

## House Amendments to Senate Bill No. 3163

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

### AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

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

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

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

44           (d) "Qualified new rail infrastructure expenditures"  
45 means gross expenditures for new construction of industrial leads,  
46 switches, spurs and sidings and extensions of existing sidings,

47 for serving new customer locations or expansions in Mississippi,  
48 by a Class II or Class III railroad located in Mississippi.

49 (2) Subject to the provisions of this section, an eligible  
50 taxpayer making qualified railroad reconstruction or replacement  
51 expenditures shall be allowed a credit against the taxes imposed  
52 under this chapter. The credit shall be for an amount equal to  
53 the lesser of fifty percent (50%) of an eligible taxpayer's  
54 qualified railroad reconstruction or replacement expenditures for  
55 the taxable year or the product of Five Thousand Dollars  
56 (\$5,000.00) multiplied by the number of miles of railroad track  
57 owned or leased within the State of Mississippi by the eligible  
58 taxpayer as of the close of the taxable year. For qualified new  
59 rail infrastructure expenditures, the credit shall be for an  
60 amount equal to the lesser of fifty percent (50%) of an eligible  
61 taxpayer's qualified new rail infrastructure expenditures for the  
62 taxable year, capped at One Million Dollars (\$1,000,000.00) per  
63 new rail-served customer project. However, the tax credit shall  
64 not exceed the amount of tax imposed upon the taxpayer for the  
65 taxable year reduced by the sum of all other credits allowable to  
66 the taxpayer under this chapter, except credit for tax payments  
67 made by or on behalf of the taxpayer. Any tax credit claimed  
68 under this section but not used in any taxable year may be carried  
69 forward for five (5) consecutive years from the close of the  
70 taxable year in which the credit was earned. The aggregate amount  
71 of credits that may be claimed by all taxpayers claiming a credit  
72 under this section during a calendar year shall not exceed Ten

73 Million Dollars (\$10,000,000.00). In addition, an eligible  
74 taxpayer may transfer by written agreement any unused tax credit  
75 to an eligible transferee at any time during the year in which the  
76 credit is earned and the five (5) years following the taxable year  
77 in which the qualified railroad reconstruction or replacement  
78 expenditures or the qualified new rail infrastructure expenditures  
79 are made. The eligible taxpayer and the eligible transferee must  
80 jointly file a copy of the written transfer agreement with the  
81 Department of Revenue within thirty (30) days of the transfer.  
82 The written agreement must contain the: (a) name, address, and  
83 taxpayer identification number of the parties to the transfer; (b)  
84 taxable year the eligible taxpayer incurred the qualified railroad  
85 reconstruction or replacement expenditures or the qualified new  
86 rail infrastructure expenditures; (c) amount of credit being  
87 transferred; and (d) taxable year or years for which the credit  
88 may be claimed by the eligible transferee.

89 **SECTION 2.** (1) As used in this section, the following words  
90 shall have the meanings ascribed herein unless the context clearly  
91 requires otherwise:

92 (a) "Blood donation" means the voluntary and  
93 uncompensated donation of whole blood, or specific components of  
94 blood, by an employee, drawn for use by a nonprofit blood bank  
95 organization as part of a blood drive.

96 (b) "Blood drive" means a function held at a specific  
97 date and time which is organized by a nonprofit blood bank

98 organization in coordination with an employer or group of  
99 employers and is closed to nonemployees.

100 (c) "Employee" means an individual employed by an  
101 employer authorized to claim a tax credit under this section.

102 (d) "Employer" means a sole proprietor, general  
103 partnership, limited partnership, limited liability company,  
104 corporation or other legally recognized business entity.

105 (e) "Verified donation" means a blood donation by an  
106 employee, made during a blood drive, which can be documented by an  
107 employer.

108 (2) Subject to the provisions of this section, for calendar  
109 year 2023 and each calendar year thereafter, through calendar year  
110 2028, a taxpayer that is an employer shall be allowed a credit  
111 against the taxes imposed under this chapter for each verified  
112 blood donation made by an employee as part of a blood drive. The  
113 credit shall be for an amount equal to Twenty Dollars (\$20.00) for  
114 each verified donation. However, the tax credit shall not exceed  
115 the amount of tax imposed upon the taxpayer for the taxable year  
116 reduced by the sum of all other credits allowable to the taxpayer  
117 under this chapter, except credit for tax payments made by or on  
118 behalf of the taxpayer. The maximum aggregate amount of tax  
119 credits that may be claimed by all taxpayers claiming a credit  
120 under this section in a taxable year shall not exceed Five Hundred  
121 Thousand Dollars (\$500,000.00). The department shall annually  
122 calculate and publish a percentage by which the tax credit  
123 authorized by this section shall be reduced so the maximum

124 aggregate amount of tax credits claimed by all taxpayers claiming  
125 a credit in a taxable year does not exceed Five Hundred Thousand  
126 Dollars (\$500,000.00).

127 **SECTION 3.** Section 27-7-17, Mississippi Code of 1972, as  
128 amended by Senate Bill No. 2095, 2022 Regular Session, and House  
129 Bill No. 1529, 2022 Regular Session, is amended as follows:

130 **[Through February 1, 2022, this section shall read as**  
131 **follows:]**

132 27-7-17. In computing taxable income, there shall be allowed  
133 as deductions:

134 (1) **Business deductions.**

135 (a) **Business expenses.** All the ordinary and necessary  
136 expenses paid or incurred during the taxable year in carrying on  
137 any trade or business, including a reasonable allowance for  
138 salaries or other compensation for personal services actually  
139 rendered; nonreimbursable traveling expenses incident to current  
140 employment, including a reasonable amount expended for meals and  
141 lodging while away from home in the pursuit of a trade or  
142 business; and rentals or other payments required to be made as a  
143 condition of the continued use or possession, for purposes of the  
144 trade or business of property to which the taxpayer has not taken  
145 or is not taking title or in which he had no equity. Expense  
146 incurred in connection with earning and distributing nontaxable  
147 income is not an allowable deduction. Limitations on  
148 entertainment expenses shall conform to the provisions of the  
149 Internal Revenue Code of 1986.

150           (b) **Interest.** All interest paid or accrued during the  
151 taxable year on business indebtedness, except interest upon the  
152 indebtedness for the purchase of tax-free bonds, or any stocks,  
153 the dividends from which are nontaxable under the provisions of  
154 this article; provided, however, in the case of securities  
155 dealers, interest payments or accruals on loans, the proceeds of  
156 which are used to purchase tax-exempt securities, shall be  
157 deductible if income from otherwise tax-free securities is  
158 reported as income. Investment interest expense shall be limited  
159 to investment income. Interest expense incurred for the purchase  
160 of treasury stock, to pay dividends, or incurred as a result of an  
161 undercapitalized affiliated corporation may not be deducted unless  
162 an ordinary and necessary business purpose can be established to  
163 the satisfaction of the commissioner. For the purposes of this  
164 paragraph, the phrase "interest upon the indebtedness for the  
165 purchase of tax-free bonds" applies only to the indebtedness  
166 incurred for the purpose of directly purchasing tax-free bonds and  
167 does not apply to any other indebtedness incurred in the regular  
168 course of the taxpayer's business. Any corporation, association,  
169 organization or other entity taxable under Section 27-7-23(c)  
170 shall allocate interest expense as provided in Section  
171 27-7-23(c) (3) (I).

172           (c) **Taxes.** Taxes paid or accrued within the taxable  
173 year, except state and federal income taxes, excise taxes based on  
174 or measured by net income, estate and inheritance taxes, gift  
175 taxes, cigar and cigarette taxes, gasoline taxes, and sales and

176 use taxes unless incurred as an item of expense in a trade or  
177 business or in the production of taxable income. In the case of  
178 an individual, taxes permitted as an itemized deduction under the  
179 provisions of subsection (3)(a) of this section are to be claimed  
180 thereunder.

181 (d) **Business losses.**

182 (i) Losses sustained during the taxable year not  
183 compensated for by insurance or otherwise, if incurred in trade or  
184 business, or nonbusiness transactions entered into for profit.

185 (ii) Limitations on losses from passive activities  
186 and rental real estate shall conform to the provisions of the  
187 Internal Revenue Code of 1986.

