

By: Senator(s) Parker

To: Finance; Economic and Workforce Development

SENATE BILL NO. 2159

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 27-7-309,
24 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE APPLICATION OF A
25 MISSISSIPPI FLEXIBLE TAX INCENTIVE AS A CREDIT TO OFFSET
26 WITHHOLDING TAX LIABILITY; TO AMEND SECTION 27-7-311, MISSISSIPPI
27 CODE OF 1972, TO EXCLUDE ANY MISSISSIPPI FLEXIBLE TAX INCENTIVE
28 APPLIED AS A CREDIT TO OFFSET STATE INCOME TAX LIABILITY FROM THE
29 ANNUAL STATEMENT REQUIRED TO BE FILED WITH THE COMMISSIONER OF
30 REVENUE FOR AN EMPLOYEE; TO AMEND SECTION 27-13-5, MISSISSIPPI
31 CODE OF 1972, TO AUTHORIZE THE APPLICATION OF A MISSISSIPPI
32 FLEXIBLE TAX INCENTIVE AS A CREDIT TO OFFSET FRANCHISE TAX
33 LIABILITY OF MISSISSIPPI CORPORATIONS; TO AMEND SECTION 27-13-7,
34 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE APPLICATION OF A



35 MISSISSIPPI FLEXIBLE TAX INCENTIVE AS A CREDIT TO OFFSET FRANCHISE
36 TAX LIABILITY OF FOREIGN CORPORATIONS; TO AMEND SECTION 27-65-93,
37 MISSISSIPPI CODE OF 1972, TO REQUIRE THE DEPARTMENT OF REVENUE TO
38 ISSUE A DIRECT PAY PERMIT TO A QUALIFIED BUSINESS OR INDUSTRY THAT
39 IS AWARDED A MISSISSIPPI FLEXIBLE TAX INCENTIVE BY THE MISSISSIPPI
40 DEVELOPMENT AUTHORITY; TO AMEND SECTION 27-67-17, MISSISSIPPI CODE
41 OF 1972, TO AUTHORIZE THE APPLICATION OF A MISSISSIPPI FLEXIBLE
42 TAX INCENTIVE AS A CREDIT TO OFFSET STATE USE TAX LIABILITY; TO
43 AMEND SECTION 57-1-14, MISSISSIPPI CODE OF 1972, TO DELAY OR
44 PRECLUDE CERTAIN INFORMATION PROVIDED IN APPLICATIONS AND ANNUAL
45 REPORTS FOR THE MISSISSIPPI FLEXIBLE TAX INCENTIVE FROM DISCLOSURE
46 PURSUANT TO THE MISSISSIPPI PUBLIC RECORDS ACT OF 1983; TO REPEAL
47 SECTION 27-7-22, MISSISSIPPI CODE OF 1972, WHICH PROVIDES INCOME
48 TAX CREDITS FOR QUALIFIED BUSINESSES AND QUALIFIED COMPANIES AS
49 DEFINED IN CERTAIN REPEALED CODE SECTIONS; AND FOR RELATED
50 PURPOSES.

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

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

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

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



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

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

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

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

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

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



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

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

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



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

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

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

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

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

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

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



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

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

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

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



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

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

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

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

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

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

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



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

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

206 (r) "New-leased employee" means a nontemporary
207 employee:

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

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



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

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

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

237 (s) "Nonmanufacturing equipment" means all tangible
238 personal property that is not manufacturing machinery, including,
239 but not limited to, office furniture, fixtures, office computers



240 and communications equipment, and warehouse equipment such as
241 racking and shelving.

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

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

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



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

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

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

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



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

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

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

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



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

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

327 (ix) A new telecommunications enterprise
328 principally engaged in the creation, display, management, storage,
329 processing, transmission and/or distribution, for compensation, of
330 images, text, voice, video or data by wire or by wireless means,
331 or engaged in the construction, design, development, manufacture,
332 maintenance or distribution for compensation of devices, products,
333 software or structures used in the above activities, or an
334 expansion of an existing telecommunications enterprise as herein
335 described; provided that, in any such instance, any such
336 telecommunications enterprise or expansion thereof is certified by
337 the authority to qualify as such; provided further, that
338 commercial broadcast radio stations, television stations or news



339 organizations primarily serving in-state markets shall not be
340 included within the definition of the term "telecommunications
341 enterprise";

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

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



364 equipment, machinery, landscaping, fire protection, depreciable
365 fixed assets, engineering and design costs.

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

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

372 (bb) "State tax" means:

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

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

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

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

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

386 Business or industrial enterprises wishing to apply for the mFlex
387 tax incentive authorized by Sections 1 through 10 of this act
388 shall make application to the authority, on a form prescribed



389 thereby; provided that the application shall, at a minimum,
390 contain:

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

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

401 (c) A description of the proposed project;

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

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

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

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



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

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

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

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

436 (l) Any other information as may be requested by the
437 authority.



438 **SECTION 4. Certification and award of mFlex tax incentive,**
439 **terms of such incentive, nontransferability of such certification**
440 **and incentive; mandatory and permissive conditions to**
441 **certifications and incentive awards.** (1) The authority shall
442 evaluate an application to determine whether the applicant's
443 proposed project is a qualified economic development project and
444 whether it is therefore eligible for an award by the authority of
445 an mFlex tax incentive, as calculated in accordance with Section 5
446 of this act.

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

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



463 incentive awarded by the authority for the associated qualified
464 economic development project, and (b) only up to twenty percent
465 (20%) of the mFlex tax incentive amount may be applied as a credit
466 during the course of any reporting year to offset withholding tax
467 deducted and withheld from employee wages pursuant to Section
468 27-7-301 et seq.; provided that the amount of the mFlex tax
469 incentive available to be applied as a credit to offset such state
470 taxes shall be subject to (a) any subsequent adjustments made by
471 the authority to such award pursuant to Section 7 of this act, and
472 (b) any performance requirements set out in the mFlex agreement.
473 The amount of the mFlex tax incentive available to be applied as a
474 credit to offset any state taxes described in Section 2(aa)(i) of
475 this act shall be limited to those such taxes payable directly by
476 the qualified business or industry to the Department of Revenue
477 pursuant to a direct pay permit issued by the Department of
478 Revenue under Section 27-65-93. The amount of the mFlex tax
479 incentive available to be applied as a credit to offset any state
480 taxes may not be applied as a credit to offset any state taxes
481 incurred prior to the issuance of the certification by the
482 authority and execution of the mFlex agreement by the qualified
483 business or industry and the authority.

