

By: Senator(s) Parker

To: Finance; Economic and Workforce Development

SENATE BILL NO. 2159
(As Sent to Governor)

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 TAX 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 AMEND
47 SECTION 27-7-22, MISSISSIPPI CODE OF 1972, TO ALLOW AN INCOME TAX
48 CREDIT FOR ANY QUALIFIED BUSINESS OR INDUSTRY WHICH IS CERTIFIED
49 AS SUCH BY THE MISSISSIPPI BOARD OF ECONOMIC DEVELOPMENT UNDER THE
50 MISSISSIPPI FLEXIBLE TAX INCENTIVE ACT AND AWARDED A TAX INCENTIVE
51 UNDER THE ACT FOR A QUALIFIED ECONOMIC DEVELOPMENT PROJECT; TO
52 PROVIDE THAT FROM AND AFTER JANUARY 1, 2023, IF THE AMOUNT OF ANY
53 MFLEX TAX INCENTIVE OR OTHER INCENTIVE THAT A QUALIFIED BUSINESS
54 OR OTHER ENTITY IS ELIGIBLE TO RECEIVE UNDER THE MISSISSIPPI
55 FLEXIBLE TAX INCENTIVE ACT IS LESS THAN THE AMOUNT OF THE MFLEX
56 TAX INCENTIVE OR OTHER INCENTIVE THAT THE QUALIFIED BUSINESS OR
57 OTHER ENTITY WOULD HAVE BEEN ELIGIBLE TO RECEIVE OR TO USE IF THE
58 MFLEX TAX INCENTIVE OR OTHER INCENTIVE HAD BEEN CALCULATED USING
59 ANY APPLICABLE INCOME TAX RATES IN SECTION 27-7-5 THAT WERE IN
60 EFFECT BEFORE JANUARY 1, 2023, THEN THE QUALIFIED BUSINESS OR
61 OTHER ENTITY SHALL RECEIVE A GRANT FROM THE MISSISSIPPI
62 DEVELOPMENT AUTHORITY EQUAL TO THE DIFFERENCE BETWEEN SUCH TWO
63 AMOUNTS; TO AMEND SECTIONS 57-62-9 AND 57-62-11, MISSISSIPPI CODE
64 OF 1972, WHICH ARE SECTIONS OF THE MISSISSIPPI ADVANTAGE JOBS ACT;
65 TO PROVIDE THAT FROM AND AFTER JANUARY 1, 2023, IF THE AMOUNT OF
66 THE INCENTIVE PAYMENT THAT A QUALIFIED BUSINESS OR INDUSTRY IS
67 ELIGIBLE TO RECEIVE UNDER SUCH ACT IS LESS THAN THE AMOUNT THAT
68 THE INCENTIVE PAYMENT WOULD HAVE BEEN IF THE PAYMENT HAD BEEN
69 CALCULATED USING ANY APPLICABLE INCOME TAX RATES IN SECTION 27-7-5
70 THAT WERE IN EFFECT BEFORE JANUARY 1, 2023, THEN THE QUALIFIED
71 BUSINESS OR INDUSTRY ALSO SHALL RECEIVE A GRANT EQUAL TO THE
72 DIFFERENCE BETWEEN SUCH TWO AMOUNTS; TO AMEND SECTIONS 57-99-1,
73 57-99-3 AND 57-99-5, MISSISSIPPI CODE OF 1972, WHICH ARE SECTIONS
74 OF THE MISSISSIPPI MAJOR ECONOMIC IMPACT WITHHOLDING REBATE
75 INCENTIVE PROGRAM, TO PROVIDE THAT FROM AND AFTER JANUARY 1, 2023,
76 IF THE AMOUNT OF THE INCENTIVE PAYMENTS THAT A QUALIFIED BUSINESS
77 OR INDUSTRY IS ELIGIBLE TO RECEIVE UNDER SUCH PROGRAM IS LESS THAN
78 THE AMOUNT THAT THE INCENTIVE PAYMENTS WOULD HAVE BEEN IF THE
79 PAYMENTS HAD BEEN CALCULATED USING ANY APPLICABLE INCOME TAX RATES
80 IN SECTION 27-7-5 THAT WERE IN EFFECT BEFORE JANUARY 1, 2023, THEN
81 THE QUALIFIED BUSINESS OR INDUSTRY ALSO SHALL RECEIVE A GRANT
82 EQUAL TO THE DIFFERENCE BETWEEN SUCH TWO AMOUNTS; AND FOR RELATED
83 PURPOSES.

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



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

88 **SECTION 2.** **Definitions.** For purposes of Sections 1 through
89 10 of this act, the following words shall have the meanings
90 ascribed herein unless the context otherwise requires:

91 (a) "Affiliate" means, with respect to a specified
92 entity, (i) another person or entity that directly or indirectly,
93 through one or more intermediaries, controls or is controlled by
94 or is under common control with the specified person or entity,
95 where the term "control" means the ownership or possession,
96 directly or indirectly, of the power to direct more than fifty
97 percent (50%) of the voting equity securities or a similar
98 ownership interest in the specified controlled entity, or (ii) any
99 member of an affiliated group of corporations, of which the
100 specified entity is also a member, which are each subject to
101 income taxation in Mississippi and may elect to file a combined
102 Mississippi income tax return in accordance with state law.