188 (e) **Bad debts.** Losses from debts ascertained to be  
189 worthless and charged off during the taxable year, if sustained in  
190 the conduct of the regular trade or business of the taxpayer;  
191 provided, that such losses shall be allowed only when the taxpayer  
192 has reported as income, on the accrual basis, the amount of such  
193 debt or account.

194 (f) **Depreciation.** A reasonable allowance for  
195 exhaustion, wear and tear of property used in the trade or  
196 business, or rental property, and depreciation upon buildings  
197 based upon their reasonable value as of March 16, 1912, if  
198 acquired prior thereto, and upon cost if acquired subsequent to  
199 that date. In the case of new or used aircraft, equipment,  
200 engines, or other parts and tools used for aviation, allowance for  
201 bonus depreciation conforms with the federal bonus depreciation

202 rates and reasonable allowance for depreciation under this section  
203 is no less than one hundred percent (100%).

204           (g) **Depletion.** In the case of mines, oil and gas  
205 wells, other natural deposits and timber, a reasonable allowance  
206 for depletion and for depreciation of improvements, based upon  
207 cost, including cost of development, not otherwise deducted, or  
208 fair market value as of March 16, 1912, if acquired prior to that  
209 date, such allowance to be made upon regulations prescribed by the  
210 commissioner, with the approval of the Governor.

211           (h) **Contributions or gifts.** Except as otherwise  
212 provided in paragraph (p) of this subsection or subsection (3)(a)  
213 of this section for individuals, contributions or gifts made by  
214 corporations within the taxable year to corporations,  
215 organizations, associations or institutions, including Community  
216 Chest funds, foundations and trusts created solely and exclusively  
217 for religious, charitable, scientific or educational purposes, or  
218 for the prevention of cruelty to children or animals, no part of  
219 the net earnings of which inure to the benefit of any private  
220 stockholder or individual. This deduction shall be allowed in an  
221 amount not to exceed twenty percent (20%) of the net income. Such  
222 contributions or gifts shall be allowable as deductions only if  
223 verified under rules and regulations prescribed by the  
224 commissioner, with the approval of the Governor. Contributions  
225 made in any form other than cash shall be allowed as a deduction,  
226 subject to the limitations herein provided, in an amount equal to



227 the actual market value of the contributions at the time the  
228 contribution is actually made and consummated.

229 (i) **Reserve funds - insurance companies.** In the case  
230 of insurance companies the net additions required by law to be  
231 made within the taxable year to reserve funds when such reserve  
232 funds are maintained for the purpose of liquidating policies at  
233 maturity.

234 (j) **Annuity income.** The sums, other than dividends,  
235 paid within the taxpayer year on policy or annuity contracts when  
236 such income has been included in gross income.

237 (k) **Contributions to employee pension plans.**  
238 Contributions made by an employer to a plan or a trust forming  
239 part of a pension plan, stock bonus plan, disability or  
240 death-benefit plan, or profit-sharing plan of such employer for  
241 the exclusive benefit of some or all of his, their, or its  
242 employees, or their beneficiaries, shall be deductible from his,  
243 their, or its income only to the extent that, and for the taxable  
244 year in which, the contribution is deductible for federal income  
245 tax purposes under the Internal Revenue Code of 1986 and any other  
246 provisions of similar purport in the Internal Revenue Laws of the  
247 United States, and the rules, regulations, rulings and  
248 determinations promulgated thereunder, provided that:

249 (i) The plan or trust be irrevocable.

250 (ii) The plan or trust constitute a part of a  
251 pension plan, stock bonus plan, disability or death-benefit plan,  
252 or profit-sharing plan for the exclusive benefit of some or all of

253 the employer's employees and/or officers, or their beneficiaries,  
254 for the purpose of distributing the corpus and income of the plan  
255 or trust to such employees and/or officers, or their  
256 beneficiaries.

257 (iii) No part of the corpus or income of the plan  
258 or trust can be used for purposes other than for the exclusive  
259 benefit of employees and/or officers, or their beneficiaries.

260 Contributions to all plans or to all trusts of real or  
261 personal property (or real and personal property combined) or to  
262 insured plans created under a retirement plan for which provision  
263 has been made under the laws of the United States of America,  
264 making such contributions deductible from income for federal  
265 income tax purposes, shall be deductible only to the same extent  
266 under the Income Tax Laws of the State of Mississippi.

267 (1) **Net operating loss carrybacks and carryovers.** A  
268 net operating loss for any taxable year ending after December 31,  
269 1993, and taxable years thereafter, shall be a net operating loss  
270 carryback to each of the three (3) taxable years preceding the  
271 taxable year of the loss. If the net operating loss for any  
272 taxable year is not exhausted by carrybacks to the three (3)  
273 taxable years preceding the taxable year of the loss, then there  
274 shall be a net operating loss carryover to each of the fifteen  
275 (15) taxable years following the taxable year of the loss  
276 beginning with any taxable year after December 31, 1991.

277 For any taxable year ending after December 31, 1997, the  
278 period for net operating loss carrybacks and net operating loss

279 carryovers shall be the same as those established by the Internal  
280 Revenue Code and the rules, regulations, rulings and  
281 determinations promulgated thereunder as in effect at the taxable  
282 year end or on December 31, 2000, whichever is earlier.

283 A net operating loss for any taxable year ending after  
284 December 31, 2001, and taxable years thereafter, shall be a net  
285 operating loss carryback to each of the two (2) taxable years  
286 preceding the taxable year of the loss. If the net operating loss  
287 for any taxable year is not exhausted by carrybacks to the two (2)  
288 taxable years preceding the taxable year of the loss, then there  
289 shall be a net operating loss carryover to each of the twenty (20)  
290 taxable years following the taxable year of the loss beginning  
291 with any taxable year after the taxable year of the loss.

292 The term "net operating loss," for the purposes of this  
293 paragraph, shall be the excess of the deductions allowed over the  
294 gross income; provided, however, the following deductions shall  
295 not be allowed in computing same:

296 (i) No net operating loss deduction shall be  
297 allowed.

298 (ii) No personal exemption deduction shall be  
299 allowed.

300 (iii) Allowable deductions which are not  
301 attributable to taxpayer's trade or business shall be allowed only  
302 to the extent of the amount of gross income not derived from such  
303 trade or business.

304 Any taxpayer entitled to a carryback period as provided by  
305 this paragraph may elect to relinquish the entire carryback period  
306 with respect to a net operating loss for any taxable year ending  
307 after December 31, 1991. The election shall be made in the manner  
308 prescribed by the Department of Revenue and shall be made by the  
309 due date, including extensions of time, for filing the taxpayer's  
310 return for the taxable year of the net operating loss for which  
311 the election is to be in effect. The election, once made for any  
312 taxable year, shall be irrevocable for that taxable year.

313 (m) **Amortization of pollution or environmental control**  
314 **facilities.** Allowance of deduction. Every taxpayer, at his  
315 election, shall be entitled to a deduction for pollution or  
316 environmental control facilities to the same extent as that  
317 allowed under the Internal Revenue Code and the rules,  
318 regulations, rulings and determinations promulgated thereunder.

319 (n) **Dividend distributions - real estate investment**  
320 **trusts.** "Real estate investment trust" (hereinafter referred to  
321 as REIT) shall have the meaning ascribed to such term in Section  
322 856 of the federal Internal Revenue Code of 1986, as amended. A  
323 REIT is allowed a dividend distributed deduction if the dividend  
324 distributions meet the requirements of Section 857 or are  
325 otherwise deductible under Section 858 or 860, federal Internal  
326 Revenue Code of 1986, as amended. In addition:

327 (i) A dividend distributed deduction shall only be  
328 allowed for dividends paid by a publicly traded REIT. A qualified

329 REIT subsidiary shall be allowed a dividend distributed deduction  
330 if its owner is a publicly traded REIT.

331 (ii) Income generated from real estate contributed  
332 or sold to a REIT by a shareholder or related party shall not give  
333 rise to a dividend distributed deduction, unless the shareholder  
334 or related party would have received the dividend distributed  
335 deduction under this chapter.

336 (iii) A holding corporation receiving a dividend  
337 from a REIT shall not be allowed the deduction in Section  
338 27-7-15(4)(t).