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



487 (a) Any certification and mFlex tax incentive award
488 issued by the authority under Sections 1 through 10 of this act is
489 nontransferable and cannot be applied, used or assigned to any
490 other person or business or tax account without prior approval by
491 the authority, except for one or more affiliates of the qualified
492 business or industry disclosed thereby on its application or in a
493 subsequent annual report submitted to the authority in accordance
494 with Sections 1 through 10 of this act;

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

501 (c) Each qualified business or industry must enter into
502 an agreement with the authority which sets out, at a minimum, (i)
503 the obligation of the business or industry to provide an annual
504 report to the authority pursuant to Section 7 of this act that
505 demonstrates the actual amount of its qualified investment,
506 including actual expenditures on manufacturing machinery,
507 nonmanufacturing equipment and component building materials, the
508 number of new full-time jobs created and maintained as a result of
509 the project, and any other relevant information as may be required
510 by the authority; and (ii) terms for readjustment or recapture of
511 all or a portion of the mFlex tax incentive awarded thereto



512 pursuant to Section 7 of this act if the applicant 1. fails to
513 satisfy the minimum job creation requirement if certification of
514 the project is predicated on satisfaction of the minimum job
515 creation requirement and not the minimum qualified investment, or
516 2. fails to satisfy the minimum qualified investment if
517 certification of the project is predicated on satisfaction of the
518 minimum job creation requirement and not the minimum qualified
519 investment, and/or 3. fails to otherwise satisfy any other
520 additional performance requirements of the qualified business or
521 industry or its qualified economic development project that are
522 imposed by the authority.

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

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



536 Department of Revenue and used to verify each state tax credit
537 subsequently applied by the qualified business or industry.

538 (7) Within thirty (30) days following the end of each
539 calendar quarter, the authority shall provide to the Governor,
540 Lieutenant Governor and the Speaker of the House of
541 Representatives a copy of each certification made, together with a
542 copy of each mFlex agreement approved and executed, during the
543 immediately preceding calendar quarter.

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

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

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

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



560 (c) Two percent (2%) of the total contract price or
561 compensation paid to any contractor pursuant to any construction
562 contract entered into following the project certification date by
563 the qualified business or industry or any affiliate thereof, to
564 construct, build, erect, repair or add to any building, facility,
565 structure or other improvement to real property described in
566 Section 27-65-21(1)(a)(i) to establish and construct the qualified
567 economic development project; plus, if applicable,

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

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



584 derived by multiplying the average employer wage by the number of
585 new full-time jobs; or

586 (ii) To the extent that subparagraph (i) of this
587 paragraph (e) does not apply, but 1. the number of new full-time
588 jobs totals twenty-five (25) or more; 2. the average employer wage
589 is equal to or more than one hundred twenty-five percent (125%) of
590 the average state or county wage; and 3. all full-time employees
591 are eligible for and offered health insurance coverage funded in
592 whole or at least fifty percent (50%) by the qualified business or
593 industry (or by a leasing company with respect to leased
594 employees), then an additional thirty percent (30%) of the product
595 derived by multiplying the average employer wage by the number of
596 new full-time jobs; provided, however, that the initial mFlex tax
597 incentive award amount determined by the authority and awarded on
598 the project certification date shall be based upon estimates
599 provided by the qualified business or industry to the authority
600 with respect to paragraphs (a) through (d) of this section, which
601 estimates shall be memorialized as project performance measures
602 agreed to by the qualified business or industry in the mFlex
603 agreement; provided, further, that such initial award amount shall
604 be subject to any subsequent adjustments made by the authority
605 pursuant to Section 7 of this act.

606 **SECTION 6. Exclusive utilization of mFlex tax incentive.** A
607 qualified business or industry awarded any mFlex tax incentive by
608 the authority for its qualified economic development project



609 pursuant to Sections 1 through 10 of this act shall not be
610 eligible for, nor shall it apply for or claim, any one or more of
611 the following tax credits, exemptions or incentives for such
612 qualified project:

613 (a) For any new full-time job, any state income tax
614 credit authorized by Sections 27-7-22.17, 22-7-22.18, 22-7-22-19,
615 277-22.27, 27-7-22.29, 27-7-22.34, 27-7-22.36 and 57-73-21(2)
616 through (5);

617 (b) For any new full-time job, any withholding tax
618 rebate authorized by Sections 57-62-1 through 57-62-7 or Sections
619 57-100-1 through 57-100-9;

620 (c) Any exemption from state income tax authorized by
621 Section 27-7-30, Sections 57-80-1 through 57-80-11, Sections
622 57-113-1 through 57-113-7, and Sections 57-113-21 through
623 57-11327;

624 (d) Any state income tax credit authorized by Section
625 27-7-22.20 or Section 22-7-22.35;

626 (e) Any exemption from state sales or use tax
627 authorized by Section 27-65-101(1)(q), (r), (v), (w), (x), (y),
628 (cc), (dd), (ff), (gg), (hh), (kk), (ll), (mm), (nn), (qq), (uu),
629 (vv), (2) or (3); Sections 57-10-255(2) and 57-10-439(2); Sections
630 57-80-1 through 57-80-11; Sections 57-113-1 through 57-113-7; and
631 Sections 57-113-21 through 57-113-27;

632 (f) Any exemption from state franchise tax authorized
633 by Section 27-13-5(4), Section 27-13-7(4), Sections 57-80-1



634 through 57-80-11, Sections 57-113-1 through 57-113-7, and Sections
635 57-113-21 through 57-113-27.