103 (b) "Authority" means the Mississippi Development
104 Authority.

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

107 (d) "Applicable accounting rules" shall mean the
108 accounting principles generally recognized as applicable to a
109 qualified business or industry and pursuant to which such



110 qualified business or industry regularly prepares and maintains
111 its financial and accounting books and records, and which
112 specifically incorporate Generally Accepted Accounting Principles
113 or International Financial Reporting Standards, as appropriate.

114 (e) "Applicant" means any corporation, limited
115 liability company, partnership, person or sole proprietorship,
116 business trust or other legal entity and subunit or affiliate
117 thereof that applies to the authority, in the manner prescribed by
118 Sections 1 through 10 of this act, seeking (i) certification by
119 the authority that such applicant is a qualified business or
120 industry and that its proposed new project or expansion of an
121 existing business or industrial operation is a qualified economic
122 development project, and (ii) an award in connection therewith of
123 an mFlex tax incentive.

124 (f) "Average state or county wage" shall mean, as of
125 the project certification date, the lesser of the most recently
126 published average annual wage per person as determined and
127 published by the Mississippi Department of Employment Security for
128 the state or the county in which the qualified project is or will
129 be located; provided that, if a qualified project is or will be
130 located in two (2) or more counties, the average state or county
131 wage, as used in Sections 1 through 10 of this act, shall mean, as
132 of the project certification date, only the most recently
133 published average annual wage per person as determined and



134 published by the Mississippi Department of Employment Security for
135 the state.

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

141 (h) "Base full-time job" means a job (i) for which an
142 employee was already hired by the qualified business or industry
143 before, and is employed as of, the project certification date;
144 (ii) that offers a minimum of one thousand eight hundred twenty
145 (1,820) hours of an employee's time per year (i.e., thirty-five
146 (35) hours per week on average) for a normal four (4) consecutive
147 quarter period of the qualified business or industry's operations
148 or a job for which the employee was hired before, and is employed
149 as of, the project certification date and is compensated based on
150 one thousand eight hundred twenty (1,820) hours for such annual
151 period (including in each case an employee who, after hiring,
152 elects to take unpaid time off or is on short-term or long-term
153 disability); and (iii) the employee holding such job receives
154 salary or wages subject to state income tax withholdings. The
155 term "base full-time job" also means a base-leased employee.
156 Part-time jobs may not be combined to add up to a base full-time
157 job.



158 (i) "Base-leased employee" means a nontemporary
159 employee:

160 (i) Who was leased by the qualified business or
161 industry before the project certification date from another
162 business or enterprise that is 1. in the business of leasing
163 employees, and 2. is registered with the Office of the Secretary
164 of State and qualified to do business in the state;

165 (ii) Who is leased as of the project certification
166 date;

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

169 (iv) Who, as of the project certification date,
170 was already performing services for, and under the supervision of,
171 the qualified business or industry pursuant to a leasing agreement
172 between the qualified business or industry and such other employee
173 leasing firm;

174 (v) Whose job-performing services for the
175 qualified business or industry offers a minimum of one thousand
176 eight hundred twenty (1,820) hours of an employee's time per year
177 (i.e., thirty-five (35) hours per week on average) for an entire
178 normal work year of the qualified business or industry's
179 operations or a job for which the employee is leased before the
180 project certification date and is compensated based on one
181 thousand eight hundred twenty (1,820) hours for such annual period
182 (including in each case an employee who, after being leased,



183 elects to take unpaid time off or is on short-term or long-term
184 disability); and

185 (vi) Whose job receives salary or wages subject to
186 state income tax withholdings. Individuals employed by an
187 independent contractor performing one or more services for the
188 qualified business or industry pursuant to a services or
189 management agreement (e.g., security services, landscaping
190 services, and cafeteria management and food services) shall not be
191 considered as base-leased employees.

192 (j) "Contractor tax" shall mean the tax levied by
193 Section 27-65-21, except for the tax upon the sale of
194 manufacturing or processing machinery for a manufacturer or custom
195 processor.

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

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

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



208 (n) "mFlex tax incentive" means the tax incentive
209 authorized by Sections 1 through 10 of this act to be calculated
210 and awarded by the authority, and thereafter applied as a credit
211 to offset state taxes, in accordance with, and subject to,
212 Sections 1 through 10 of this act.

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

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

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

221 (i) For which an employee is hired by the
222 qualified business or industry after the project certification
223 date;

224 (ii) That offers a minimum of one thousand eight
225 hundred twenty (1,820) hours of an employee's time per year (i.e.,
226 thirty-five (35) hours per week on average) for a normal four (4)
227 consecutive quarter period of the qualified business or industry's
228 operations or a job for which the employee is hired after the
229 project certification date and is compensated based on one
230 thousand eight hundred twenty (1,820) hours for such annual period
231 (including in each case an employee who, after hiring, elects to



232 take unpaid time off or is on short-term or long-term disability);
233 and

234 (iii) The employee holding such job receives
235 salary or wages subject to state income tax withholdings. The
236 term "new full-time job" also means new-leased employee.
237 Part-time jobs may not be combined to add up to a new full-time
238 job.

