

By: Representatives Steverson, Carpenter

To: Ways and Means

HOUSE BILL NO. 1108  
(As Sent to Governor)

1 AN ACT TO AUTHORIZE AN INCOME TAX CREDIT FOR CERTAIN RAILROAD  
2 RECONSTRUCTION OR REPLACEMENT EXPENDITURES AND FOR CERTAIN NEW  
3 RAIL INFRASTRUCTURE EXPENDITURES MADE BY CLASS II AND CLASS III  
4 RAILROADS; TO DEFINE CERTAIN TERMS FOR THE PURPOSES OF THIS ACT;  
5 TO PROVIDE THE AMOUNT OF THE TAX CREDIT; TO PROVIDE THAT ANY UNUSED  
6 PORTION OF THE TAX CREDIT MAY BE CARRIED FORWARD; TO PROVIDE THAT  
7 ANY UNUSED PORTION OF THE TAX CREDIT MAY BE TRANSFERRED TO ANOTHER  
8 TAXPAYER; TO AMEND SECTION 27-31-104, MISSISSIPPI CODE OF 1972, AS  
9 AMENDED BY SENATE BILL NO. 2095, 2022 REGULAR SESSION, WHICH  
10 AUTHORIZES COUNTY BOARDS OF SUPERVISORS AND MUNICIPAL GOVERNING  
11 AUTHORITIES TO ENTER INTO AGREEMENTS WITH CERTAIN ENTERPRISES  
12 GRANTING A FEE-IN-LIEU OF AD VALOREM TAXES, TO EXTEND THE REVERTER  
13 ON THE PROVISION OF LAW ALLOWING SUCH AGREEMENTS FOR PROJECTS  
14 TOTALING OVER \$100,000,000.00 BY QUALIFIED BUSINESSES, AS DEFINED  
15 IN THE MISSISSIPPI HEALTH CARE INDUSTRY ZONE ACT, MEETING MINIMUM  
16 CRITERIA ESTABLISHED BY THE MISSISSIPPI DEVELOPMENT AUTHORITY; TO  
17 REVISE THE MINIMUM AMOUNT ALLOWABLE AS A FEE-IN-LIEU OF AD VALOREM  
18 TAXES FOR CERTAIN RENEWABLE ENERGY PROJECTS; TO AUTHORIZE COUNTY  
19 BOARDS OF SUPERVISORS AND MUNICIPAL GOVERNING AUTHORITIES TO  
20 AUTHORIZE A PARTIAL AD VALOREM TAX EXEMPTION FOR CERTAIN RENEWABLE  
21 ENERGY PROJECTS; TO AUTHORIZE THE BOARD OF SUPERVISORS OF A COUNTY  
22 AND/OR THE GOVERNING AUTHORITIES OF A MUNICIPALITY TO GRANT A  
23 PARTIAL AD VALOREM TAX EXEMPTION FOR NONRESIDENTIAL USE PROPERTY  
24 THAT IS BEING CONVERTED TO A RESIDENTIAL USE IN AN AMOUNT EQUAL TO  
25 THE DIFFERENCE BETWEEN THE ASSESSED VALUE OF THE PROPERTY FOR  
26 RESIDENTIAL USE AND THE ASSESSED VALUE OF THE PROPERTY FOR  
27 NONRESIDENTIAL USE; TO PROVIDE THAT THE EXEMPTION SHALL END WHEN  
28 THE PROPERTY IS OCCUPIED BY A HOMEOWNER; TO PROVIDE THE MANNER IN  
29 WHICH A REQUEST FOR SUCH EXEMPTION MUST BE MADE; AND FOR RELATED  
30 PURPOSES.

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



**SECTION 1.**

(1) The following words and phrases shall have the meanings as defined in this section unless the context clearly indicates otherwise:

(a) "Eligible taxpayer" means any railroad that is classified by the United States Surface Transportation Board as a Class II or Class III railroad.

(b) "Eligible transferee" means any taxpayer having a liability for taxes under this chapter.

(c) "Qualified railroad reconstruction or replacement expenditures" means gross expenditures for maintenance, reconstruction or replacement of railroad infrastructure, including track, roadbed, bridges, industrial leads and sidings, and track-related structures owned or leased by a Class II or Class III railroad in Mississippi as of January 1, 2022.

(d) "Qualified new rail infrastructure expenditures" means gross expenditures for new construction of industrial leads, switches, spurs and sidings and extensions of existing sidings, for serving new customer locations or expansions in Mississippi, by a Class II or Class III railroad located in Mississippi.