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

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



659 immediately preceding twelve-month period ending on the last day
660 of the month during which the annual anniversary of its project
661 certification date occurred.

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

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

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

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

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

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



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

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

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

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

699 (j) A list of all affiliates of the qualified business
700 or industry, including the Federal Employer Identification Number
701 for each affiliate, for which any state tax liability thereof has
702 been or is expected to be offset by all or some portion of the
703 mFlex tax incentives awarded to the qualified business or
704 industry, which list shall further identify (i) any affiliate of
705 the qualified business or industry that was not disclosed as such
706 on its application or annual report submitted for the prior
707 reporting period, whichever was more recent, but which has either
708 become an affiliate of the qualified business or industry as of



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

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

730 (4) Notwithstanding the obligation of a qualified business
731 or industry to file an annual report with the authority for each
732 qualified economic development project which has been certified,
733 and for which any mFlex tax incentive has been awarded, the



734 authority is authorized to request from the qualified business or
735 industry at any other time any of the information set forth herein
736 that must be included in an annual report for purposes of
737 determining whether a qualified business or industry has met any
738 of the project performance measures set forth in its mFlex
739 agreement on or before the respective deadlines imposed with
740 respect thereto. Upon any such written request by the authority,
741 the qualified business or industry shall, within thirty (30) days
742 after receipt of the request, provide to the authority a certified
743 copy of the information requested.

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



758 tax incentive previously awarded to the qualified business or
759 industry for its qualified economic development project.

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



783 (7) A qualified business or industry and the authority may,
784 at any time, amend or restate an mFlex agreement in order to
785 modify the performance measures of the qualified business or
786 industry with respect to its qualified economic development
787 project, and in connection with such amendment or amendment and
788 restatement, the authority shall modify the amount of the mFlex
789 tax incentive awarded for the qualified economic development
790 project to comport with the modified performance measures;
791 provided that the modified award amount shall thereafter be
792 subject to the adjustment requirements of subsection (6) of this
793 section.

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

805 (9) If at any time the authority reduces the mFlex tax
806 incentive award granted for the qualified economic development
807 project to an amount less than the total amount of credits already



808 applied and taken by the qualified business or industry, or by one
809 or more affiliates thereof eligible to utilize such credit, to
810 offset state taxes thereof, the Department of Revenue shall charge
811 the qualified business or industry, or such affiliate or
812 affiliates, with an assessment for the amount of state taxes for
813 which no mFlex tax incentive is available, following such
814 reduction by the authority, for application as a tax credit,
815 beginning with those state taxes against which the qualified
816 business or industry most recently applied the credit, and such
817 state tax assessment shall be immediately due and payable.

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

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



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

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

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



858 or change in the number of new full-time employees or average
859 employer wage in the manner prescribed by Section 7 of this act.

860 (4) The Department of Employment Security is authorized to
861 provide to the authority any information received, obtained or
862 produced, or findings or determinations made, thereby with respect
863 to any qualified business or industry that is awarded any mFlex
864 tax incentives by the authority, and any such information,
865 findings or determinations provided to the authority by the
866 Department of Revenue shall be exempt from the provisions of the
867 Mississippi Public Records Act of 1983, Section 25-61-1 et seq.

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

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



883 particular qualified economic development projects shall be
884 communicated and provided only to the Governor, Lieutenant
885 Governor, Speaker of the House of Representatives and/or the
886 authority.

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

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

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



908 award or any revocation thereof, in all instances in accordance
909 with Sections 1 through 10 of this act.

910 (3) Nothing in Sections 1 through 10 of this act shall be
911 construed to constitute a guarantee or assumption by the State of
912 Mississippi of any debt of any corporation, limited liability
913 company, partnership, person or sole proprietorship, business
914 trust or other legal entity and subunit or affiliate thereof nor
915 to authorize the credit of the state to be given, pledged or
916 loaned to any corporation, limited liability company, partnership,
917 person or sole proprietorship, business trust or other legal
918 entity and subunit or affiliate thereof. Further, nothing in
919 Sections 1 through 10 of this act gives any right to any qualified
920 business or industry to the incentives authorized by Sections 1
921 through 10 of this act unless such incentive is awarded by
922 Sections 1 through 10 of this act.

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

930 **SECTION 11.** Section 27-7-309, Mississippi Code of 1972, is
931 amended as follows:



932 27-7-309. (1) (a) Except as otherwise provided in this
933 subsection, every employer required to deduct and withhold from
934 wages under this article shall, for each calendar quarter, on or
935 before the fifteenth day of the month following the close of such
936 calendar quarter, file a withholding return as prescribed by the
937 commissioner and pay over to the commissioner the full amount
938 required to be deducted and withheld from wages by such employer
939 for the calendar quarter. Provided that the commissioner may, by
940 regulation, provide that every such employer shall, on or before
941 the fifteenth day of each month, pay over to the commissioner or a
942 depository designated by the commissioner, the amount required to
943 be deducted and withheld by such employer for the preceding month,
944 if such amount is One Hundred Dollars (\$100.00) or more. Returns
945 and payments placed in the mail must be postmarked by the due date
946 in order to be timely filed, except when the due date falls on a
947 weekend or holiday, returns and payments placed in the mail must
948 be postmarked by the first working day following the due date in
949 order to be considered timely filed.

950 (b) The commissioner may promulgate rules and
951 regulations to require or permit filing periods of any duration,
952 in lieu of monthly or quarterly filing periods, for any taxpayer
953 or group thereof.

954 (2) Notwithstanding any of the other provisions of this
955 section, all transient employers and all employers engaged in any
956 business which is seasonal shall make return and pay over to the



957 commissioner on a monthly basis, the full amounts required to be
958 deducted and withheld from the wages by such employer for the
959 calendar month. Such returns and payments to the commissioner by
960 such employers shall be made on or before the fifteenth day of the
961 month following the month for which such amounts were deducted and
962 withheld from the wages of his employees. The commissioner shall
963 have the authority to issue reasonable rules and regulations
964 designating or classifying those transient and seasonal employers.