339 (iv) Any REIT not allowed the dividend distributed  
340 deduction in the federal Internal Revenue Code of 1986, as  
341 amended, shall not be allowed a dividend distributed deduction  
342 under this chapter.

343 The commissioner is authorized to promulgate rules and  
344 regulations consistent with the provisions in Section 269 of the  
345 federal Internal Revenue Code of 1986, as amended, so as to  
346 prevent the evasion or avoidance of state income tax.

347 (o) **Contributions to college savings trust fund**  
348 **accounts.** Contributions or payments to a Mississippi Affordable  
349 College Savings Program account are deductible as provided under  
350 Section 37-155-113. Payments made under a prepaid tuition  
351 contract entered into under the Mississippi Prepaid Affordable  
352 College Tuition Program are deductible as provided under Section  
353 37-155-17.

354           (p) **Contributions of human pharmaceutical products.** To  
355 the extent that a "major supplier" as defined in Section  
356 27-13-13(2) (d) contributes human pharmaceutical products in excess  
357 of Two Hundred Fifty Million Dollars (\$250,000,000.00) as  
358 determined under Section 170 of the Internal Revenue Code, the  
359 charitable contribution limitation associated with those donations  
360 shall follow the federal limitation but cannot result in the  
361 Mississippi net income being reduced below zero.

362           (q) **Contributions to ABLE trust fund accounts.**  
363 Contributions or payments to a Mississippi Achieving a Better Life  
364 Experience (ABLE) Program account are deductible as provided under  
365 Section 43-28-13.

366           (2) **Restrictions on the deductibility of certain intangible  
367 expenses and interest expenses with a related member.**

368           (a) As used in this subsection (2):

369           (i) "Intangible expenses and costs" include:

370                   1. Expenses, losses and costs for, related  
371 to, or in connection directly or indirectly with the direct or  
372 indirect acquisition, use, maintenance or management, ownership,  
373 sale, exchange or any other disposition of intangible property to  
374 the extent such amounts are allowed as deductions or costs in  
375 determining taxable income under this chapter;

376                   2. Expenses or losses related to or incurred  
377 in connection directly or indirectly with factoring transactions  
378 or discounting transactions;

379                   3. Royalty, patent, technical and copyright  
380 fees;

381                   4. Licensing fees; and

382                   5. Other similar expenses and costs.

383                   (ii) "Intangible property" means patents, patent  
384 applications, trade names, trademarks, service marks, copyrights  
385 and similar types of intangible assets.

386                   (iii) "Interest expenses and cost" means amounts  
387 directly or indirectly allowed as deductions for purposes of  
388 determining taxable income under this chapter to the extent such  
389 interest expenses and costs are directly or indirectly for,  
390 related to, or in connection with the direct or indirect  
391 acquisition, maintenance, management, ownership, sale, exchange or  
392 disposition of intangible property.

393                   (iv) "Related member" means an entity or person  
394 that, with respect to the taxpayer during all or any portion of  
395 the taxable year, is a related entity, a component member as  
396 defined in the Internal Revenue Code, or is an entity or a person  
397 to or from whom there is attribution of stock ownership in  
398 accordance with Section 1563(e) of the Internal Revenue Code.

399                   (v) "Related entity" means:

400                   1. A stockholder who is an individual or a  
401 member of the stockholder's family, as defined in regulations  
402 prescribed by the commissioner, if the stockholder and the members  
403 of the stockholder's family own, directly, indirectly,

404 beneficially or constructively, in the aggregate, at least fifty  
405 percent (50%) of the value of the taxpayer's outstanding stock;

406           2. A stockholder, or a stockholder's  
407 partnership, limited liability company, estate, trust or  
408 corporation, if the stockholder and the stockholder's  
409 partnerships, limited liability companies, estates, trusts and  
410 corporations own, directly, indirectly, beneficially or  
411 constructively, in the aggregate, at least fifty percent (50%) of  
412 the value of the taxpayer's outstanding stock;

413           3. A corporation, or a party related to the  
414 corporation in a manner that would require an attribution of stock  
415 from the corporation to the party or from the party to the  
416 corporation, if the taxpayer owns, directly, indirectly,  
417 beneficially or constructively, at least fifty percent (50%) of  
418 the value of the corporation's outstanding stock under regulation  
419 prescribed by the commissioner;

420           4. Any entity or person which would be a  
421 related member under this section if the taxpayer were considered  
422 a corporation for purposes of this section.

423           (b) In computing net income, a taxpayer shall add back  
424 otherwise deductible interest expenses and costs and intangible  
425 expenses and costs directly or indirectly paid, accrued to or  
426 incurred, in connection directly or indirectly with one or more  
427 direct or indirect transactions with one or more related members.

428           (c) The adjustments required by this subsection shall  
429 not apply to such portion of interest expenses and costs and



430 intangible expenses and costs that the taxpayer can establish  
431 meets one (1) of the following:

432 (i) The related member directly or indirectly  
433 paid, accrued or incurred such portion to a person during the same  
434 income year who is not a related member; or

435 (ii) The transaction giving rise to the interest  
436 expenses and costs or intangible expenses and costs between the  
437 taxpayer and related member was done primarily for a valid  
438 business purpose other than the avoidance of taxes, and the  
439 related member is not primarily engaged in the acquisition, use,  
440 maintenance or management, ownership, sale, exchange or any other  
441 disposition of intangible property.

442 (d) Nothing in this subsection shall require a taxpayer  
443 to add to its net income more than once any amount of interest  
444 expenses and costs or intangible expenses and costs that the  
445 taxpayer pays, accrues or incurs to a related member.

446 (e) The commissioner may prescribe such regulations as  
447 necessary or appropriate to carry out the purposes of this  
448 subsection, including, but not limited to, clarifying definitions  
449 of terms, rules of stock attribution, factoring and discount  
450 transactions.

451 (3) **Individual nonbusiness deductions.**

452 (a) The amount allowable for individual nonbusiness  
453 itemized deductions for federal income tax purposes where the  
454 individual is eligible to elect, for the taxable year, to itemize  
455 deductions on his federal return except the following:

456 (i) The deduction for state income taxes paid or  
457 other taxes allowed for federal purposes in lieu of state income  
458 taxes paid;

459 (ii) The deduction for gaming losses from gaming  
460 establishments;

461 (iii) The deduction for taxes collected by  
462 licensed gaming establishments pursuant to Section 27-7-901;

463 (iv) The deduction for taxes collected by gaming  
464 establishments pursuant to Section 27-7-903.

465 (b) In lieu of the individual nonbusiness itemized  
466 deductions authorized in paragraph (a), for all purposes other  
467 than ordinary and necessary expenses paid or incurred during the  
468 taxable year in carrying on any trade or business, an optional  
469 standard deduction of:

470 (i) Three Thousand Four Hundred Dollars  
471 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred  
472 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand  
473 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter  
474 in the case of married individuals filing a joint or combined  
475 return;

476 (ii) One Thousand Seven Hundred Dollars  
477 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred  
478 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand  
479 Three Hundred Dollars (\$2,300.00) for each calendar year  
480 thereafter in the case of married individuals filing separate  
481 returns;

482 (iii) Three Thousand Four Hundred Dollars  
483 (\$3,400.00) in the case of a head of family; or  
484 (iv) Two Thousand Three Hundred Dollars  
485 (\$2,300.00) in the case of an individual who is not married.

486 In the case of a husband and wife living together, having  
487 separate incomes, and filing combined returns, the standard  
488 deduction authorized may be divided in any manner they choose. In  
489 the case of separate returns by a husband and wife, the standard  
490 deduction shall not be allowed to either if the taxable income of  
491 one of the spouses is determined without regard to the standard  
492 deduction.

493 (c) A nonresident individual shall be allowed the same  
494 individual nonbusiness deductions as are authorized for resident  
495 individuals in paragraph (a) or (b) of this subsection; however,  
496 the nonresident individual is entitled only to that proportion of  
497 the individual nonbusiness deductions as his net income from  
498 sources within the State of Mississippi bears to his total or  
499 entire net income from all sources.

500 (4) Nothing in this section shall permit the same item to be  
501 deducted more than once, either in fact or in effect.