239 (r) "New-leased employee" means a nontemporary
240 employee:

241 (i) Who is leased by the qualified business or
242 industry after the project certification date from another
243 business or enterprise that is 1. in the business of leasing
244 employees, and 2. is registered with the Office of the Secretary
245 of State and qualified to do business in the state;

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

248 (iii) Who performs services for the qualified
249 business or industry pursuant to a leasing agreement between the
250 qualified business or industry and such other employee-leasing
251 firm;

252 (iv) Whose job-performing services for the
253 qualified business or industry offers a minimum of one thousand
254 eight hundred twenty (1,820) hours of an employee's time per year
255 (i.e., thirty-five (35) hours per week on average) for an entire
256 normal work year of the qualified business or industry's



257 operations or a job for which the employee is leased after the
258 project certification date and is compensated based on one
259 thousand eight hundred twenty (1,820) hours for such annual period
260 (including in each case an employee who, after being leased,
261 elects to take unpaid time off or is on short-term or long-term
262 disability); and

263 (v) Whose job receives salary or wages subject to
264 state income tax withholdings. Individuals employed by an
265 independent contractor performing one or more services for the
266 qualified business or industry pursuant to a services or
267 management agreement (e.g., security services, landscaping
268 services, and cafeteria management and food services) shall not be
269 considered as a new-leased employees.

270 (s) "Nonmanufacturing equipment" means all tangible
271 personal property that is not manufacturing machinery, including,
272 but not limited to, office furniture, fixtures, office computers
273 and communications equipment, and warehouse equipment such as
274 racking and shelving.

275 (t) "Part-time job" means a job (i) for which an
276 employee is hired by the qualified business or industry that
277 requires fewer than one thousand eight hundred twenty (1,820)
278 hours of an employee's time per year (i.e., requires fewer than
279 thirty-five (35) hours per week on average) for an entire normal
280 work year of the qualified business or industry's operations or a
281 job for which the employee is hired and is compensated based on



282 fewer than one thousand eight hundred twenty (1,820) hours for
283 such annual period; and (iii) for which the employee holding such
284 job receives salary or wages subject to state income tax
285 withholdings.

286 (u) "Project certification date" means the actual date
287 of the authority's certification, or the effective date of
288 certification determined and prescribed by the authority, of the
289 qualified business or industry and its qualified economic
290 development project as eligible for the state tax credits
291 determined and awarded by the authority, as authorized by, and in
292 accordance with, Sections 1 through 10 of this act.

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

297 (w) "Qualified business or industry" means any
298 corporation, limited liability company, partnership, person or
299 sole proprietorship, business trust or other legal entity and
300 subunit or affiliate thereof, which makes a qualified minimum
301 investment in a qualified economic development project.

302 (x) "Qualified economic development project" or
303 "qualified project" means the location in the state of one or more
304 of the following enumerated enterprises for which a corporation,
305 limited liability company, partnership, sole proprietorship,
306 business trust or other legal entity, or subunit or affiliate



307 thereof, makes or causes to be made from the minimum qualified
308 investment and/or satisfies or causes to be satisfied the minimum
309 job creation requirement:

310 (i) A new warehouse and/or distribution enterprise
311 or an expansion of an existing warehouse and/or distribution
312 enterprise; provided that, in any such instance, such warehouse
313 and/or distribution enterprise or expansion thereof is certified
314 by the authority to qualify as such;

315 (ii) A new manufacturing, remanufacturing,
316 assembly, processing and/or refinery enterprise or an expansion of
317 an existing manufacturing, remanufacturing, assembly, processing
318 and/or refinery enterprise; provided that, in any such instance,
319 such manufacturing, remanufacturing, assembly, processing and/or
320 refinery enterprise or expansion thereof is certified by the
321 authority to qualify as such;

322 (iii) A new research or research and development
323 enterprise or an expansion of an existing research or research and
324 development enterprise; provided that, in any such instance, such
325 research and development enterprise or an expansion thereof is
326 certified by the authority to qualify as such;

327 (iv) A new regional or national headquarters of
328 the qualified business or industry or an expansion of an existing
329 regional or national headquarters of the qualified business or
330 industry; provided that, in any such instance, such regional or



331 national headquarters or expansion thereof is certified by the
332 authority to qualify as such;

333 (v) An air transportation, repair and/or
334 maintenance enterprise or an expansion of an existing air
335 transportation, repair and/or maintenance enterprise; provided
336 that, in either instance, such air transportation, repair and/or
337 maintenance enterprise or expansion thereof is certified by the
338 authority to qualify as such;

339 (vi) A ship or other maritime vessel or barge
340 transportation, repair and/or maintenance enterprise or an
341 expansion of an existing ship or other maritime vessel or barge
342 transportation, repair and/or maintenance enterprise; provided
343 that, in either instance, the ship or other maritime vessel or
344 barge transportation, repair and/or maintenance enterprise or
345 expansion thereof is certified by the authority to qualify as
346 such;

347 (vii) A new data/information processing enterprise
348 or an expansion of an existing new data/information processing
349 enterprise; provided that, in any such instance such
350 data/information processing enterprise or expansion thereof is
351 certified by the authority to qualify as such;

352 (viii) A new technology intensive enterprise or an
353 expansion of an existing technology intensive enterprise; provided
354 that, in either instance, the technology intensive enterprise or
355 expansion thereof is certified by the authority to qualify as