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

970 (4) Every employer who fails to withhold or pay to the
971 commissioner any sums required by this article to be withheld and
972 paid, shall be personally and individually liable therefor, except
973 as provided in Section 27-7-307; and any sum or sums withheld in
974 accordance with the provisions of this article shall be deemed to
975 be held in trust for the State of Mississippi and shall be
976 recorded by the employer in a ledger account so as to clearly
977 indicate the amount of tax withheld and that the amount is the
978 property of the State of Mississippi.

979 (5) Once an employer has become liable to a quarterly return
980 of withholding, he must continue to file a quarterly report, even
981 though no tax has been withheld, until such time as he notifies



982 the commissioner, in writing, that he no longer has employees or
983 that he is no longer liable for such quarterly returns.

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

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

991 (8) Any employer who is required to deduct and withhold from
992 wages for any monthly or quarterly period pursuant to this
993 article, and who is also eligible to apply as a credit against any
994 amount to be deducted and withheld for such period from wages by
995 such employer under this article a tax credit awarded by the
996 Mississippi Development Authority in accordance with the
997 Mississippi Flexible Tax Incentive Act, may apply the tax credit
998 in the amount available for such purpose, or such lesser amount
999 determined by such employer, pursuant to the Mississippi Flexible
1000 Tax Incentive Act. The credit applied for any monthly or
1001 quarterly reporting period shall be reflected on the form of the
1002 return in the manner prescribed by the commissioner.

1003 **SECTION 12.** Section 27-7-311, Mississippi Code of 1972, is
1004 amended as follows:

1005 27-7-311. Every employer shall file an annual statement of
1006 withholding for each employee. The annual statement shall be in



1007 the form prescribed by the commissioner and shall be filed with
1008 the commissioner and two (2) copies thereof furnished the employee
1009 on or before the thirty-first day of January following the close
1010 of the calendar year. Provided, if the employment of the employee
1011 is terminated during the calendar year, the employer shall furnish
1012 such statement to the employee at the time of the termination of
1013 employment. Such statement shall show:

1014 (* * *a) The name and withholding account number of
1015 the employer;

1016 (* * *b) The name of the employee and his social
1017 security account number;

1018 (* * *c) The total compensation paid to the employee;
1019 and

1020 (* * *d) The total amount withheld by the employer
1021 pursuant to this article for the year or part of a calendar year
1022 where the employee worked for less than a full calendar year, and
1023 such other information as the commissioner shall require by rule
1024 or regulation. The total amount withheld by the employer shall
1025 reflect the gross amount withheld by the employer pursuant to this
1026 article for such year or part of such calendar year prior to, and
1027 expressly excluding, the application of any credit applied and
1028 taken by the employer of any tax credit awarded by the Mississippi
1029 Development Authority in accordance with the Mississippi Flexible
1030 Tax Incentive Act.



1031 **SECTION 13.** Section 27-13-5, Mississippi Code of 1972, is
1032 amended as follows:

1033 27-13-5. (1) (a) **Franchise tax levy.** Except as otherwise
1034 provided in subsections (3), (4), (5) and (7) of this section,
1035 there is hereby imposed, to be paid and collected as hereinafter
1036 provided, a franchise or excise tax upon every corporation,
1037 association or joint-stock company or partnership treated as a
1038 corporation under the income tax laws or regulations, organized or
1039 created for pecuniary gain, having privileges not possessed by
1040 individuals, and having authorized capital stock now existing in
1041 this state, or hereafter organized, created or established, under
1042 and by virtue of the laws of the State of Mississippi, equal to:

1043 (i) For tax years beginning before January 1,
1044 2018, Two Dollars and Fifty Cents (\$2.50) for each One Thousand
1045 Dollars (\$1,000.00), or fraction thereof, of the value of the
1046 capital used, invested or employed in the exercise of any power,
1047 privilege or right enjoyed by such organization within this state,
1048 except as hereinafter provided.

1049 (ii) For tax years beginning on or after January
1050 1, 2018, but before January 1, 2019, Two Dollars and Fifty Cents
1051 (\$2.50) for each One Thousand Dollars (\$1,000.00), or fraction
1052 thereof, in excess of One Hundred Thousand Dollars (\$100,000.00),
1053 of the value of the capital used, invested or employed in the
1054 exercise of any power, privilege or right enjoyed by such
1055 organization within this state, except as hereinafter provided.



1056 (iii) For tax years beginning on or after January
1057 1, 2019, but before January 1, 2020, Two Dollars and Twenty-five
1058 Cents (\$2.25) for each One Thousand Dollars (\$1,000.00), or
1059 fraction thereof, in excess of One Hundred Thousand Dollars
1060 (\$100,000.00), of the value of the capital used, invested or
1061 employed in the exercise of any power, privilege or right enjoyed
1062 by such organization within this state, except as hereinafter
1063 provided.

1064 (iv) For tax years beginning on or after January
1065 1, 2020, but before January 1, 2021, Two Dollars (\$2.00) for each
1066 One Thousand Dollars (\$1,000.00), or fraction thereof, in excess
1067 of One Hundred Thousand Dollars (\$100,000.00), of the value of the
1068 capital used, invested or employed in the exercise of any power,
1069 privilege or right enjoyed by such organization within this state,
1070 except as hereinafter provided.

1071 (v) For tax years beginning on or after January 1,
1072 2021, but before January 1, 2022, One Dollar and Seventy-five
1073 Cents (\$1.75) for each One Thousand Dollars (\$1,000.00), or
1074 fraction thereof, in excess of One Hundred Thousand Dollars
1075 (\$100,000.00), of the value of the capital used, invested or
1076 employed in the exercise of any power, privilege or right enjoyed
1077 by such organization within this state, except as hereinafter
1078 provided.

1079 (vi) For tax years beginning on or after January
1080 1, 2022, but before January 1, 2023, One Dollar and Fifty Cents



1081 (\$1.50) for each One Thousand Dollars (\$1,000.00), or fraction
1082 thereof, in excess of One Hundred Thousand Dollars (\$100,000.00),
1083 of the value of the capital used, invested or employed in the
1084 exercise of any power, privilege or right enjoyed by such
1085 organization within this state, except as hereinafter provided.