(2) Subject to the provisions of this section, an eligible taxpayer making qualified railroad reconstruction or replacement expenditures shall be allowed a credit against the taxes imposed under this chapter. The credit shall be for an amount equal to the lesser of fifty percent (50%) of an eligible taxpayer's qualified railroad reconstruction or replacement expenditures for



57 the taxable year or the product of Five Thousand Dollars  
58 (\$5,000.00) multiplied by the number of miles of railroad track  
59 owned or leased within the State of Mississippi by the eligible  
60 taxpayer as of the close of the taxable year. For qualified new  
61 rail infrastructure expenditures, the credit shall be for an  
62 amount equal to the lesser of fifty percent (50%) of an eligible  
63 taxpayer's qualified new rail infrastructure expenditures for the  
64 taxable year, capped at One Million Dollars (\$1,000,000.00) per  
65 new rail-served customer project. However, the tax credit shall  
66 not exceed the amount of tax imposed upon the taxpayer for the  
67 taxable year reduced by the sum of all other credits allowable to  
68 the taxpayer under this chapter, except credit for tax payments  
69 made by or on behalf of the taxpayer. Any tax credit claimed  
70 under this section but not used in any taxable year may be carried  
71 forward for five (5) consecutive years from the close of the  
72 taxable year in which the credit was earned. The aggregate amount  
73 of credits that may be claimed by all taxpayers claiming a credit  
74 under this section during a calendar year shall not exceed Eight  
75 Million Dollars (\$8,000,000.00). In addition, an eligible  
76 taxpayer may transfer by written agreement any unused tax credit  
77 to an eligible transferee at any time during the year in which the  
78 credit is earned and the five (5) years following the taxable year  
79 in which the qualified railroad reconstruction or replacement  
80 expenditures or the qualified new rail infrastructure expenditures  
81 are made. The eligible taxpayer and the eligible transferee must



jointly file a copy of the written transfer agreement with the Department of Revenue within thirty (30) days of the transfer. The written agreement must contain the: (a) name, address, and taxpayer identification number of the parties to the transfer; (b) taxable year the eligible taxpayer incurred the qualified railroad reconstruction or replacement expenditures or the qualified new rail infrastructure expenditures; (c) amount of credit being transferred; and (d) taxable year or years for which the credit may be claimed by the eligible transferee.

This section shall stand repealed on January 1, 2024.

**SECTION 2.** Section 27-31-104, Mississippi Code of 1972, as amended by Senate Bill No. 2095, 2022 Regular Session, is amended as follows:

**[Through June 30, \* \* \* 2025, this section shall read as follows:]**

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

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



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

(iii) Projects by a qualified business (as such term is defined in Section 57-117-3) meeting minimum criteria established by the Mississippi Development Authority;

(iv) Projects, in addition to those projects referenced in Section 27-31-105, totaling over Sixty Million Dollars (\$60,000,000.00) by an existing enterprise that has been doing business in the county or municipality for twenty-four (24) months. For purposes of this subparagraph (iv), the term "existing enterprise" includes those enterprises enumerated in Section 27-31-101; or

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

County boards of supervisors and municipal authorities may not enter into an agreement with an enterprise that is a medical cannabis establishment, as defined in the Mississippi Medical Cannabis Act, granting, and pursuant to such agreement grant a fee-in-lieu of ad valorem taxes.



(b) A fee-in-lieu of ad valorem taxes granted in accordance with this section may include any or all tangible property, real or personal, including any leasehold interests therein but excluding automobiles and trucks operating on and over the highways of the State of Mississippi, used in connection with, or necessary to, the operation of any enterprise, private company or business described in paragraph (a) of this subsection (1), as applicable, whether or not such property is owned, leased, subleased, licensed or otherwise obtained by such enterprise, private company or business, as applicable, irrespective of the taxpayer to which any such leased property is assessed for ad valorem tax purposes. If a fee-in-lieu of ad valorem taxes is granted pursuant to this section with respect to any leasehold interest under a lease, sublease or license of tangible property used in connection with, or necessary to, the operation of an enterprise, private company or business described in paragraph (a) of this subsection (1), as applicable, the corresponding ownership interest of the owner, lessor and sublessor of such tangible property shall similarly and automatically be exempt and subject to the fee-in-lieu granted in accordance herewith without any action being required to be taken by such owner, lessor or sublessor.