502 (5) Notwithstanding any other provision in Title 27,  
503 Mississippi Code of 1972, there shall be allowed an income tax  
504 deduction for otherwise deductible expenses if:

505 (a) The payment(s) for such deductible expenses are  
506 made with the grant or loan program of the Paycheck Protection  
507 Program as authorized under the (i) Coronavirus Aid, Relief, and

508 Economic Security (CARES) Act and the Consolidated Appropriations  
509 Act of 2021, (ii) the COVID-19 Economic Injury Disaster Loan  
510 Program, (iii) the 2020 COVID-19 Mississippi Business Assistance  
511 Act, (iv) the Rental Assistance Grant Program, (v) the Shuttered  
512 Venue Operators Grant Program and Restaurant Revitalization Fund  
513 authorized by the Economic Aid to Hard-Hit Small Businesses,  
514 Nonprofits, and Venues Act, and amended by the federal American  
515 Rescue Plan Act, and/or (vi) the Mississippi Agriculture  
516 Stabilization Act; and

517 (b) Such deductible expenses shall be allowed as  
518 deductions for federal income tax purposes.

519 **[From and after February 2, 2022, this section shall read as**  
520 **follows:]**

521 27-7-17. In computing taxable income, there shall be allowed  
522 as deductions:

523 (1) **Business deductions.**

524 (a) **Business expenses.** All the ordinary and necessary  
525 expenses paid or incurred during the taxable year in carrying on  
526 any trade or business, including a reasonable allowance for  
527 salaries or other compensation for personal services actually  
528 rendered; nonreimbursable traveling expenses incident to current  
529 employment, including a reasonable amount expended for meals and  
530 lodging while away from home in the pursuit of a trade or  
531 business; and rentals or other payments required to be made as a  
532 condition of the continued use or possession, for purposes of the  
533 trade or business of property to which the taxpayer has not taken

534 or is not taking title or in which he had no equity. Expense  
535 incurred in connection with earning and distributing nontaxable  
536 income is not an allowable deduction. Limitations on  
537 entertainment expenses shall conform to the provisions of the  
538 Internal Revenue Code of 1986. There shall also be allowed a  
539 deduction for expenses as provided in Section 26 of Senate Bill  
540 No. 2095, 2022 Regular Session.

541 (b) **Interest.** All interest paid or accrued during the  
542 taxable year on business indebtedness, except interest upon the  
543 indebtedness for the purchase of tax-free bonds, or any stocks,  
544 the dividends from which are nontaxable under the provisions of  
545 this article; provided, however, in the case of securities  
546 dealers, interest payments or accruals on loans, the proceeds of  
547 which are used to purchase tax-exempt securities, shall be  
548 deductible if income from otherwise tax-free securities is  
549 reported as income. Investment interest expense shall be limited  
550 to investment income. Interest expense incurred for the purchase  
551 of treasury stock, to pay dividends, or incurred as a result of an  
552 undercapitalized affiliated corporation may not be deducted unless  
553 an ordinary and necessary business purpose can be established to  
554 the satisfaction of the commissioner. For the purposes of this  
555 paragraph, the phrase "interest upon the indebtedness for the  
556 purchase of tax-free bonds" applies only to the indebtedness  
557 incurred for the purpose of directly purchasing tax-free bonds and  
558 does not apply to any other indebtedness incurred in the regular  
559 course of the taxpayer's business. Any corporation, association,

560 organization or other entity taxable under Section 27-7-23(c)  
561 shall allocate interest expense as provided in Section  
562 27-7-23(c) (3) (I).

563           (c) **Taxes.** Taxes paid or accrued within the taxable  
564 year, except state and federal income taxes, excise taxes based on  
565 or measured by net income, estate and inheritance taxes, gift  
566 taxes, cigar and cigarette taxes, gasoline taxes, and sales and  
567 use taxes unless incurred as an item of expense in a trade or  
568 business or in the production of taxable income. In the case of  
569 an individual, taxes permitted as an itemized deduction under the  
570 provisions of subsection (3) (a) of this section are to be claimed  
571 thereunder.

572           (d) **Business losses.**

573                 (i) Losses sustained during the taxable year not  
574 compensated for by insurance or otherwise, if incurred in trade or  
575 business, or nonbusiness transactions entered into for profit.

576                 (ii) Limitations on losses from passive activities  
577 and rental real estate shall conform to the provisions of the  
578 Internal Revenue Code of 1986.

579           (e) **Bad debts.** Losses from debts ascertained to be  
580 worthless and charged off during the taxable year, if sustained in  
581 the conduct of the regular trade or business of the taxpayer;  
582 provided, that such losses shall be allowed only when the taxpayer  
583 has reported as income, on the accrual basis, the amount of such  
584 debt or account.

585           (f) **Depreciation.** A reasonable allowance for  
586 exhaustion, wear and tear of property used in the trade or  
587 business, or rental property, and depreciation upon buildings  
588 based upon their reasonable value as of March 16, 1912, if  
589 acquired prior thereto, and upon cost if acquired subsequent to  
590 that date. In the case of new or used aircraft, equipment,  
591 engines, or other parts and tools used for aviation, allowance for  
592 bonus depreciation conforms with the federal bonus depreciation  
593 rates and reasonable allowance for depreciation under this section  
594 is no less than one hundred percent (100%).

595           (g) **Depletion.** In the case of mines, oil and gas  
596 wells, other natural deposits and timber, a reasonable allowance  
597 for depletion and for depreciation of improvements, based upon  
598 cost, including cost of development, not otherwise deducted, or  
599 fair market value as of March 16, 1912, if acquired prior to that  
600 date, such allowance to be made upon regulations prescribed by the  
601 commissioner, with the approval of the Governor.

602           (h) **Contributions or gifts.** Except as otherwise  
603 provided in paragraph (p) of this subsection or subsection (3)(a)  
604 of this section for individuals, contributions or gifts made by  
605 corporations within the taxable year to corporations,  
606 organizations, associations or institutions, including Community  
607 Chest funds, foundations and trusts created solely and exclusively  
608 for religious, charitable, scientific or educational purposes, or  
609 for the prevention of cruelty to children or animals, no part of  
610 the net earnings of which inure to the benefit of any private

611 stockholder or individual. This deduction shall be allowed in an  
612 amount not to exceed twenty percent (20%) of the net income. Such  
613 contributions or gifts shall be allowable as deductions only if  
614 verified under rules and regulations prescribed by the  
615 commissioner, with the approval of the Governor. Contributions  
616 made in any form other than cash shall be allowed as a deduction,  
617 subject to the limitations herein provided, in an amount equal to  
618 the actual market value of the contributions at the time the  
619 contribution is actually made and consummated.

620 (i) **Reserve funds - insurance companies.** In the case  
621 of insurance companies the net additions required by law to be  
622 made within the taxable year to reserve funds when such reserve  
623 funds are maintained for the purpose of liquidating policies at  
624 maturity.

625 (j) **Annuity income.** The sums, other than dividends,  
626 paid within the taxpayer year on policy or annuity contracts when  
627 such income has been included in gross income.

628 (k) **Contributions to employee pension plans.**  
629 Contributions made by an employer to a plan or a trust forming  
630 part of a pension plan, stock bonus plan, disability or  
631 death-benefit plan, or profit-sharing plan of such employer for  
632 the exclusive benefit of some or all of his, their, or its  
633 employees, or their beneficiaries, shall be deductible from his,  
634 their, or its income only to the extent that, and for the taxable  
635 year in which, the contribution is deductible for federal income  
636 tax purposes under the Internal Revenue Code of 1986 and any other



637 provisions of similar purport in the Internal Revenue Laws of the  
638 United States, and the rules, regulations, rulings and  
639 determinations promulgated thereunder, provided that:

640 (i) The plan or trust be irrevocable.

641 (ii) The plan or trust constitute a part of a  
642 pension plan, stock bonus plan, disability or death-benefit plan,  
643 or profit-sharing plan for the exclusive benefit of some or all of  
644 the employer's employees and/or officers, or their beneficiaries,  
645 for the purpose of distributing the corpus and income of the plan  
646 or trust to such employees and/or officers, or their  
647 beneficiaries.

648 (iii) No part of the corpus or income of the plan  
649 or trust can be used for purposes other than for the exclusive  
650 benefit of employees and/or officers, or their beneficiaries.