1086 (vii) For tax years beginning on or after January
1087 1, 2023, but before January 1, 2024, One Dollar and Twenty-five
1088 Cents (\$1.25) for each One Thousand Dollars (\$1,000.00), or
1089 fraction thereof, in excess of One Hundred Thousand Dollars
1090 (\$100,000.00), of the value of the capital used, invested or
1091 employed in the exercise of any power, privilege or right enjoyed
1092 by such organization within this state, except as hereinafter
1093 provided.

1094 (viii) For tax years beginning on or after January
1095 1, 2024, but before January 1, 2025, One Dollar (\$1.00) for each
1096 One Thousand Dollars (\$1,000.00), or fraction thereof, in excess
1097 of One Hundred Thousand Dollars (\$100,000.00), of the value of the
1098 capital used, invested or employed in the exercise of any power,
1099 privilege or right enjoyed by such organization within this state,
1100 except as hereinafter provided.

1101 (ix) For tax years beginning on or after January
1102 1, 2025, but before January 1, 2026, Seventy-five Cents (75¢) for
1103 each One Thousand Dollars (\$1,000.00), or fraction thereof, in
1104 excess of One Hundred Thousand Dollars (\$100,000.00), of the value
1105 of the capital used, invested or employed in the exercise of any



1106 power, privilege or right enjoyed by such organization within this
1107 state, except as hereinafter provided.

1108 (x) For tax years beginning on or after January 1,
1109 2026, but before January 1, 2027, Fifty Cents (50¢) for each One
1110 Thousand Dollars (\$1,000.00), or fraction thereof, in excess of
1111 One Hundred Thousand Dollars (\$100,000.00), of the value of the
1112 capital used, invested or employed in the exercise of any power,
1113 privilege or right enjoyed by such organization within this state,
1114 except as hereinafter provided.

1115 (xi) For tax years beginning on or after January
1116 1, 2027, but before January 1, 2028, Twenty-five Cents (25¢) for
1117 each One Thousand Dollars (\$1,000.00), or fraction thereof, in
1118 excess of One Hundred Thousand Dollars (\$100,000.00), of the value
1119 of the capital used, invested or employed in the exercise of any
1120 power, privilege or right enjoyed by such organization within this
1121 state, except as hereinafter provided.

1122 (b) In no case shall the franchise tax due for the
1123 accounting period be less than Twenty-five Dollars (\$25.00).

1124 (c) It is the purpose of this section to require the
1125 payment to the State of Mississippi of this tax for the right
1126 granted by the laws of this state to exist as such organization,
1127 and to enjoy, under the protection of the laws of this state, the
1128 powers, rights, privileges and immunities derived from the state
1129 by the form of such existence.



1130 (2) **Annual report of domestic corporations.** Each domestic
1131 corporation shall file an annual report as required by the
1132 provisions of Section 79-4-16.22.

1133 (3) (a) A corporation that has negotiated a fee-in-lieu as
1134 defined in Section 57-75-5 shall not be subject to the tax levied
1135 by this section on such project; however, the fee-in-lieu payment
1136 shall be otherwise treated in the same manner as the payment of
1137 franchise taxes.

1138 (b) (i) As used in this paragraph:

1139 1. "Authority" shall have the meaning
1140 ascribed to such term in Section 57-75-5(b);

1141 2. "Project" shall have the meaning ascribed
1142 to such term in Section 57-75-5(f)(xxix); and

1143 3. "Enterprise" shall mean the corporation
1144 authorized for the project pursuant to Section 57-75-5(f)(xxix).

1145 (ii) The term of the franchise tax fee-in-lieu
1146 agreement negotiated under this subsection and authorized by
1147 Section 57-75-5(j), between the authority and the enterprise for
1148 the project shall not exceed twenty-five (25) years. The
1149 franchise tax fee-in-lieu agreement shall apply only to new
1150 franchise tax liability attributable to the project, and shall not
1151 apply to any existing franchise tax liability of the enterprise in
1152 connection with any current operations in this state.

1153 (iii) In the event that the annual number of
1154 full-time jobs maintained by the enterprise falls below the



1155 minimum annual number of full-time jobs required by the authority
1156 pursuant to a written agreement between the authority and the
1157 enterprise for two (2) consecutive years, the franchise tax
1158 fee-in-lieu for the project shall be suspended until the first tax
1159 year during which the annual number of full-time jobs maintained
1160 by the enterprise reaches the minimum annual number of full-time
1161 jobs required by the authority pursuant to a written agreement
1162 between the authority and the enterprise.

1163 (iv) The enterprise shall be entitled to utilize a
1164 single sales apportionment factor in the calculation of its
1165 liability for franchise tax imposed by this chapter which is
1166 attributable to the project for any year for which it files a
1167 Mississippi franchise tax return. The enterprise shall be
1168 entitled to continue to utilize such single sales apportionment
1169 factor notwithstanding a suspension of the franchise tax
1170 fee-in-lieu pursuant to subparagraph (iii) of this paragraph.

1171 (4) An approved business enterprise as defined in the Growth
1172 and Prosperity Act shall not be subject to the tax levied by this
1173 section on the value of capital used, invested or employed by the
1174 approved business enterprise in a growth and prosperity county or
1175 supervisors district as provided in the Growth and Prosperity Act.

1176 (5) A business enterprise operating a project as defined in
1177 Section 57-64-33, in a county that is a member of a regional
1178 economic development alliance created under the Regional Economic
1179 Development Act shall not be subject to the tax levied by this



1180 section on the value of capital used, invested or employed by the
1181 business enterprise in such a county as provided in Section
1182 57-64-33.

1183 (6) The tax levied by this chapter and paid by a business
1184 enterprise located in a redevelopment project area under Sections
1185 57-91-1 through 57-91-11 shall be deposited into the Redevelopment
1186 Project Incentive Fund created in Section 57-91-9.