(2) A county board of supervisors may enter into a fee-in-lieu agreement on behalf of the county and any county school district, and a municipality may enter into such a



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

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

169 (4) The minimum sum allowable as a fee-in-lieu shall not be  
170 less than one-third (1/3), or one-tenth (1/10) if the project is  
171 also a project eligible for an ad valorem tax exemption under  
172 Section 27-31-46 and a fee-in-lieu agreement is entered into  
173 before July 1, 2023, of the ad valorem levy, including ad valorem  
174 taxes for school district purposes, and except as otherwise  
175 provided, the sum allowed shall be apportioned between the county  
176 or municipality, as appropriate, and the school districts in such  
177 amounts as may be determined by the county board of supervisors or  
178 municipal governing authority, as the case may be, however, except  
179 as otherwise provided in this section, from the sum allowed the  
180 apportionment to school districts shall not be less than the



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

199 (5) The fee-in-lieu may be a stated fraction or percentage  
200 of the ad valorem taxes otherwise payable or a stated dollar  
201 amount. If the fee is a fraction or percentage of the ad valorem  
202 tax levy, it shall be annually computed on all ad valorem taxes  
203 otherwise payable, including school taxes, as the same may vary  
204 from year to year based upon changes in the millage rate or  
205 assessed value and shall not be less than one-third (1/3) of that



amount or one-tenth (1/10) of that amount if the project is also a  
project eligible for an ad valorem tax exemption under Section  
27-31-46 and a fee-in-lieu agreement is entered into before July  
1, 2023. If the fee is a stated dollar amount, said amount shall  
be the higher of the sum provided for fixed payment or (a)  
one-third (1/3) of the total of all ad valorem taxes otherwise  
payable as annually determined during each year of the fee-in-lieu  
or (b) if the project is also a project eligible for an ad valorem  
tax exemption under Section 27-31-46 and a fee-in-lieu agreement  
is entered into before July 1, 2023, one-tenth (1/10) of the total  
of all ad valorem taxes otherwise payable as annually determined  
during each year of the fee-in-lieu.

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

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



counties may then apportion the sum allowed between school district purposes and all other county purposes.

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

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

(10) Any fee-in-lieu of ad valorem taxes granted under this section before March 28, 2019, and consistent herewith, is hereby ratified, approved and confirmed.

**[From and after July 1, \* \* \* 2025, this section shall read as follows:]**

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



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

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

(iii) Projects, in addition to those projects referenced in Section 27-31-105, totaling over Sixty Million Dollars (\$60,000,000.00) by an existing enterprise that has been doing business in the county or municipality for twenty-four (24) months. For purposes of this subparagraph (iii), the term "existing enterprise" includes those enterprises enumerated in Section 27-31-101; or

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

County boards of supervisors and municipal authorities may not enter into an agreement with an enterprise that is a medical cannabis establishment, as defined in the Mississippi Medical



Cannabis Act, granting, and pursuant to such agreement grant a fee-in-lieu of ad valorem taxes.

(b) A fee-in-lieu of ad valorem taxes granted in accordance with this section may include any or all tangible property, real or personal, including any leasehold interests therein but excluding automobiles and trucks operating on and over the highways of the State of Mississippi, used in connection with, or necessary to, the operation of any enterprise, private company or business described in paragraph (a) of this subsection (1), as applicable, whether or not such property is owned, leased, subleased, licensed or otherwise obtained by such enterprise, private company or business, as applicable, irrespective of the taxpayer to which any such leased property is assessed for ad valorem tax purposes. If a fee-in-lieu of ad valorem taxes is granted pursuant to this section with respect to any leasehold interest under a lease, sublease or license of tangible property used in connection with, or necessary to, the operation of an enterprise, private company or business described in paragraph (a) of this subsection (1), as applicable, the corresponding ownership interest of the owner, lessor and sublessor of such tangible property shall similarly and automatically be exempt and subject to the fee-in-lieu granted in accordance herewith without any action being required to be taken by such owner, lessor or sublessor.



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

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

(4) The minimum sum allowable as a fee-in-lieu shall not be less than one-third (1/3), or one-tenth (1/10) if the project is also a project eligible for an ad valorem tax exemption under Section 27-31-46 and a fee-in-lieu agreement is entered into before July 1, 2023, of the ad valorem levy, including ad valorem taxes for school district purposes, and except as otherwise provided, the sum allowed shall be apportioned between the county or municipality, as appropriate, and the school districts in such amounts as may be determined by the county board of supervisors or



municipal governing authority, as the case may be, however, except as otherwise provided in this section, from the sum allowed the apportionment to school districts shall not be less than the school districts' pro rata share based upon the proportion that the millage imposed for the school districts by the appropriate levying authority bears to the millage imposed by such levying authority for all other county or municipal purposes. Any fee-in-lieu agreement entered into under this section shall become a binding obligation of the parties to the agreement, be effective upon its execution by the parties and approval by the Mississippi Development Authority and, except as otherwise provided in Section 17-25-23 or Section 57-75-33, or any other provision of law, continue in effect for a period not to exceed thirty (30) years commencing on the date that the fee-in-lieu granted thereunder begins in accordance with the agreement; however, no particular parcel of land, real property improvement or item of personal property shall be subject to a fee-in-lieu for a duration of more than ten (10) years. Any such agreement shall be binding, according to its terms, on future boards of supervisors of the county and/or governing authorities of a municipality, as the case may be, for the duration of the agreement.