356 such; provided further, that a business or enterprise primarily
357 engaged in creating computer programming codes to develop
358 applications, websites and/or software shall qualify as a
359 technology intensive enterprise;

360 (ix) A new telecommunications enterprise
361 principally engaged in the creation, display, management, storage,
362 processing, transmission and/or distribution, for compensation, of
363 images, text, voice, video or data by wire or by wireless means,
364 or engaged in the construction, design, development, manufacture,
365 maintenance or distribution for compensation of devices, products,
366 software or structures used in the above activities, or an
367 expansion of an existing telecommunications enterprise as herein
368 described; provided that, in any such instance, any such
369 telecommunications enterprise or expansion thereof is certified by
370 the authority to qualify as such; provided further, that
371 commercial broadcast radio stations, television stations or news
372 organizations primarily serving in-state markets shall not be
373 included within the definition of the term "telecommunications
374 enterprise";

375 (x) A new data center enterprise principally
376 engaged in the utilization of hardware, software, technology,
377 infrastructure and/or workforce, to store, manage or manipulate
378 digital data, or an expansion of an existing data center
379 enterprise as herein described; provided that, in such instance,



380 any such data center enterprise or expansion thereof is certified
381 by the authority to qualify as such.

382 (y) "Qualified investment" means any expenditures made
383 or caused to be made by the qualified business or industry
384 following the project certification date for construction,
385 installation, equipping and operation of a qualified economic
386 development project from any source or combination of sources,
387 excluding any funds contributed by the state or any agency or
388 other political subdivision thereof, or by any local government or
389 any agency or other political subdivision thereof, to the extent
390 such expenditures can be capitalized under applicable accounting
391 rules or otherwise by the Internal Revenue Code, whether or not
392 the qualified business or industry elects to capitalize the same,
393 as reflected in its financial statements, including, but not
394 limited to, all costs associated with the acquisition,
395 installation and/or construction of, or capital leasehold interest
396 in, any buildings and other real property improvements, fixtures,
397 equipment, machinery, landscaping, fire protection, depreciable
398 fixed assets, engineering and design costs.

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

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



405 (bb) "State tax" means:

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

410 (ii) All income tax imposed pursuant to law on
411 income earned by the qualified business or industry pursuant to
412 state law;

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

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

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

419 Business or industrial enterprises wishing to apply for the mFlex
420 tax incentive authorized by Sections 1 through 10 of this act
421 shall make application to the authority, on a form prescribed
422 thereby; provided that the application shall, at a minimum,
423 contain:

424 (a) A brief overview of the applicant's business or
425 industry, including its formation type (e.g., corporation, limited
426 liability company, limited partnership, etc.), its date of
427 incorporation or formation thereof, and the location of its
428 principal headquarters, together with its principal place of



429 business in the state, if the applicant already has one or more
430 facilities located in the state;

431 (b) The location of the selected project site or
432 locations of selected project sites, if multiple locations will be
433 involved;

434 (c) A description of the proposed project;

435 (d) The amount of the qualified investment proposed to
436 be made as a result of the proposed project, including a breakout
437 of projected expenditures for manufacturing machinery,
438 nonmanufacturing equipment and component building materials to
439 establish and equip the proposed project;

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

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

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

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



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

455 (j) A list of all affiliates of the qualified business
456 or industry known at the time of the application, including the
457 Federal Employer Identification Number for each such affiliate,
458 which have or are expected to have any state tax liability that
459 may be offset by all or some portion of the mFlex tax incentives
460 awarded to the qualified business or industry;

461 (k) An acknowledgment that the applicant, if awarded an
462 mFlex tax incentive pursuant to Sections 1 through 10 of this act,
463 will be required to provide the annual report prescribed by
464 Section 7 of this act to demonstrate the actual amount of its
465 qualified investment, including actual expenditures on
466 manufacturing machinery, nonmanufacturing equipment and component
467 building materials, and the number of new full-time jobs created
468 and maintained as a result of the project; and

469 (l) Any other information as may be requested by the
470 authority.

471 **SECTION 4. Certification and award of mFlex tax incentive,**
472 **terms of such incentive, nontransferability of such certification**
473 **and incentive; mandatory and permissive conditions to**
474 **certifications and incentive awards.** (1) The authority shall
475 evaluate an application to determine whether the applicant's
476 proposed project is a qualified economic development project and



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

480 (2) Upon approval of an applicant's application, the
481 authority shall issue a certification (a) designating the
482 applicant's project as a "qualified economic development project"
483 and eligible for the mFlex tax incentive authorized by Sections 1
484 through 10 of this act; (b) awarding the initial mFlex tax
485 incentive calculated pursuant to Section 5 of this act; and (c)
486 imposing those mandatory conditions pursuant to subsection (4) of
487 this section and any discretionary conditions otherwise imposed by
488 the authority.