1187 (7) A business enterprise as defined in Section 57-113-1 or
1188 57-113-21 that is exempt from certain state taxes under Section
1189 57-113-5 or 57-113-25 shall not be subject to the tax levied by
1190 this section on the value of capital used, invested or employed by
1191 the business enterprise.

1192 (8) A taxpayer who is eligible to apply as a credit against
1193 the tax levied by this chapter a tax credit awarded by the
1194 Mississippi Development Authority in accordance with the
1195 Mississippi Flexible Tax Incentive Act may apply the tax credit in
1196 the amount available for such purpose, or such lesser amount
1197 determined by the taxpayer, pursuant to the Mississippi Flexible
1198 Tax Incentive Act. The credit applied for a tax-reporting period
1199 shall be reflected on the form of the return in the manner
1200 prescribed by the commissioner.

1201 **SECTION 14.** Section 27-13-7, Mississippi Code of 1972, is
1202 amended as follows:

1203 27-13-7. (1) (a) **Franchise tax levy.** Except as otherwise
1204 provided in subsections (3), (4), (5) and (7) of this section,



1205 there is hereby imposed, levied and assessed upon every
1206 corporation, association or joint-stock company, or partnership
1207 treated as a corporation under the income tax laws or regulations
1208 as hereinbefore defined, organized and existing under and by
1209 virtue of the laws of some other state, territory or country, or
1210 organized and existing without any specific statutory authority,
1211 now or hereafter doing business or exercising any power, privilege
1212 or right within this state, as hereinbefore defined, a franchise
1213 or excise tax equal to:

1214 (i) For tax years beginning before January 1,
1215 2018, Two Dollars and Fifty Cents (\$2.50) of each One Thousand
1216 Dollars (\$1,000.00), or fraction thereof, of the value of capital
1217 used, invested or employed within this state, except as
1218 hereinafter provided.

1219 (ii) For tax years beginning on or after January
1220 1, 2018, but before January 1, 2019, Two Dollars and Fifty Cents
1221 (\$2.50) for each One Thousand Dollars (\$1,000.00), or fraction
1222 thereof, in excess of One Hundred Thousand Dollars (\$100,000.00),
1223 of the value of the capital used, invested or employed in the
1224 exercise of any power, privilege or right enjoyed by such
1225 organization within this state, except as hereinafter provided.

1226 (iii) For tax years beginning on or after January
1227 1, 2019, but before January 1, 2020, Two Dollars and Twenty-five
1228 Cents (\$2.25) for each One Thousand Dollars (\$1,000.00), or
1229 fraction thereof, in excess of One Hundred Thousand Dollars



1230 (\$100,000.00), of the value of the capital used, invested or
1231 employed in the exercise of any power, privilege or right enjoyed
1232 by such organization within this state, except as hereinafter
1233 provided.

1234 (iv) For tax years beginning on or after January
1235 1, 2020, but before January 1, 2021, Two Dollars (\$2.00) for each
1236 One Thousand Dollars (\$1,000.00), or fraction thereof, in excess
1237 of One Hundred Thousand Dollars (\$100,000.00), of the value of the
1238 capital used, invested or employed in the exercise of any power,
1239 privilege or right enjoyed by such organization within this state,
1240 except as hereinafter provided.

1241 (v) For tax years beginning on or after January 1,
1242 2021, but before January 1, 2022, One Dollar and Seventy-five
1243 Cents (\$1.75) for each One Thousand Dollars (\$1,000.00), or
1244 fraction thereof, in excess of One Hundred Thousand Dollars
1245 (\$100,000.00), of the value of the capital used, invested or
1246 employed in the exercise of any power, privilege or right enjoyed
1247 by such organization within this state, except as hereinafter
1248 provided.

1249 (vi) For tax years beginning on or after January
1250 1, 2022, but before January 1, 2023, One Dollar and Fifty Cents
1251 (\$1.50) for each One Thousand Dollars (\$1,000.00), or fraction
1252 thereof, in excess of One Hundred Thousand Dollars (\$100,000.00),
1253 of the value of the capital used, invested or employed in the



1254 exercise of any power, privilege or right enjoyed by such
1255 organization within this state, except as hereinafter provided.

1256 (vii) For tax years beginning on or after January
1257 1, 2023, but before January 1, 2024, One Dollar and Twenty-five
1258 Cents (\$1.25) for each One Thousand Dollars (\$1,000.00), or
1259 fraction thereof, in excess of One Hundred Thousand Dollars
1260 (\$100,000.00), of the value of the capital used, invested or
1261 employed in the exercise of any power, privilege or right enjoyed
1262 by such organization within this state, except as hereinafter
1263 provided.

1264 (viii) For tax years beginning on or after January
1265 1, 2024, but before January 1, 2025, One Dollar (\$1.00) for each
1266 One Thousand Dollars (\$1,000.00), or fraction thereof, in excess
1267 of One Hundred Thousand Dollars (\$100,000.00), of the value of the
1268 capital used, invested or employed in the exercise of any power,
1269 privilege or right enjoyed by such organization within this state,
1270 except as hereinafter provided.

1271 (ix) For tax years beginning on or after January
1272 1, 2025, but before January 1, 2026, Seventy-five Cents (75¢) for
1273 each One Thousand Dollars (\$1,000.00), or fraction thereof, in
1274 excess of One Hundred Thousand Dollars (\$100,000.00), of the value
1275 of the capital used, invested or employed in the exercise of any
1276 power, privilege or right enjoyed by such organization within this
1277 state, except as hereinafter provided.



1278 (x) For tax years beginning on or after January 1,
1279 2026, but before January 1, 2027, Fifty Cents (50¢) for each One
1280 Thousand Dollars (\$1,000.00), or fraction thereof, in excess of
1281 One Hundred Thousand Dollars (\$100,000.00), of the value of the
1282 capital used, invested or employed in the exercise of any power,
1283 privilege or right enjoyed by such organization within this state,
1284 except as hereinafter provided.