651 Contributions to all plans or to all trusts of real or  
652 personal property (or real and personal property combined) or to  
653 insured plans created under a retirement plan for which provision  
654 has been made under the laws of the United States of America,  
655 making such contributions deductible from income for federal  
656 income tax purposes, shall be deductible only to the same extent  
657 under the Income Tax Laws of the State of Mississippi.

658 (1) **Net operating loss carrybacks and carryovers.** A  
659 net operating loss for any taxable year ending after December 31,  
660 1993, and taxable years thereafter, shall be a net operating loss  
661 carryback to each of the three (3) taxable years preceding the  
662 taxable year of the loss. If the net operating loss for any

663 taxable year is not exhausted by carrybacks to the three (3)  
664 taxable years preceding the taxable year of the loss, then there  
665 shall be a net operating loss carryover to each of the fifteen  
666 (15) taxable years following the taxable year of the loss  
667 beginning with any taxable year after December 31, 1991.

668 For any taxable year ending after December 31, 1997, the  
669 period for net operating loss carrybacks and net operating loss  
670 carryovers shall be the same as those established by the Internal  
671 Revenue Code and the rules, regulations, rulings and  
672 determinations promulgated thereunder as in effect at the taxable  
673 year end or on December 31, 2000, whichever is earlier.

674 A net operating loss for any taxable year ending after  
675 December 31, 2001, and taxable years thereafter, shall be a net  
676 operating loss carryback to each of the two (2) taxable years  
677 preceding the taxable year of the loss. If the net operating loss  
678 for any taxable year is not exhausted by carrybacks to the two (2)  
679 taxable years preceding the taxable year of the loss, then there  
680 shall be a net operating loss carryover to each of the twenty (20)  
681 taxable years following the taxable year of the loss beginning  
682 with any taxable year after the taxable year of the loss.

683 The term "net operating loss," for the purposes of this  
684 paragraph, shall be the excess of the deductions allowed over the  
685 gross income; provided, however, the following deductions shall  
686 not be allowed in computing same:

687 (i) No net operating loss deduction shall be  
688 allowed.

689 (ii) No personal exemption deduction shall be  
690 allowed.

691 (iii) Allowable deductions which are not  
692 attributable to taxpayer's trade or business shall be allowed only  
693 to the extent of the amount of gross income not derived from such  
694 trade or business.

695 Any taxpayer entitled to a carryback period as provided by  
696 this paragraph may elect to relinquish the entire carryback period  
697 with respect to a net operating loss for any taxable year ending  
698 after December 31, 1991. The election shall be made in the manner  
699 prescribed by the Department of Revenue and shall be made by the  
700 due date, including extensions of time, for filing the taxpayer's  
701 return for the taxable year of the net operating loss for which  
702 the election is to be in effect. The election, once made for any  
703 taxable year, shall be irrevocable for that taxable year.

704 (m) **Amortization of pollution or environmental control**  
705 **facilities.** Allowance of deduction. Every taxpayer, at his  
706 election, shall be entitled to a deduction for pollution or  
707 environmental control facilities to the same extent as that  
708 allowed under the Internal Revenue Code and the rules,  
709 regulations, rulings and determinations promulgated thereunder.

710 (n) **Dividend distributions - real estate investment**  
711 **trusts.** "Real estate investment trust" (hereinafter referred to  
712 as REIT) shall have the meaning ascribed to such term in Section  
713 856 of the federal Internal Revenue Code of 1986, as amended. A  
714 REIT is allowed a dividend distributed deduction if the dividend

715 distributions meet the requirements of Section 857 or are  
716 otherwise deductible under Section 858 or 860, federal Internal  
717 Revenue Code of 1986, as amended. In addition:

718 (i) A dividend distributed deduction shall only be  
719 allowed for dividends paid by a publicly traded REIT. A qualified  
720 REIT subsidiary shall be allowed a dividend distributed deduction  
721 if its owner is a publicly traded REIT.

722 (ii) Income generated from real estate contributed  
723 or sold to a REIT by a shareholder or related party shall not give  
724 rise to a dividend distributed deduction, unless the shareholder  
725 or related party would have received the dividend distributed  
726 deduction under this chapter.

727 (iii) A holding corporation receiving a dividend  
728 from a REIT shall not be allowed the deduction in Section  
729 27-7-15(4)(t).

730 (iv) Any REIT not allowed the dividend distributed  
731 deduction in the federal Internal Revenue Code of 1986, as  
732 amended, shall not be allowed a dividend distributed deduction  
733 under this chapter.

734 The commissioner is authorized to promulgate rules and  
735 regulations consistent with the provisions in Section 269 of the  
736 federal Internal Revenue Code of 1986, as amended, so as to  
737 prevent the evasion or avoidance of state income tax.

738 (o) **Contributions to college savings trust fund**  
739 **accounts.** Contributions or payments to a Mississippi Affordable  
740 College Savings Program account are deductible as provided under

741 Section 37-155-113. Payments made under a prepaid tuition  
742 contract entered into under the Mississippi Prepaid Affordable  
743 College Tuition Program are deductible as provided under Section  
744 37-155-17.

745 (p) **Contributions of human pharmaceutical products.** To  
746 the extent that a "major supplier" as defined in Section  
747 27-13-13(2) (d) contributes human pharmaceutical products in excess  
748 of Two Hundred Fifty Million Dollars (\$250,000,000.00) as  
749 determined under Section 170 of the Internal Revenue Code, the  
750 charitable contribution limitation associated with those donations  
751 shall follow the federal limitation but cannot result in the  
752 Mississippi net income being reduced below zero.

753 (q) **Contributions to ABLE trust fund accounts.**  
754 Contributions or payments to a Mississippi Achieving a Better Life  
755 Experience (ABLE) Program account are deductible as provided under  
756 Section 43-28-13.

757 (2) **Restrictions on the deductibility of certain intangible  
758 expenses and interest expenses with a related member.**

759 (a) As used in this subsection (2):

760 (i) "Intangible expenses and costs" include:

761 1. Expenses, losses and costs for, related  
762 to, or in connection directly or indirectly with the direct or  
763 indirect acquisition, use, maintenance or management, ownership,  
764 sale, exchange or any other disposition of intangible property to  
765 the extent such amounts are allowed as deductions or costs in  
766 determining taxable income under this chapter;

767                   2. Expenses or losses related to or incurred  
768 in connection directly or indirectly with factoring transactions  
769 or discounting transactions;

770                   3. Royalty, patent, technical and copyright  
771 fees;

772                   4. Licensing fees; and

773                   5. Other similar expenses and costs.

774                   (ii) "Intangible property" means patents, patent  
775 applications, trade names, trademarks, service marks, copyrights  
776 and similar types of intangible assets.

777                   (iii) "Interest expenses and cost" means amounts  
778 directly or indirectly allowed as deductions for purposes of  
779 determining taxable income under this chapter to the extent such  
780 interest expenses and costs are directly or indirectly for,  
781 related to, or in connection with the direct or indirect  
782 acquisition, maintenance, management, ownership, sale, exchange or  
783 disposition of intangible property.

784                   (iv) "Related member" means an entity or person  
785 that, with respect to the taxpayer during all or any portion of  
786 the taxable year, is a related entity, a component member as  
787 defined in the Internal Revenue Code, or is an entity or a person  
788 to or from whom there is attribution of stock ownership in  
789 accordance with Section 1563(e) of the Internal Revenue Code.

790                   (v) "Related entity" means:

791                   1. A stockholder who is an individual or a  
792 member of the stockholder's family, as defined in regulations

793 prescribed by the commissioner, if the stockholder and the members  
794 of the stockholder's family own, directly, indirectly,  
795 beneficially or constructively, in the aggregate, at least fifty  
796 percent (50%) of the value of the taxpayer's outstanding stock;

797           2. A stockholder, or a stockholder's  
798 partnership, limited liability company, estate, trust or  
799 corporation, if the stockholder and the stockholder's  
800 partnerships, limited liability companies, estates, trusts and  
801 corporations own, directly, indirectly, beneficially or  
802 constructively, in the aggregate, at least fifty percent (50%) of  
803 the value of the taxpayer's outstanding stock;

804           3. A corporation, or a party related to the  
805 corporation in a manner that would require an attribution of stock  
806 from the corporation to the party or from the party to the  
807 corporation, if the taxpayer owns, directly, indirectly,  
808 beneficially or constructively, at least fifty percent (50%) of  
809 the value of the corporation's outstanding stock under regulation  
810 prescribed by the commissioner;

811           4. Any entity or person which would be a  
812 related member under this section if the taxpayer were considered  
813 a corporation for purposes of this section.