489 (3) Upon the issuance of the certification and execution of
490 the mFlex agreement by a qualified business or industry and the
491 authority, the qualified business or industry may apply the amount
492 of its mFlex tax incentive as a credit to offset (a) any state
493 taxes (except for withholding tax required to be deducted and
494 withheld from employee wages pursuant to Section 27-7-301 et
495 seq.), as incurred thereby, up to the full amount of the mFlex tax
496 incentive awarded by the authority for the associated qualified
497 economic development project, and (b) only up to twenty percent
498 (20%) of the mFlex tax incentive amount may be applied as a credit
499 during the course of any reporting year to offset withholding tax
500 deducted and withheld from employee wages pursuant to Section
501 27-7-301 et seq.; provided that the amount of the mFlex tax



502 incentive available to be applied as a credit to offset such state
503 taxes shall be subject to any subsequent adjustments made by the
504 authority to such award pursuant to Section 7 of this act, and any
505 performance requirements set out in the mFlex agreement. The
506 amount of the mFlex tax incentive available to be applied as a
507 credit to offset any state taxes described in Section 2(aa)(i) of
508 this act shall be limited to those such taxes payable directly by
509 the qualified business or industry to the Department of Revenue
510 pursuant to a direct pay permit issued by the Department of
511 Revenue under Section 27-65-93. The amount of the mFlex tax
512 incentive available to be applied as a credit to offset any state
513 taxes may not be applied as a credit to offset any state taxes
514 incurred prior to the issuance of the certification by the
515 authority and execution of the mFlex agreement by the qualified
516 business or industry and the authority.

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

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



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

528 (b) No qualified business or industry may claim or use
529 the mFlex tax incentive awarded thereto under Sections 1 through
530 10 of this act unless the qualified business or industry is in
531 full compliance with all state and local tax laws, and related
532 ordinances, permits and other applicable governmental approvals;
533 and

534 (c) Each qualified business or industry must enter into
535 an mFlex agreement with the authority which sets out, at a
536 minimum, (i) the obligation of the business or industry to provide
537 an annual report to the authority pursuant to Section 7 of this
538 act that demonstrates the actual amount of its qualified
539 investment, including actual expenditures on manufacturing
540 machinery, nonmanufacturing equipment and component building
541 materials, the number of new full-time jobs created and maintained
542 as a result of the project, and any other relevant information as
543 may be required by the authority; and (ii) terms for readjustment
544 or recapture of all or a portion of the mFlex tax incentive
545 awarded thereto pursuant to Section 7 of this act if the applicant
546 1. fails to satisfy the minimum job creation requirement if
547 certification of the project is predicated on satisfaction of the
548 minimum job creation requirement and not the minimum qualified
549 investment, or 2. fails to satisfy the minimum qualified
550 investment if certification of the project is predicated on



551 satisfaction of the minimum job creation requirement and not the
552 minimum qualified investment, and/or 3. fails to otherwise satisfy
553 any other additional performance requirements of the qualified
554 business or industry or its qualified economic development project
555 that are imposed by the authority.

556 (5) In addition to those mandatory conditions prescribed by
557 Sections 1 through 10 of this act that apply to each certification
558 and award of an mFlex tax incentive made by the authority in
559 accordance herewith, the authority is authorized to impose any
560 other conditions upon any certification and award of an mFlex tax
561 incentive made by the authority as it shall find best promotes
562 economic development in the state.

563 (6) Upon certifying a qualified business or industry as
564 eligible for, and awarding, an mFlex tax incentive under Sections
565 1 through 10 of this act, the authority shall forward the
566 certification along with any other necessary information to the
567 Department of Revenue so that the mFlex tax incentive awarded to
568 the qualified business or industry can be recorded by the
569 Department of Revenue and used to verify each state tax credit
570 subsequently applied by the qualified business or industry.

571 (7) Within thirty (30) days following the end of each
572 calendar quarter, the authority shall provide to the Governor,
573 Lieutenant Governor and the Speaker of the House of
574 Representatives a copy of each certification made, together with a



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

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

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

581 (a) Subject to paragraph (f) below, one and one-half
582 percent (1.5%) of the total purchase or sales price, or value,
583 including any installation costs thereof, as applicable, of all
584 manufacturing or processing machinery acquired, leased or
585 otherwise moved into the state following the project certification
586 date to establish and equip the qualified economic development
587 project; plus

588 (b) Subject to paragraph (f) below, seven percent (7%)
589 of the total purchase or sales price, or value, including any
590 installation costs thereof, as applicable, of all nonmanufacturing
591 equipment, other than tagged over-the-road vehicles, acquired,
592 leased or otherwise moved into the state following the project
593 certification date to establish and equip the qualified economic
594 development project; plus

595 (c) Subject to paragraph (f) below, two percent (2%) of
596 the total contract price or compensation paid to any contractor
597 pursuant to any construction contract entered into following the
598 project certification date by the qualified business or industry
599 or any affiliate thereof, to construct, build, erect, repair or



600 add to any building, facility, structure or other improvement to
601 real property described in Section 27-65-21(1)(a)(i) to establish
602 and construct the qualified economic development project; plus, if
603 applicable;

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

609 (e) (i) To the extent that 1. the qualified economic
610 development project is an enterprise enumerated in Section 2(x)(i)
611 or Section 2(x)(ii) of this act; 2. the number of new full-time
612 jobs totals fifty (50) or more; 3. the qualified investment totals
613 Ten Million Dollars (\$10,000,000) or more; 4. the average employer
614 wage is equal to or more than one hundred ten percent (110%) of
615 the average state or county wage; and 5. all full-time employees
616 are eligible for and offered health insurance coverage funded in
617 whole or at least fifty percent (50%) by the qualified business or
618 industry (or by a leasing company with respect to leased
619 employees), then an additional thirty percent (30%) of the product
620 derived by multiplying the average employer wage by the number of
621 new full-time jobs; or

