

By: Representatives Horan, Beckett, Hood,
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To: Ways and Means

HOUSE BILL NO. 1684

1 AN ACT TO AUTHORIZE AN INCOME TAX CREDIT FOR TAXPAYERS THAT
2 OWN QUALIFIED WOOD ENERGY PRODUCTS AND FOREST MAINTENANCE PROJECTS
3 AND SATISFY CERTAIN MINIMUM INVESTMENT AND NEW JOB CREATION
4 REQUIREMENTS; TO DEFINE CERTAIN TERMS FOR THE PURPOSES OF THIS
5 ACT; TO PROVIDE FOR THE AMOUNT OF THE TAX CREDIT AUTHORIZED BY
6 THIS ACT; TO PROVIDE CRITERIA THAT MUST BE SATISFIED IN ORDER TO
7 BE ELIGIBLE FOR A TAX CREDIT UNDER THIS ACT; AND FOR RELATED
8 PURPOSES.

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

10 **SECTION 1.** As used in this act, the following words and
11 phrases shall have the meanings ascribed herein unless the context
12 clearly indicates otherwise:

13 (a) "Cost" means:

14 (i) In the case of a transfer of title or a lease
15 agreement that is treated as a purchase by a lessee for
16 Mississippi income tax purposes, the amount of the purchase price;
17 and

18 (ii) In the case of a lease that is not a lease
19 agreement that is treated as a purchase by a lessee for
20 Mississippi income tax purposes but that otherwise qualifies as a
21 purchase under this section, the amount of lease payments due to



22 be paid during the term of the lease after deducting any portion
23 of the lease payments attributable to interest, insurance, and
24 taxes;

25 (b) "Incentive agreement" means an agreement entered
26 into by a business and the Mississippi Development Authority to
27 provide the business an incentive to locate a new qualified wood
28 energy products and forest maintenance project or expand an
29 existing qualified wood energy products and forest maintenance
30 project in Mississippi;

31 (c) "New full-time permanent employee" means a position
32 or job that:

33 (i) Is created pursuant to an executed incentive
34 agreement;

35 (ii) Is filled by one (1) or more employees or
36 contractual employees who:

37 1. Were Mississippi taxpayers during the year
38 in which the tax credits or incentives were earned; and

39 2. Work at the facility identified in the
40 incentive agreement. New employees of a taxpayer that enters into
41 the incentive agreement who do not work at the facility, and new
42 employees of logging and trucking businesses hired for the purpose
43 of supplying the facility, may be counted if they otherwise meet
44 the definition of a new full-time permanent employee; are subject
45 to the Mississippi Income Tax Withholding Law of 1968; exceed an
46 average annual wage threshold of Forty-five Thousand Dollars



47 (\$45,000.00); and are verified by reports and methods established
48 as required by the incentive agreement; and

49 3. Are not employees hired by a business
50 before the date the incentive agreement was executed unless:

51 a. The position or job filled by the
52 existing employee was created in accordance with the incentive
53 agreement; and

54 b. The position vacated by the existing
55 employee was either filled by a subsequent employee or no
56 subsequent employee will be hired because the business no longer
57 conducts the particular business activity requiring that
58 classification. If the Executive Director of the Mississippi
59 Development Authority finds that a significant impairment of
60 Mississippi job opportunities for existing employees will
61 otherwise occur, he or she may authorize the counting of existing
62 employees as new full-time permanent employees; and

63 (iii) Has been filled for at least twenty-six (26)
64 consecutive weeks with an average of at least thirty-five (35)
65 hours worked per week.