814           (b) In computing net income, a taxpayer shall add back  
815 otherwise deductible interest expenses and costs and intangible  
816 expenses and costs directly or indirectly paid, accrued to or  
817 incurred, in connection directly or indirectly with one or more  
818 direct or indirect transactions with one or more related members.

819 (c) The adjustments required by this subsection shall  
820 not apply to such portion of interest expenses and costs and  
821 intangible expenses and costs that the taxpayer can establish  
822 meets one (1) of the following:

823 (i) The related member directly or indirectly  
824 paid, accrued or incurred such portion to a person during the same  
825 income year who is not a related member; or

826 (ii) The transaction giving rise to the interest  
827 expenses and costs or intangible expenses and costs between the  
828 taxpayer and related member was done primarily for a valid  
829 business purpose other than the avoidance of taxes, and the  
830 related member is not primarily engaged in the acquisition, use,  
831 maintenance or management, ownership, sale, exchange or any other  
832 disposition of intangible property.

833 (d) Nothing in this subsection shall require a taxpayer  
834 to add to its net income more than once any amount of interest  
835 expenses and costs or intangible expenses and costs that the  
836 taxpayer pays, accrues or incurs to a related member.

837 (e) The commissioner may prescribe such regulations as  
838 necessary or appropriate to carry out the purposes of this  
839 subsection, including, but not limited to, clarifying definitions  
840 of terms, rules of stock attribution, factoring and discount  
841 transactions.

842 (3) **Individual nonbusiness deductions.**

843 (a) The amount allowable for individual nonbusiness  
844 itemized deductions for federal income tax purposes where the



845 individual is eligible to elect, for the taxable year, to itemize  
846 deductions on his federal return except the following:

847 (i) The deduction for state income taxes paid or  
848 other taxes allowed for federal purposes in lieu of state income  
849 taxes paid;

850 (ii) The deduction for gaming losses from gaming  
851 establishments;

852 (iii) The deduction for taxes collected by  
853 licensed gaming establishments pursuant to Section 27-7-901;

854 (iv) The deduction for taxes collected by gaming  
855 establishments pursuant to Section 27-7-903.

856 (b) In lieu of the individual nonbusiness itemized  
857 deductions authorized in paragraph (a), for all purposes other  
858 than ordinary and necessary expenses paid or incurred during the  
859 taxable year in carrying on any trade or business, an optional  
860 standard deduction of:

861 (i) Three Thousand Four Hundred Dollars  
862 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred  
863 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand  
864 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter  
865 in the case of married individuals filing a joint or combined  
866 return;

867 (ii) One Thousand Seven Hundred Dollars  
868 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred  
869 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand  
870 Three Hundred Dollars (\$2,300.00) for each calendar year

871 thereafter in the case of married individuals filing separate  
872 returns;

873 (iii) Three Thousand Four Hundred Dollars  
874 (\$3,400.00) in the case of a head of family; or  
875 (iv) Two Thousand Three Hundred Dollars  
876 (\$2,300.00) in the case of an individual who is not married.

877 In the case of a husband and wife living together, having  
878 separate incomes, and filing combined returns, the standard  
879 deduction authorized may be divided in any manner they choose. In  
880 the case of separate returns by a husband and wife, the standard  
881 deduction shall not be allowed to either if the taxable income of  
882 one of the spouses is determined without regard to the standard  
883 deduction.

884 (c) A nonresident individual shall be allowed the same  
885 individual nonbusiness deductions as are authorized for resident  
886 individuals in paragraph (a) or (b) of this subsection; however,  
887 the nonresident individual is entitled only to that proportion of  
888 the individual nonbusiness deductions as his net income from  
889 sources within the State of Mississippi bears to his total or  
890 entire net income from all sources.

891 (4) Nothing in this section shall permit the same item to be  
892 deducted more than once, either in fact or in effect.

893 (5) Notwithstanding any other provision in Title 27,  
894 Mississippi Code of 1972, there shall be allowed an income tax  
895 deduction for otherwise deductible expenses if:

896           (a) The payment(s) for such deductible expenses are  
897 made with the grant or loan program of the Paycheck Protection  
898 Program as authorized under the (i) Coronavirus Aid, Relief, and  
899 Economic Security (CARES) Act and the Consolidated Appropriations  
900 Act of 2021, (ii) the COVID-19 Economic Injury Disaster Loan  
901 Program, (iii) the 2020 COVID-19 Mississippi Business Assistance  
902 Act, (iv) the Rental Assistance Grant Program, (v) the Shuttered  
903 Venue Operators Grant Program and Restaurant Revitalization Fund  
904 authorized by the Economic Aid to Hard-Hit Small Businesses,  
905 Nonprofits, and Venues Act, and amended by the federal American  
906 Rescue Plan Act, and/or (vi) the Mississippi Agriculture  
907 Stabilization Act; and

908           (b) Such deductible expenses shall be allowed as  
909 deductions for federal income tax purposes.

910           **SECTION 4.** Section 27-31-104, Mississippi Code of 1972, as  
911 amended by Senate Bill No. 2095, 2022 Regular Session, is amended  
912 as follows:

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

915           27-31-104. (1) (a) County boards of supervisors and  
916 municipal authorities are each hereby authorized and empowered to  
917 enter into an agreement with an enterprise granting, and pursuant  
918 to such agreement grant a fee-in-lieu of ad valorem taxes,  
919 including ad valorem taxes levied for school purposes, for the  
920 following:

921 (i) Projects totaling over Sixty Million Dollars  
922 (\$60,000,000.00) by any new enterprises enumerated in Section  
923 27-31-101;

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

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

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

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

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

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

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

971 (2) A county board of supervisors may enter into a  
972 fee-in-lieu agreement on behalf of the county and any county

973 school district, and a municipality may enter into such a  
974 fee-in-lieu agreement on behalf of the municipality and any  
975 municipal school district located in the municipality; however, if  
976 the project is located outside the limits of a municipality but  
977 within the boundaries of the municipal school district, then the  
978 county board of supervisors may enter into such a fee-in-lieu  
979 agreement on behalf of the school district granting a fee-in-lieu  
980 of ad valorem taxes for school district purposes.

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

987 (4) The minimum sum allowable as a fee-in-lieu shall not be  
988 less than one-third (1/3), or one-tenth (1/10) if the project is  
989 also a project as defined in Section 27-31-46, of the ad valorem  
990 levy, including ad valorem taxes for school district purposes, and  
991 except as otherwise provided, the sum allowed shall be apportioned  
992 between the county or municipality, as appropriate, and the school  
993 districts in such amounts as may be determined by the county board  
994 of supervisors or municipal governing authority, as the case may  
995 be, however, except as otherwise provided in this section, from  
996 the sum allowed the apportionment to school districts shall not be  
997 less than the school districts' pro rata share based upon the  
998 proportion that the millage imposed for the school districts by

999 the appropriate levying authority bears to the millage imposed by  
1000 such levying authority for all other county or municipal purposes.  
1001 Any fee-in-lieu agreement entered into under this section shall  
1002 become a binding obligation of the parties to the agreement, be  
1003 effective upon its execution by the parties and approval by the  
1004 Mississippi Development Authority and, except as otherwise  
1005 provided in Section 17-25-23 or Section 57-75-33, or any other  
1006 provision of law, continue in effect for a period not to exceed  
1007 thirty (30) years commencing on the date that the fee-in-lieu  
1008 granted thereunder begins in accordance with the agreement;  
1009 however, no particular parcel of land, real property improvement  
1010 or item of personal property shall be subject to a fee-in-lieu for  
1011 a duration of more than ten (10) years. Any such agreement shall  
1012 be binding, according to its terms, on future boards of  
1013 supervisors of the county and/or governing authorities of a  
1014 municipality, as the case may be, for the duration of the  
1015 agreement.