622 (ii) To the extent that subparagraph (i) of this
623 paragraph (e) does not apply, but 1. the number of new full-time
624 jobs totals twenty-five (25) or more; 2. the average employer wage



625 is equal to or more than one hundred twenty-five percent (125%) of
626 the average state or county wage; and 3. all full-time employees
627 are eligible for and offered health insurance coverage funded in
628 whole or at least fifty percent (50%) by the qualified business or
629 industry (or by a leasing company with respect to leased
630 employees), then an additional thirty percent (30%) of the product
631 derived by multiplying the average employer wage by the number of
632 new full-time jobs; provided, however, that the initial mFlex tax
633 incentive award amount determined by the authority and awarded on
634 the project certification date shall be based upon estimates
635 provided by the qualified business or industry to the authority
636 with respect to paragraphs (a) through (d) of this section, which
637 estimates shall be memorialized as project performance measures
638 agreed to by the qualified business or industry in the mFlex
639 agreement; provided, further, that such initial award amount shall
640 be subject to any subsequent adjustments made by the authority
641 pursuant to Section 7 of this act;

642 (f) To the extent that all or any portion of the
643 purchases to establish a qualified economic development project
644 which are financed by proceeds from bonds issued pursuant to
645 Section 57-10-201 et seq. or Section 57-10-401 et seq., the mFlex
646 tax incentive determined in accordance with this section shall
647 exclude the amount calculated in accordance with paragraphs (a),
648 (b) and (c) above; provided that, this paragraph (f) shall not
649 apply in determining the mFlex tax incentive for a qualified



650 economic development project to the extent that (i) the qualified
651 economic development project is an expansion of an existing
652 project, (ii) all or any portion of the purchases to establish the
653 existing project were financed by proceeds from bonds issued
654 pursuant to Section 57-10-201 et seq. or Section 57-10-401 et
655 seq., and (iii) no purchases to establish the expansion
656 constituting a qualified economic development project are financed
657 by proceeds from bonds issued pursuant to Section 57-10-201 et
658 seq. or Section 57-10-401 et seq.

659 **SECTION 6. Exclusive utilization of mFlex tax incentive.**

660 (1) A qualified business or industry awarded any mFlex tax
661 incentive by the authority for its qualified economic development
662 project pursuant to Sections 1 through 10 of this act shall not be
663 eligible for, nor shall it apply for or claim, any one or more of
664 the following tax credits, exemptions or incentives for such
665 qualified project:

666 (a) For any new full-time job, any state income tax
667 credit authorized by Sections 27-7-22.17, 22-7-22.18, 22-7-22-19,
668 277-22.27, 27-7-22.29, 27-7-22.34, 27-7-22.36 and 57-73-21(2)
669 through (5);

670 (b) For any new full-time job, any withholding tax
671 rebate authorized by Sections 57-62-1 through 57-62-7 or Sections
672 57-100-1 through 57-100-9;

673 (c) Any exemption from state income tax authorized by
674 Section 27-7-30, Sections 57-80-1 through 57-80-11, Sections



675 57-113-1 through 57-113-7, and Sections 57-113-21 through
676 57-11327;

677 (d) Any state income tax credit authorized by Section
678 27-7-22.20 or Section 22-7-22.35;

679 (e) Any exemption from state sales or use tax
680 authorized by Section 27-65-101(1)(q), (r), (v), (w), (x), (y),
681 (cc), (dd), (ff), (gg), (hh), (kk), (ll), (mm), (nn), (qq), (uu),
682 (vv), (2) or (3); Sections 57-80-1 through 57-80-11; Sections
683 57-113-1 through 57-113-7; and Sections 57-113-21 through
684 57-113-27;

685 (f) Any exemption from state franchise tax authorized
686 by Section 27-13-5(4), Section 27-13-7(4), Sections 57-80-1
687 through 57-80-11, Sections 57-113-1 through 57-113-7, and Sections
688 57-113-21 through 57-113-27.

689 (2) Notwithstanding subsection (1) of this section, a
690 qualified business or industry shall not be prohibited from
691 applying for or receiving any of the tax credits, exemptions or
692 incentives described in paragraphs (a) through (f) of subsection
693 (1) of this section for any project or expansion which is not
694 certified by the authority as a qualified economic development
695 project and for which no mFlex tax incentive is awarded by the
696 authority, notwithstanding the fact the qualified business or
697 industry is awarded an mFlex tax incentive by the authority for a
698 specific qualified economic development project undertaken
699 thereby.



700 **SECTION 7. Taxpayer annual performance reporting to, and**
701 **reviews by, the Mississippi Development Authority; subsequent**
702 **adjustments by the Mississippi Development Authority to mFlex tax**
703 **incentive award; deadline for mFlex tax incentive utilization.**

704 (1) Unless its mFlex agreement prescribes a longer reporting
705 period or additional reporting requirements, each qualified
706 business or industry shall file an annual report with the
707 authority for each qualified economic development project which
708 has been certified, and for which any mFlex tax incentive has been
709 awarded, by the authority in accordance with Sections 1 through 10
710 of this act, for the longer of the following periods: (a) until
711 the reporting year during which all or any remaining portion of
712 the mFlex tax incentive amount awarded to such qualified business
713 or industry has been applied to offset state taxes, or (b) until
714 the seventh reporting year, provided that an annual report shall
715 in either instance be due in the final reporting year prescribed
716 hereby or by the mFlex agreement. Each annual report shall be due
717 to the authority no later than the last business day of the month
718 following the month during which the annual anniversary of its
719 project certification date occurred. Each annual report shall
720 include the information set forth in this section, together with
721 any other information required to be provided by the qualified
722 business or industry pursuant to its mFlex agreement, for the
723 immediately preceding twelve-month period ending on the last day



724 of the month during which the annual anniversary of its project
725 certification date occurred.