66 "New full-time permanent employee" includes a contractual
67 employee who works at the facility identified in the incentive
68 agreement only if the contractual employee is offered a benefits
69 package comparable to a direct employee of the business seeking
70 incentives under this act;

71 (d) "Purchase" means:



72 (i) A transaction under which title to an item is
73 transferred for consideration; or

74 (ii) A lease contract that is entered into for a
75 period of at least three (3) years regardless of whether title to
76 the item is transferred at the end of the period;

77 (e) "Qualified wood energy products and forest
78 maintenance project" means a project specified in the incentive
79 agreement to include one (1) or more Mississippi facilities in the
80 same ownership group:

81 (i) For which the taxpayer commenced construction
82 by the date specified in the incentive agreement, but no earlier
83 than January 1, 2022;

84 (ii) That supports the Mississippi timber industry
85 by using low-value wood, including, without limitation, sawmill
86 residuals, unwanted treetops, and damaged or diseased trees, to
87 produce high-efficiency, high-energy wood energy products or
88 wood-based renewable carbon products, including, without
89 limitation, sustainable aviation fuel and biocarbon for
90 steelmaking and ferrosilicon production;

91 (iii) In which the taxpayer has a total investment
92 in excess of One Hundred Million Dollars (\$100,000,000.00);

93 (iv) That is undertaken by a taxpayer who has
94 entered into an incentive agreement with the Mississippi
95 Development Authority in which the taxpayer commits to creating at
96 least seventy-five (75) net new full-time permanent employees with



97 an average annual wage of at least Sixty Thousand Dollars
98 (\$60,000.00);

99 (v) That will provide a positive cost-benefit
100 analysis to the state as determined by the Mississippi Development
101 Authority;

102 (vi) That is certified as having a closing date
103 before December 31, 2024, for all facilities, by which the
104 taxpayer has certified and the state has verified that necessary
105 capital acquisition and borrowing for the facilities has occurred
106 to ensure that funds will be available to:

- 107 1. Secure a site for the facilities;
- 108 2. Obtain engineering services for the
109 facilities;
- 110 3. Purchase equipment for the facilities; and
- 111 4. Commence construction on the facilities;

112 and

113 (vii) That is undertaken by a taxpayer that has
114 elected by agreement with the State of Mississippi for the
115 taxpayer's facilities to be classified as a qualified wood energy
116 products and forest maintenance project; and

117 (f) "Wood energy products equipment" means:

118 (i) New or used machinery or equipment located in
119 Mississippi on the last day of the taxable year that is operated
120 or used exclusively in Mississippi to collect, separate, treat,
121 pulverize, dry, modify, or convert wood fiber so the resulting



122 product may be used as a raw material, for productive energy use,
123 or to manufacture other materials;

124 (ii) Devices that are directly connected with or
125 are an integral and necessary part of machinery or equipment
126 operated or used exclusively in Mississippi to collect, separate,
127 treat, pulverize, dry, modify, or convert wood fiber and are
128 necessary for the collection, separation, treatment,
129 pulverization, drying, modification, or manufacturing of wood
130 fiber;

131 (iii) Equipment that produces energy with wood
132 power; and

133 (iv) A device that is directly connected with or
134 is an integral and necessary part of machinery or equipment
135 operated or used exclusively in Mississippi to produce energy with
136 wood power.

137 "Wood energy products equipment" does not include a vehicle
138 or trailer that is licensed or that normally would be licensed for
139 use on highways in Mississippi.

140 **SECTION 2.** (1) There is allowed a tax credit against the
141 tax imposed by this chapter in an amount equal to thirty percent
142 (30%) of the costs of wood energy products equipment purchased for
143 use in Mississippi after the date specified in the incentive
144 agreement by a taxpayer that:



145 (a) Is engaged in the business of collecting,
146 separating, treating, pulverizing, drying, modifying, or
147 manufacturing wood energy products; and

148 (b) Has been certified as owning a qualified wood
149 energy products and forest maintenance project.