(5) The fee-in-lieu may be a stated fraction or percentage of the ad valorem taxes otherwise payable or a stated dollar amount. If the fee is a fraction or percentage of the ad valorem tax levy, it shall be annually computed on all ad valorem taxes



otherwise payable, including school taxes, as the same may vary from year to year based upon changes in the millage rate or assessed value and shall not be less than one-third (1/3) of that amount or one-tenth (1/10) of that amount if the project is also a project eligible for an ad valorem tax exemption under Section 27-31-46 and a fee-in-lieu agreement is entered into before July 1, 2023. If the fee is a stated dollar amount, said amount shall be the higher of the sum provided for fixed payment or (a) one-third (1/3) of the total of all ad valorem taxes otherwise payable as annually determined during each year of the fee-in-lieu or (b) if the project is also a project eligible for an ad valorem tax exemption under Section 27-31-46 and a fee-in-lieu agreement is entered into before July 1, 2023, one-tenth (1/10) of the total of all ad valorem taxes otherwise payable as annually determined during each year of the fee-in-lieu.

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

(7) For a project as defined in Section 57-75-5(f)(xxi) and located in a county that is a member of a regional economic development alliance created under Section 57-64-1 et seq., the



members of the regional economic development alliance may divide the sum allowed as a fee-in-lieu in a manner as determined by the alliance agreement, and the boards of supervisors of the member counties may then apportion the sum allowed between school district purposes and all other county purposes.

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

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

(10) Any fee-in-lieu of ad valorem taxes granted under this section before March 28, 2019, and consistent herewith, is hereby ratified, approved and confirmed.

**SECTION 3.** A project that is eligible for an ad valorem tax exemption under Section 27-31-46, and for which initial construction begins on or after July 1, 2022, but not later than December 31, 2024, may be allowed an exemption from ad valorem taxation as provided in this section. For such a project,



one-half (1/2) of the true value of property of the project that is subject to a fee-in-lieu of ad valorem taxes pursuant to an agreement under Section 27-31-104 may be exempted by a county board of supervisors and/or municipal governing authorities from ad valorem taxation for a period of ten (10) years from and after the date of the expiration of such fee-in-lieu of ad valorem taxes. Any exemption from ad valorem taxation allowed under this section must be authorized by a county board of supervisors and/or municipal governing authorities before July 1, 2023.

**SECTION 4.** (1) The board of supervisors of a county and/or the governing authorities of a municipality may provide partial ad valorem tax exemptions on land used for nonresidential purposes that is converted to a residential use as provided in this section.

(2) For nonresidential use property that is converted to residential use, the board of supervisors of a county and/or the governing authorities of a municipality may exempt the assessed value of the property in an amount equal to the difference between the assessed value of the property for residential use and the assessed value of the property for nonresidential use. The exemption authorized to be granted under this section shall end at such time as the property is occupied by a homeowner; however, if the property consists of a number of parcels upon which residences are being constructed, the exemption shall continue for each



parcel until the residence constructed upon the parcel is occupied by a homeowner.

(3) Any request for an exemption under this section shall be in writing and contain such information about the property for which the exemption is being requested as the board of supervisors of the county or the governing authorities of the municipality may require. The granting of the exemption shall be recorded in the minutes of the board of supervisors of the county and the governing authorities of the municipality.

**SECTION 5.** Section 1 of this act shall be codified as a new section in Chapter 7, Title 27, Mississippi Code of 1972. Sections 3 and 4 of this act shall be codified as new sections in Chapter 31, Title 27, Mississippi Code of 1972.

**SECTION 6.** Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws or ad valorem tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws and ad valorem tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act



452 becomes effective, and for the imposition of any penalties,  
453 forfeitures or claims for failure to comply with such laws.

454       **SECTION 7.** Section 1 of this act shall take effect and be in  
455 force from and after January 1, 2022, and the remaining sections  
456 of this act shall take effect and be in force from and after July  
457 1, 2022.