1285 (xi) For tax years beginning on or after January
1286 1, 2027, but before January 1, 2028, Twenty-five Cents (25¢) for
1287 each One Thousand Dollars (\$1,000.00), or fraction thereof, in
1288 excess of One Hundred Thousand Dollars (\$100,000.00), of the value
1289 of the capital used, invested or employed in the exercise of any
1290 power, privilege or right enjoyed by such organization within this
1291 state, except as hereinafter provided.

1292 (b) In no case shall the franchise tax due for the
1293 accounting period be less than Twenty-five Dollars (\$25.00).

1294 (c) It is the purpose of this section to require the
1295 payment of a tax by all organizations not organized under the laws
1296 of this state, measured by the amount of capital or its
1297 equivalent, for which such organization receives the benefit and
1298 protection of the government and laws of the state.

1299 (2) **Annual report of foreign corporations.** Each foreign
1300 corporation authorized to transact business in this state shall
1301 file an annual report as required by the provisions of Section
1302 79-4-16.22.



1303 (3) (a) A corporation that has negotiated a fee-in-lieu as
1304 defined in Section 57-75-5 shall not be subject to the tax levied
1305 by this section on such project; however, the fee-in-lieu payment
1306 shall be otherwise treated in the same manner as the payment of
1307 franchise taxes.

1308 (b) (i) As used in this paragraph:

1309 1. "Authority" shall have the meaning
1310 ascribed to such term in Section 57-75-5(b);

1311 2. "Project" shall have the meaning ascribed
1312 to such term in Section 57-75-5(f)(xxix); and

1313 3. "Enterprise" shall mean the corporation
1314 authorized for the project pursuant to Section 57-75-5(f)(xxix).

1315 (ii) The term of the franchise tax fee-in-lieu
1316 agreement negotiated under this subsection and authorized by
1317 Section 57-75-5(j), between the authority and the enterprise for
1318 the project shall not exceed twenty-five (25) years. The
1319 franchise tax fee-in-lieu agreement shall apply only to new
1320 franchise tax liability attributable to the project, and shall not
1321 apply to any existing franchise tax liability of the enterprise in
1322 connection with any current operations in this state.

1323 (iii) In the event that the annual number of
1324 full-time jobs maintained by the enterprise falls below the
1325 minimum annual number of full-time jobs required by the authority
1326 pursuant to a written agreement between the authority and the
1327 enterprise for two (2) consecutive years, the franchise tax



1328 fee-in-lieu for the project shall be suspended until the first tax
1329 year during which the annual number of full-time jobs maintained
1330 by the enterprise reaches the minimum annual number of full-time
1331 jobs required by the authority pursuant to a written agreement
1332 between the authority and the enterprise.

1333 (iv) The enterprise shall be entitled to utilize a
1334 single sales apportionment factor in the calculation of its
1335 liability for franchise tax imposed by this chapter which is
1336 attributable to the project for any year for which it files a
1337 Mississippi franchise tax return. The enterprise shall be
1338 entitled to continue to utilize such single sales apportionment
1339 factor notwithstanding a suspension of the franchise tax
1340 fee-in-lieu pursuant to subparagraph (iii) of this paragraph.

1341 (4) An approved business enterprise as defined in the Growth
1342 and Prosperity Act shall not be subject to the tax levied by this
1343 section on the value of capital used, invested or employed by the
1344 approved business enterprise in a growth and prosperity county or
1345 supervisors district as provided in the Growth and Prosperity Act.

1346 (5) A business enterprise operating a project as defined in
1347 Section 57-64-33, in a county that is a member of a regional
1348 economic development alliance created under the Regional Economic
1349 Development Act shall not be subject to the tax levied by this
1350 section on the value of capital used, invested or employed by the
1351 business enterprise in such a county as provided in Section
1352 57-64-33.



1353 (6) The tax levied by this chapter and paid by a business
1354 enterprise located in a redevelopment project area under Sections
1355 57-91-1 through 57-91-11 shall be deposited into the Redevelopment
1356 Project Incentive Fund created in Section 57-91-9.

1357 (7) A business enterprise as defined in Section 57-113-1 or
1358 57-113-21 that is exempt from certain state taxes under Section
1359 57-113-5 or 57-113-25 shall not be subject to the tax levied by
1360 this section on the value of capital used, invested or employed by
1361 the business enterprise.

1362 (8) A taxpayer who is eligible to apply as a credit against
1363 the tax levied by this chapter a tax credit awarded by the
1364 Mississippi Development Authority in accordance with the
1365 Mississippi Flexible Tax Incentive Act may apply the tax credit in
1366 the amount available for such purpose, or such lesser amount
1367 determined by the taxpayer, pursuant to the Mississippi Flexible
1368 Tax Incentive Act. The credit applied for a tax-reporting period
1369 shall be reflected on the form of the return in the manner
1370 prescribed by the commissioner.

1371 **SECTION 15.** Section 27-65-93, Mississippi Code of 1972, is
1372 amended as follows:

1373 27-65-93. (1) The commissioner shall, from time to time,
1374 promulgate rules and regulations, not inconsistent with the
1375 provisions of the sales tax law, for making returns and for the
1376 ascertainment, assessment and collection of the tax imposed by the
1377 sales tax law as he may deem necessary to enforce its provisions;



1378 and, upon request, he shall furnish any taxpayer with a copy of
1379 the rules and regulations.

1380 (2) All forms, necessary for the enforcement of the sales
1381 tax law, shall be prescribed, printed and furnished by the
1382 commissioner.