150 (2) The tax credit authorized under this section shall not
151 exceed the lesser of Ten Million Dollars (\$10,000,000.00) or the
152 amount of tax imposed upon the taxpayer for the taxable year
153 reduced by the sum of all other credits allowable to the taxpayer
154 under this chapter, except credit for tax payments made by or on
155 behalf of the taxpayer. Any tax credit claimed under this section
156 but not used in any taxable year may be carried forward
157 indefinitely to future taxable years. In addition, a taxpayer may
158 sell or transfer the excess portion of the tax credit to any
159 taxpayer having a liability for taxes under this chapter. A tax
160 credit may not be sold or transferred more than one (1) time,
161 subject to guidelines established by the Department of Revenue.
162 The buyer or transferee of a tax credit may use the acquired
163 credit in the same manner and to the same extent as the seller or
164 transferor of the credit. In order to sell or transfer a tax
165 credit, the seller or transferor shall notify the Department of
166 Revenue and the Mississippi Development Authority in writing
167 within thirty (30) days after the date of the sale or transfer.
168 The notice shall include:



- 169 (a) The seller's or transferor's tax credit balance
170 before the sale or transfer of the credit;
- 171 (b) The tax credit identification number assigned by
172 the Mississippi Development Authority;
- 173 (c) The unused portion of the credit remaining after
174 the sale or transfer;
- 175 (d) All federal and state tax identification numbers
176 for both the seller or transferor and the buyer or transferee;
- 177 (e) The date of the sale or transfer;
- 178 (f) The amount of the credit sold or transferred; and
- 179 (g) Any other information required by the Department of
180 Revenue or the Mississippi Development Authority.

181 Failure by the seller or transferor to comply with the notice
182 requirements of this subsection shall void the sale or transfer.

183 (3) A tax credit under this section shall not be authorized
184 without:

185 (a) A cost-benefit analysis, including, without
186 limitation, an analysis of other incentives offered by the State
187 of Mississippi with respect to the qualified wood energy products
188 and forest maintenance project subject to the tax credit, as
189 certified by the Mississippi Development Authority; and

190 (b) An incentive agreement with performance criteria
191 and claw back provisions as required under subsection (4) of this
192 section.



193 (4) The issuance of a tax credit authorized under this
194 section shall be subject to an incentive agreement with
195 performance criteria and claw back provisions between the taxpayer
196 and the Mississippi Development Authority that:

197 (a) Is subject to the approval of the Mississippi
198 Development Authority to ensure that the cost-benefit analysis
199 required under subsection (3) of this section is met and
200 maintained for a test period that is the longer of the life of the
201 tax credits or seven (7) years; however, the test period shall not
202 be longer than fifteen (15) years;

203 (b) Shall include, without limitation, the:

204 (i) Capital investment for the qualified wood
205 energy products and forest maintenance project;

206 (ii) New full-time permanent employee positions
207 created by the qualified wood energy products and forest
208 maintenance project;

209 (iii) Annual salary requirements for the new
210 full-time permanent employee positions created by the qualified
211 wood energy products and forest maintenance project;

212 (iv) Timeline for fulfilling the investment or job
213 creation targets stated in the performance and claw back
214 agreement; and

215 (v) Conditions for the claw back provisions, which
216 are triggered if, during the test period stated in paragraph (a)
217 of this subsection (4), the taxpayer:



218 1. Does not meet the required targets of the
219 qualified wood energy products and forest maintenance project
220 related to capital investment, job creation, timeline, or annual
221 salary amounts; or

222 2. Fails to maintain a positive cost-benefit
223 analysis.

224 **SECTION 3.** Sections 1 and 2 of this act shall be codified as
225 new sections in Chapter 7, Title 27, Mississippi Code of 1972.

226 **SECTION 4.** Nothing in this act shall affect or defeat any
227 claim, assessment, appeal, suit, right or cause of action for
228 taxes due or accrued under the income tax laws before the date on
229 which this act becomes effective, whether such claims,
230 assessments, appeals, suits or actions have been begun before the
231 date on which this act becomes effective or are begun thereafter;
232 and the provisions of the income tax laws are expressly continued
233 in full force, effect and operation for the purpose of the
234 assessment, collection and enrollment of liens for any taxes due
235 or accrued and the execution of any warrant under such laws before
236 the date on which this act becomes effective, and for the
237 imposition of any penalties, forfeitures or claims for failure to
238 comply with such laws.

239 **SECTION 5.** This act shall take effect and be in force from
240 and after January 1, 2022.