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

729 (a) The total qualified investment made between the
730 project certification date through the end of the reporting year,
731 including a breakout of actual expenditures made by the qualified
732 business or industry for manufacturing machinery, nonmanufacturing
733 equipment and component building materials to establish and equip
734 the qualified economic development project;

735 (b) The incremental qualified investment made during
736 the reporting year, including a breakout of actual expenditures
737 made by the qualified business or industry for manufacturing
738 machinery, nonmanufacturing equipment and component building
739 materials to establish and equip the qualified economic
740 development project;

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

743 (d) The total number of people employed in new
744 full-time jobs as of the last day the year preceding the reporting
745 year;

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

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



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

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

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

763 (j) A list of all affiliates of the qualified business
764 or industry, including the Federal Employer Identification Number
765 for each affiliate, for which any state tax liability thereof has
766 been or is expected to be offset by all or some portion of the
767 mFlex tax incentives awarded to the qualified business or
768 industry, which list shall further identify (i) any affiliate of
769 the qualified business or industry that was not disclosed as such
770 on its application or annual report submitted for the prior
771 reporting period, whichever was more recent, but which has either
772 become an affiliate of the qualified business or industry as of
773 the date the current annual report or which the qualified business



774 or industry desires to utilize all or a portion of its mFlex tax
775 incentive as a credit to offset the affiliate's state tax
776 liability following the date of the current annual report; (ii)
777 any change in the name of any previously disclosed affiliate since
778 the date the qualified business or industry filed its application
779 or annual report for the prior reporting period, whichever was
780 more recent; (iii) any prior affiliate of the qualified business
781 or industry disclosed as such on its application or annual report
782 for the prior reporting period, whichever was more recent, and
783 which is no longer an affiliate of the qualified business or
784 industry as of the date the current annual report; and (iv) any
785 affiliate of the qualified business or industry disclosed as such
786 on its application or annual report for the prior reporting
787 period, whichever was more recent, and which the qualified
788 business or industry no longer desires that the affiliate utilize
789 all or a portion of its mFlex tax incentive as a credit to offset
790 the affiliate's state tax liability following the date of the
791 current annual report.

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

794 (4) Notwithstanding the obligation of a qualified business
795 or industry to file an annual report with the authority for each
796 qualified economic development project which has been certified,
797 and for which any mFlex tax incentive has been awarded, the
798 authority is authorized to request from the qualified business or



799 industry at any other time any of the information set forth herein
800 that must be included in an annual report for purposes of
801 determining whether a qualified business or industry has met any
802 of the project performance measures set forth in its mFlex
803 agreement on or before the respective deadlines imposed with
804 respect thereto. Upon any such written request by the authority,
805 the qualified business or industry shall, within thirty (30) days
806 after receipt of the request, provide to the authority a certified
807 copy of the information requested.

808 (5) If a qualified business or industry fails to either file
809 an annual report with the authority on or before the deadline
810 mandated by subsection (1) of this section, or provide any
811 information requested by the authority pursuant to subsection (4)
812 of this section within the time period mandated by such
813 subsection, the authority shall provide written notice to the
814 qualified business or industry of the failure to report, and the
815 qualified business or industry shall have thirty (30) additional
816 days to cure the reporting failure following its receipt of the
817 notice. If the qualified business or industry thereafter fails to
818 file its annual report with the authority, or provide such
819 information requested by the authority within the thirty-day-cure
820 period, the authority is authorized to suspend or revoke, at the
821 discretion thereof, all or a portion of the amount of the mFlex
822 tax incentive previously awarded to the qualified business or
823 industry for its qualified economic development project.



824 (6) If a qualified business or industry either fails to
825 achieve or exceeds any project performance measure set forth in
826 its mFlex agreement within or for any time period required by such
827 agreement, the authority shall, following its (a) review of any
828 annual report filed by the qualified business or industry or of
829 any certified information provided by the qualified business or
830 industry pursuant to subsection (4) of this section, and (b)
831 verification based upon such information that the qualified
832 business or industry either failed to achieve or exceeded any of
833 the project performance measures set forth in its mFlex agreement
834 within or for any time period required by such agreement, adjust
835 the mFlex tax incentive awarded thereto for its qualified economic
836 development project such that the award is no longer based upon
837 any one or more of the performance measures set forth in its mFlex
838 agreement, but is instead based upon one or more of the following,
839 as applicable, as of the end of the most recent reporting year for
840 which the annual report was filed: (a) the actual expenditures
841 made by the qualified business or industry for purposes of the
842 calculation prescribed by Section 5(a), (b) and (c) of this act;
843 and (b) (i) the actual number of new full-time jobs created by the
844 qualified business or industry, together with (ii) the actual
845 average employer wage associated therewith, for purposes of the
846 calculations prescribed by Section 5(d) and (e) of this act.