1383 (3) The commissioner may adopt rules and regulations
1384 providing for the issuance of permits to manufacturers, utilities,
1385 construction contractors, companies receiving bond financing
1386 through the Mississippi Business Finance Corporation or the
1387 Mississippi Development Authority, and other taxpayers as
1388 determined by the commissioner, and the commissioner shall adopt
1389 rules and regulations providing for the issuance of a permit to
1390 any qualified business or industry, which is certified as such by
1391 the Mississippi Development Authority pursuant to the Mississippi
1392 Flexible Tax Incentive Act and awarded any mFlex tax incentive
1393 amount for such qualified business's or industry's qualified
1394 economic development project, certified as such by the Mississippi
1395 Development Authority pursuant to the Mississippi Flexible Tax
1396 Incentive Act, to purchase tangible personal property taxed under
1397 Section 27-65-17, items taxed under Section 27-65-18, items taxed
1398 under Section 27-65-19, services taxed under Section 27-65-23,
1399 items taxed under Section 27-65-24, and items taxed under Section
1400 27-65-26 without the payment to the vendor of the tax imposed by
1401 the sales and use tax laws, and providing for persons to report
1402 and pay the tax directly to the commissioner in instances where



1403 the commissioner determines that these provisions will facilitate
1404 and expedite the collection of the tax at the proper rates which
1405 may be due on purchases by the permittee. Under the provisions of
1406 this chapter, the vendor is relieved of collecting and remitting
1407 the taxes specified hereunder and the person holding the permit
1408 shall become liable for such taxes instead of the seller. The
1409 full enforcement provisions of the sales tax law shall apply in
1410 the collection of the tax from the permittee.

1411 **SECTION 16.** Section 27-67-17, Mississippi Code of 1972, is
1412 amended as follows:

1413 27-67-17. (1) Except as otherwise provided in this section,
1414 the commissioner shall collect the tax imposed by this article,
1415 and every person subject to its provisions shall remit to the
1416 commissioner, on or before the twentieth day of each month, the
1417 amount of tax due by such person for the preceding calendar month.
1418 Returns and payments placed in the mail must be postmarked by the
1419 due date in order to be timely filed, except that when the due
1420 date falls on a weekend or holiday, returns and payments placed in
1421 the mail must be postmarked by the first working day following the
1422 due date in order to be considered timely filed. Every taxpayer
1423 shall file a return with his remittance, which return shall be
1424 prescribed by the commissioner and shall show for the calendar
1425 month preceding the tax payment date, the total sale or purchase
1426 price, or value of tangible personal property or specified digital
1427 products sold, used, stored or consumed by him for benefit



1428 received or service performed, and such other information as the
1429 commissioner may deem pertinent and necessary for determining the
1430 amount of tax due thereunder.

1431 (2) The commissioner, in his discretion, may authorize in
1432 writing the filing of returns and the payment of tax on a
1433 quarterly basis by any person required or authorized to pay the
1434 tax imposed, such authority to be subject to revocation for good
1435 cause by the commissioner.

1436 (3) In instances where it is impractical to file returns and
1437 pay the tax monthly or quarterly, the commissioner may authorize
1438 the filing of semiannual or annual returns.

1439 (4) The commissioner, in his discretion, may authorize the
1440 computation of the tax on the basis of a formula in lieu of direct
1441 accounting of specific properties in instances where such method
1442 will expedite, simplify or provide a more equitable means of
1443 determining liability under this article. All formulas shall be
1444 subject to revocation for good cause by the commissioner.

1445 (5) A taxpayer who is eligible to apply as a credit against
1446 the tax levied by this chapter a tax credit awarded by the
1447 Mississippi Development Authority in accordance with the
1448 Mississippi Flexible Tax Incentive Act may apply the tax credit in
1449 the amount available for such purpose, or such lesser amount
1450 determined by the taxpayer, pursuant to the Mississippi Flexible
1451 Tax Incentive Act. The credit applied for a tax-reporting period



1452 shall be reflected on the form of the return in the manner
1453 prescribed by the commissioner.

1454 **SECTION 17.** Section 57-1-14, Mississippi Code of 1972, is
1455 amended as follows:

1456 57-1-14. (1) Except as otherwise provided in subsection (3)
1457 of this section, any records of the Mississippi Development
1458 Authority which contain client information concerning development
1459 projects shall be exempt from the provisions of the Mississippi
1460 Public Records Act of 1983 for a period of two (2) years after
1461 receipt of the information by the department. Confidential client
1462 information as described in this section shall not include the
1463 information which must be disclosed by the certified applicant
1464 related to a qualified economic development project in the annual
1465 report described in Section 57-1-759.

1466 (2) Except as otherwise provided in subsection (3) of this
1467 section, confidential client information in public records held by
1468 the department shall be exempt from the provisions of the
1469 Mississippi Public Records Act of 1983 during the period of review
1470 and negotiation on a project proposal and for a period of thirty
1471 (30) days after approval, disapproval or abandonment of the
1472 proposal not to exceed one (1) year by the department in writing.

1473 (3) Any breakouts or subcategories of the total qualified
1474 investment amounts reported pursuant to Sections 3(d), 7(2)(a) and
1475 7(2)(b) of this act, and information reported pursuant to Sections
1476 3(g), 3(h), 3(j), 7(2)(f), 7(2)(g), 7(2)(h) and 7(2)(i) of this



1477 act shall not be subject to any disclosure under the Mississippi
1478 Public Records Act of 1983. In addition, any information and
1479 documentation, including without limitation, copies of any
1480 certifications, together with any amendments thereto, made by the
1481 Mississippi Development Authority, and copies of any mFlex
1482 agreements, together with any amendments thereto, approved and
1483 executed by the Mississippi Development Authority, pursuant to the
1484 Mississippi Flexible Tax Incentive Act, which are (a) provided by
1485 the authority to the Governor, Lieutenant Governor and/or Speaker
1486 of the House of Representatives pursuant to Section 4(7) or
1487 Section 7(11) of this act; (b) provided by the authority to the
1488 University Research Center division of the Mississippi
1489 Institutions of Higher Learning pursuant to Section 8(5) of this
1490 act; and (c) provided by the University Research Center division
1491 of the Mississippi Institutions of Higher Learning to the
1492 Governor, Lieutenant Governor, Speaker of the House of
1493 Representatives and/or the authority, shall not be subject to any
1494 disclosure under the Mississippi Public Records Act of 1983.

1495 **SECTION 18.** Section 27-7-22, Mississippi Code of 1972, which
1496 provides income tax credits for qualified businesses and qualified
1497 companies as defined in certain repealed code sections, is
1498 repealed.

1499 **SECTION 19.** This act shall take effect and be in force from
1500 and after July 1, 2022.