1016 (5) The fee-in-lieu may be a stated fraction or percentage  
1017 of the ad valorem taxes otherwise payable or a stated dollar  
1018 amount. If the fee is a fraction or percentage of the ad valorem  
1019 tax levy, it shall be annually computed on all ad valorem taxes  
1020 otherwise payable, including school taxes, as the same may vary  
1021 from year to year based upon changes in the millage rate or  
1022 assessed value and shall not be less than one-third (1/3) of that  
1023 amount or one-tenth (1/10) of that amount if the project is also a  
1024 project as defined in Section 27-31-46. If the fee is a stated

1025 dollar amount, said amount shall be the higher of the sum provided  
1026 for fixed payment or (a) one-third (1/3) of the total of all ad  
1027 valorem taxes otherwise payable as annually determined during each  
1028 year of the fee-in-lieu or (b) if the project is also a project as  
1029 defined in Section 27-31-46, one-tenth (1/10) of the total of all  
1030 ad valorem taxes otherwise payable as annually determined during  
1031 each year of the fee-in-lieu.

1032 (6) Notwithstanding Section 27-31-111, the parties to a  
1033 fee-in-lieu may agree on terms and conditions providing for the  
1034 reduction, suspension, termination or reinstatement of a  
1035 fee-in-lieu agreement or any fee-in-lieu period granted thereunder  
1036 upon the cessation of operations by project for twelve (12) or  
1037 more consecutive months or due to other conditions set forth in  
1038 the agreement.

1039 (7) For a project as defined in Section 57-75-5(f)(xxi) and  
1040 located in a county that is a member of a regional economic  
1041 development alliance created under Section 57-64-1 et seq., the  
1042 members of the regional economic development alliance may divide  
1043 the sum allowed as a fee-in-lieu in a manner as determined by the  
1044 alliance agreement, and the boards of supervisors of the member  
1045 counties may then apportion the sum allowed between school  
1046 district purposes and all other county purposes.

1047 (8) For a project as defined in Section 57-75-5(f)(xxvi),  
1048 the board of supervisors of the county in which the project is  
1049 located may negotiate with the school district in which the  
1050 project is located and apportion to the school district an amount



1051 of the fee-in-lieu that is agreed upon in the negotiations  
1052 different than the amount provided for in subsection (3) of this  
1053 section.

1054 (9) For a project as defined in Section 57-75-5(f)(xxviii),  
1055 the annual amount of the fee-in-lieu apportioned to the county  
1056 shall not be less than the amount necessary to pay the debt  
1057 service on bonds issued by the county pursuant to Section  
1058 57-75-37(3)(c).

1059 (10) Any fee-in-lieu of ad valorem taxes granted under this  
1060 section before March 28, 2019, and consistent herewith, is hereby  
1061 ratified, approved and confirmed.

1062 **[From and after July 1, \* \* \* 2025, this section shall read**  
1063 **as follows:]**

1064 27-31-104. (1) (a) County boards of supervisors and  
1065 municipal authorities are each hereby authorized and empowered to  
1066 enter into an agreement with an enterprise granting, and pursuant  
1067 to such agreement grant a fee-in-lieu of ad valorem taxes,  
1068 including ad valorem taxes levied for school purposes, for the  
1069 following:

1070 (i) Projects totaling over Sixty Million Dollars  
1071 (\$60,000,000.00) by any new enterprises enumerated in Section  
1072 27-31-101;

1073 (ii) Projects by a private company (as such term  
1074 is defined in Section 57-61-5, Mississippi Code of 1972) having a  
1075 minimum capital investment of Sixty Million Dollars  
1076 (\$60,000,000.00);

1077 (iii) Projects, in addition to those projects  
1078 referenced in Section 27-31-105, totaling over Sixty Million  
1079 Dollars (\$60,000,000.00) by an existing enterprise that has been  
1080 doing business in the county or municipality for twenty-four (24)  
1081 months. For purposes of this subparagraph (iii), the term  
1082 "existing enterprise" includes those enterprises enumerated in  
1083 Section 27-31-101; or

1084 (iv) A private company (as such term is defined in  
1085 Section 57-61-5) having a minimum capital investment of One  
1086 Hundred Million Dollars (\$100,000,000.00) from any source or  
1087 combination of sources, provided that a majority of the capital  
1088 investment is from private sources, when such project is located  
1089 within a geographic area for which a Presidential Disaster  
1090 Declaration was issued on or after January 1, 2014.

1091 County boards of supervisors and municipal authorities may  
1092 not enter into an agreement with an enterprise that is a medical  
1093 cannabis establishment, as defined in the Mississippi Medical  
1094 Cannabis Act, granting, and pursuant to such agreement grant a  
1095 fee-in-lieu of ad valorem taxes.

1096 (b) A fee-in-lieu of ad valorem taxes granted in  
1097 accordance with this section may include any or all tangible  
1098 property, real or personal, including any leasehold interests  
1099 therein but excluding automobiles and trucks operating on and over  
1100 the highways of the State of Mississippi, used in connection with,  
1101 or necessary to, the operation of any enterprise, private company  
1102 or business described in paragraph (a) of this subsection (1), as

1103 applicable, whether or not such property is owned, leased,  
1104 subleased, licensed or otherwise obtained by such enterprise,  
1105 private company or business, as applicable, irrespective of the  
1106 taxpayer to which any such leased property is assessed for ad  
1107 valorem tax purposes. If a fee-in-lieu of ad valorem taxes is  
1108 granted pursuant to this section with respect to any leasehold  
1109 interest under a lease, sublease or license of tangible property  
1110 used in connection with, or necessary to, the operation of an  
1111 enterprise, private company or business described in paragraph (a)  
1112 of this subsection (1), as applicable, the corresponding ownership  
1113 interest of the owner, lessor and sublessor of such tangible  
1114 property shall similarly and automatically be exempt and subject  
1115 to the fee-in-lieu granted in accordance herewith without any  
1116 action being required to be taken by such owner, lessor or  
1117 sublessor.

1118 (2) A county board of supervisors may enter into a  
1119 fee-in-lieu agreement on behalf of the county and any county  
1120 school district, and a municipality may enter into such a  
1121 fee-in-lieu agreement on behalf of the municipality and any  
1122 municipal school district located in the municipality; however, if  
1123 the project is located outside the limits of a municipality but  
1124 within the boundaries of the municipal school district, then the  
1125 county board of supervisors may enter into such a fee-in-lieu  
1126 agreement on behalf of the school district granting a fee-in-lieu  
1127 of ad valorem taxes for school district purposes.

1128           (3) Any grant of a fee-in-lieu of ad valorem taxes shall be  
1129 evidenced by a written agreement negotiated by the enterprise and  
1130 the county board of supervisors and/or municipal authority, as the  
1131 case may be, and given final approval by the Mississippi  
1132 Development Authority as satisfying the requirements of this  
1133 section.

1134           (4) The minimum sum allowable as a fee-in-lieu shall not be  
1135 less than one-third (1/3), or one-tenth (1/10) if the project is  
1136 also a project as defined in Section 27-31-46, of the ad valorem  
1137 levy, including ad valorem taxes for school district purposes, and  
1138 except as otherwise provided, the sum allowed shall be apportioned  
1139 between the county or municipality, as appropriate, and the school  
1140 districts in such amounts as may be determined by the county board  
1141 of supervisors or municipal governing authority, as the case may  
1142 be, however, except as otherwise provided in this section, from  
1143 the sum allowed the apportionment to school districts shall not be  
1144 less than the school districts' pro rata share based upon the  
1145 proportion that the millage imposed for the school districts by  
1146 the appropriate levying authority bears to the millage imposed by  
1147 such levying authority for all other county or municipal purposes.  
1148 Any fee-in-lieu agreement entered into under this section shall  
1149 become a binding obligation of the parties to the agreement, be  
1150 effective upon its execution by the parties and approval by the  
1151 Mississippi Development Authority and, except as otherwise  
1152 provided in Section 17-25-23 or Section 57-75-33, or any other  
1153 provision of law, continue in effect for a period not to exceed

1154 thirty (30) years commencing on the date that the fee-in-lieu  
1155 granted thereunder begins in accordance with the agreement;  
1156 however, no particular parcel of land, real property improvement  
1157 or item of personal property shall be subject to a fee-in-lieu for  
1158 a duration of more than ten (10) years. Any such agreement shall  
1159 be binding, according to its terms, on future boards of  
1160 supervisors of the county and/or governing authorities of a  
1161 municipality, as the case may be, for the duration of the  
1162 agreement.

