vendor of the tax imposed by
1468 the sales and use tax laws, and providing for persons to report
1469 and pay the tax directly to the commissioner in instances where
1470 the commissioner determines that these provisions will facilitate
1471 and expedite the collection of the tax at the proper rates which
1472 may be due on purchases by the permittee. Under the provisions of
1473 this chapter, the vendor is relieved of collecting and remitting
1474 the taxes specified hereunder and the person holding the permit
1475 shall become liable for such taxes instead of the seller. The
1476 full enforcement provisions of the sales tax law shall apply in
1477 the collection of the tax from the permittee.



1478 **SECTION 17.** Section 27-67-17, Mississippi Code of 1972, is
1479 amended as follows:

1480 27-67-17. (1) Except as otherwise provided in this section,
1481 the commissioner shall collect the tax imposed by this article,
1482 and every person subject to its provisions shall remit to the
1483 commissioner, on or before the twentieth day of each month, the
1484 amount of tax due by such person for the preceding calendar month.
1485 Returns and payments placed in the mail must be postmarked by the
1486 due date in order to be timely filed, except that when the due
1487 date falls on a weekend or holiday, returns and payments placed in
1488 the mail must be postmarked by the first working day following the
1489 due date in order to be considered timely filed. Every taxpayer
1490 shall file a return with his remittance, which return shall be
1491 prescribed by the commissioner and shall show for the calendar
1492 month preceding the tax payment date, the total sale or purchase
1493 price, or value of tangible personal property or specified digital
1494 products sold, used, stored or consumed by him for benefit
1495 received or service performed, and such other information as the
1496 commissioner may deem pertinent and necessary for determining the
1497 amount of tax due thereunder.

1498 (2) The commissioner, in his discretion, may authorize in
1499 writing the filing of returns and the payment of tax on a
1500 quarterly basis by any person required or authorized to pay the
1501 tax imposed, such authority to be subject to revocation for good
1502 cause by the commissioner.



1503 (3) In instances where it is impractical to file returns and
1504 pay the tax monthly or quarterly, the commissioner may authorize
1505 the filing of semiannual or annual returns.

1506 (4) The commissioner, in his discretion, may authorize the
1507 computation of the tax on the basis of a formula in lieu of direct
1508 accounting of specific properties in instances where such method
1509 will expedite, simplify or provide a more equitable means of
1510 determining liability under this article. All formulas shall be
1511 subject to revocation for good cause by the commissioner.

1512 (5) A taxpayer who is eligible to apply as a credit against
1513 the tax levied by this chapter a tax credit awarded by the
1514 Mississippi Development Authority in accordance with the
1515 Mississippi Flexible Tax Incentive Act may apply the tax credit in
1516 the amount available for such purpose, or such lesser amount
1517 determined by the taxpayer, pursuant to the Mississippi Flexible
1518 Tax Incentive Act. The credit applied for a tax-reporting period
1519 shall be reflected on the form of the return in the manner
1520 prescribed by the commissioner.

1521 **SECTION 18.** Section 57-1-14, Mississippi Code of 1972, is
1522 amended as follows:

1523 57-1-14. (1) Except as otherwise provided in subsection (3)
1524 of this section, any records of the Mississippi Development
1525 Authority which contain client information concerning development
1526 projects shall be exempt from the provisions of the Mississippi
1527 Public Records Act of 1983 for a period of two (2) years after



1528 receipt of the information by the department. Confidential client
1529 information as described in this section shall not include the
1530 information which must be disclosed by the certified applicant
1531 related to a qualified economic development project in the annual
1532 report described in Section 57-1-759.

1533 (2) Except as otherwise provided in subsection (3) of this
1534 section, confidential client information in public records held by
1535 the department shall be exempt from the provisions of the
1536 Mississippi Public Records Act of 1983 during the period of review
1537 and negotiation on a project proposal and for a period of thirty
1538 (30) days after approval, disapproval or abandonment of the
1539 proposal not to exceed one (1) year by the department in writing.

1540 (3) Any breakouts or subcategories of the total qualified
1541 investment amounts reported pursuant to Sections 3(d), 7(2)(a) and
1542 7(2)(b) of this act, and information reported pursuant to Sections
1543 3(g), 3(h), 3(j), 7(2)(f), 7(2)(g), 7(2)(h) and 7(2)(i) of this
1544 act shall not be subject to any disclosure under the Mississippi
1545 Public Records Act of 1983. In addition, any information and
1546 documentation, including without limitation, copies of any
1547 certifications, together with any amendments thereto, made by the
1548 Mississippi Development Authority, and copies of any mFlex
1549 agreements, together with any amendments thereto, approved and
1550 executed by the Mississippi Development Authority, pursuant to the
1551 Mississippi Flexible Tax Incentive Act, which are (a) provided by
1552 the authority to the Governor, Lieutenant Governor and/or Speaker



1553 of the House of Representatives pursuant to Section 4(7) or
1554 Section 7(11) of this act; (b) provided by the authority to the
1555 University Research Center division of the Mississippi
1556 Institutions of Higher Learning pursuant to Section 8(6) of this
1557 act; and (c) provided by the University Research Center division
1558 of the Mississippi Institutions of Higher Learning to the
1559 Governor, Lieutenant Governor, Speaker of the House of
1560 Representatives and/or the authority, shall not be subject to any
1561 disclosure under the Mississippi Public Records Act of 1983.

1562 **SECTION 19.** This act shall take effect and be in force from
1563 and after July 1, 2022.