1163 (5) The fee-in-lieu may be a stated fraction or percentage  
1164 of the ad valorem taxes otherwise payable or a stated dollar  
1165 amount. If the fee is a fraction or percentage of the ad valorem  
1166 tax levy, it shall be annually computed on all ad valorem taxes  
1167 otherwise payable, including school taxes, as the same may vary  
1168 from year to year based upon changes in the millage rate or  
1169 assessed value and shall not be less than one-third (1/3) of that  
1170 amount or one-tenth (1/10) of that amount if the project is also a  
1171 project as defined in Section 27-31-46. If the fee is a stated  
1172 dollar amount, said amount shall be the higher of the sum provided  
1173 for fixed payment or (a) one-third (1/3) of the total of all ad  
1174 valorem taxes otherwise payable as annually determined during each  
1175 year of the fee-in-lieu or (b) if the project is also a project as  
1176 defined in Section 27-31-46, one-tenth (1/10) of the total of all  
1177 ad valorem taxes otherwise payable as annually determined during  
1178 each year of the fee-in-lieu.

1179           (6) Notwithstanding Section 27-31-111, the parties to a  
1180 fee-in-lieu may agree on terms and conditions providing for the  
1181 reduction, suspension, termination or reinstatement of a  
1182 fee-in-lieu agreement or any fee-in-lieu period granted thereunder  
1183 upon the cessation of operations by project for twelve (12) or  
1184 more consecutive months or due to other conditions set forth in  
1185 the agreement.

1186           (7) For a project as defined in Section 57-75-5(f)(xxi) and  
1187 located in a county that is a member of a regional economic  
1188 development alliance created under Section 57-64-1 et seq., the  
1189 members of the regional economic development alliance may divide  
1190 the sum allowed as a fee-in-lieu in a manner as determined by the  
1191 alliance agreement, and the boards of supervisors of the member  
1192 counties may then apportion the sum allowed between school  
1193 district purposes and all other county purposes.

1194           (8) For a project as defined in Section 57-75-5(f)(xxvi),  
1195 the board of supervisors of the county in which the project is  
1196 located may negotiate with the school district in which the  
1197 project is located and apportion to the school district an amount  
1198 of the fee-in-lieu that is agreed upon in the negotiations  
1199 different than the amount provided for in subsection (3) of this  
1200 section.

1201           (9) For a project as defined in Section 57-75-5(f)(xxviii),  
1202 the annual amount of the fee-in-lieu apportioned to the county  
1203 shall not be less than the amount necessary to pay the annual debt

1204 service on bonds issued by the county pursuant to Section  
1205 57-75-37(3) (c) .

1206 (10) Any fee-in-lieu of ad valorem taxes granted under this  
1207 section before March 28, 2019, and consistent herewith, is hereby  
1208 ratified, approved and confirmed.

1209 **SECTION 5.** A project as defined in Section 27-31-46, for  
1210 which initial construction begins on or after July 1, 2022, but  
1211 not later than December 31, 2024, shall be allowed an exemption  
1212 from ad valorem taxation as provided in this section. For such a  
1213 project, one-half (1/2) of that true value of property of the  
1214 project that is subject to a fee-in-lieu of ad valorem taxes  
1215 pursuant to an agreement under Section 27-31-104 shall be exempt  
1216 from ad valorem taxation for a period of ten (10) years from and  
1217 after the date of the expiration of such fee-in-lieu of ad valorem  
1218 taxes.

1219 **SECTION 6.** Sections 1 and 2 of this act shall be codified as  
1220 new sections in Chapter 7, Title 27, Mississippi Code of 1972.  
1221 Section 5 of this act shall be codified as a new section in  
1222 Chapter 31, Title 27, Mississippi Code of 1972.

1223 **SECTION 7.** Nothing in this act shall affect or defeat any  
1224 claim, assessment, appeal, suit, right or cause of action for  
1225 taxes due or accrued under the income tax laws or ad valorem tax  
1226 laws before the date on which this act becomes effective, whether  
1227 such claims, assessments, appeals, suits or actions have been  
1228 begun before the date on which this act becomes effective or are  
1229 begun thereafter; and the provisions of the income tax laws and ad

1230 valorem tax laws are expressly continued in full force, effect and  
1231 operation for the purpose of the assessment, collection and  
1232 enrollment of liens for any taxes due or accrued and the execution  
1233 of any warrant under such laws before the date on which this act  
1234 becomes effective, and for the imposition of any penalties,  
1235 forfeitures or claims for failure to comply with such laws.

1236 **SECTION 8.** Section 3 of this act shall take effect and be in  
1237 force from and after January 1, 2020, Sections 4 and 5 of this act  
1238 shall take effect and be in force from and after July 1, 2022, and  
1239 the remaining sections of this act shall take effect and be in  
1240 force from and after January 1, 2022.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1 AN ACT TO AUTHORIZE AN INCOME TAX CREDIT FOR CERTAIN RAILROAD  
2 RECONSTRUCTION OR REPLACEMENT EXPENDITURES AND FOR CERTAIN NEW  
3 RAIL INFRASTRUCTURE EXPENDITURES MADE BY CLASS II AND CLASS III  
4 RAILROADS; TO DEFINE CERTAIN TERMS FOR THE PURPOSES OF THIS ACT;  
5 TO PROVIDE THE AMOUNT OF THE TAX CREDIT; TO PROVIDE THAT ANY UNUSED  
6 PORTION OF THE TAX CREDIT MAY BE CARRIED FORWARD; TO PROVIDE THAT  
7 ANY UNUSED PORTION OF THE TAX CREDIT MAY BE TRANSFERRED TO ANOTHER  
8 TAXPAYER; TO AUTHORIZE AN INCOME TAX CREDIT FOR TAXPAYERS FOR  
9 BLOOD DONATIONS MADE BY EMPLOYEES OF A TAXPAYER DURING A BLOOD  
10 DRIVE; TO DEFINE CERTAIN TERMS; TO PROVIDE FOR THE AMOUNT OF THE  
11 TAX CREDIT; TO AMEND SECTION 27-7-17, MISSISSIPPI CODE OF 1972, AS  
12 AMENDED BY SENATE BILL NO. 2095, 2022 REGULAR SESSION, AND HOUSE  
13 BILL NO. 1529, 2022 REGULAR SESSION, TO CONFORM TO AMENDMENTS MADE  
14 TO THAT SECTION BY SENATE BILL NO. 2095, 2022 REGULAR SESSION, AND  
15 HOUSE BILL NO. 1529, 2022 REGULAR SESSION; TO AMEND SECTION  
16 27-31-104, MISSISSIPPI CODE OF 1972, AS AMENDED BY SENATE BILL NO.  
17 2095, 2022 REGULAR SESSION, WHICH AUTHORIZES COUNTY BOARDS OF  
18 SUPERVISORS AND MUNICIPAL GOVERNING AUTHORITIES TO ENTER INTO  
19 AGREEMENTS WITH CERTAIN ENTERPRISES GRANTING A FEE-IN-LIEU OF AD  
20 VALOREM TAXES, TO EXTEND THE REVERTER ON THE PROVISION OF LAW  
21 ALLOWING SUCH AGREEMENTS FOR PROJECTS TOTALING OVER  
22 \$100,000,000.00 BY QUALIFIED BUSINESSES, AS DEFINED IN THE  
23 MISSISSIPPI HEALTH CARE INDUSTRY ZONE ACT, MEETING MINIMUM  
24 CRITERIA ESTABLISHED BY THE MISSISSIPPI DEVELOPMENT AUTHORITY; TO



25 REVISE THE MINIMUM AMOUNT ALLOWABLE AS A FEE-IN-LIEU OF AD VALOREM  
26 TAXES FOR CERTAIN RENEWABLE ENERGY PROJECTS; TO AUTHORIZE A  
27 PARTIAL AD VALOREM TAX EXEMPTION FOR CERTAIN RENEWABLE ENERGY  
28 PROJECTS; AND FOR RELATED PURPOSES.

HR26\SB3163PH.J

Andrew Ketchings  
Clerk of the House of Representatives