847 (7) A qualified business or industry and the authority may,
848 at any time, amend or restate an mFlex agreement in order to



849 modify the performance measures of the qualified business or
850 industry with respect to its qualified economic development
851 project, and in connection with such amendment or amendment and
852 restatement, the authority shall modify the amount of the mFlex
853 tax incentive awarded for the qualified economic development
854 project to comport with the modified performance measures;
855 provided that the modified award amount shall thereafter be
856 subject to the adjustment requirements of subsection (6) of this
857 section.

858 (8) If the authority adjusts any mFlex tax incentive award
859 pursuant to subsection (6) or subsection (7) of this section, the
860 authority shall issue an amended certification of the
861 corresponding qualified economic development project, which shall
862 specify the amount of mFlex tax incentive award adjustment. The
863 authority shall forward the amended certification, along with any
864 other necessary information, to the Department of Revenue so that
865 the mFlex tax incentive award adjustment for the qualified
866 business or industry can be recorded by the Department of Revenue
867 and used to verify each state tax credit subsequently applied by
868 the qualified business or industry.

869 (9) If at any time the authority reduces the mFlex tax
870 incentive award granted for the qualified economic development
871 project to an amount less than the total amount of credits already
872 applied and taken by the qualified business or industry, or by one
873 or more affiliates thereof eligible to utilize such credit, to



874 offset state taxes thereof, the Department of Revenue shall charge
875 the qualified business or industry, or such affiliate or
876 affiliates, with an assessment for the amount of state taxes for
877 which no mFlex tax incentive is available, following such
878 reduction by the authority, for application as a tax credit,
879 beginning with those state taxes against which the qualified
880 business or industry most recently applied the credit, and such
881 state tax assessment shall be immediately due and payable.

882 (10) Any portion of an mFlex tax incentive awarded to the
883 qualified business or industry by the authority for its qualified
884 economic development project pursuant to Sections 1 through 10 of
885 this act that has not been applied, on or before the tenth annual
886 anniversary of the project certificate date, as a credit by such
887 qualified business or industry, or by one or more affiliates
888 thereof eligible to utilize such credit, to offset state taxes
889 otherwise payable, shall expire.

890 (11) Within thirty (30) days following the end of each
891 calendar quarter, the authority shall provide to the Governor,
892 Lieutenant Governor and the Speaker of the House of
893 Representatives a copy of each amendment to any certification
894 made, together with a copy of each amendment to any mFlex
895 agreement approved and executed, during the immediately preceding
896 calendar quarter.

897 **SECTION 8. Audits and interagency cooperation.** (1) No
898 provisions of Sections 1 through 10 of this act shall in any way



899 limit or restrict the authority of the Department of Revenue to
900 perform audits for all state tax liabilities for any qualified
901 business or industry that is awarded any mFlex tax incentives by
902 the authority.

903 (2) The Department of Revenue is authorized to provide to
904 the authority any information received, obtained or produced, or
905 findings or determinations made, thereby as a result of the
906 performance by Department of Revenue of any audit of state tax
907 liabilities of any qualified business or industry that is awarded
908 any mFlex tax incentives by the authority, and any such
909 information, findings or determinations provided to the authority
910 by the Department of Revenue shall be exempt from the provisions
911 of the Mississippi Public Records Act of 1983, as amended.

912 (3) If any audit by the Department of Revenue results in a
913 reclassification of component building materials, manufacturing
914 equipment or nonmanufacturing equipment, as previously reported by
915 a qualified business or industry, to a different property
916 classification, or a change in the number of new full-time
917 employees or average employer wage, as previously reported by a
918 qualified business or industry, the authority is authorized to
919 adjust the amount of the mFlex tax incentive awarded to the
920 qualified business or industry for a qualified economic
921 development project to comport with any property reclassification
922 or change in the number of new full-time employees or average
923 employer wage in the manner prescribed by Section 7 of this act.



924 (4) The Department of Employment Security is authorized to
925 provide to the authority any information received, obtained or
926 produced, or findings or determinations made, thereby with respect
927 to any qualified business or industry that is awarded any mFlex
928 tax incentives by the authority, and any such information,
929 findings or determinations provided to the authority by the
930 Department of Revenue shall be exempt from the provisions of the
931 Mississippi Public Records Act of 1983, Section 25-61-1 et seq.

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

935 (6) Upon written request made by the Director of the
936 University Research Center Division of the Mississippi
937 Institutions of Higher Learning, the authority shall provide to
938 the director a copy of any certification, together with any
939 amendments thereto, made by the authority, and/or any mFlex
940 agreement, together with any amendments thereto, approved and
941 executed by the authority pursuant to Sections 1 through 10 of
942 this act, described in such request for the purpose of the
943 University Research Center conducting an economic impact analysis
944 and other analyses performed by the University Research Center
945 with respect thereto; provided that any such analyses conducted by
946 the University Research Center with respect to one or more
947 particular qualified economic development projects shall be
948 communicated and provided only to the Governor, Lieutenant



949 Governor, Speaker of the House of Representatives and/or the
950 authority.

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

952 The authority and the Department of Revenue shall implement the
953 provisions of Sections 1 through 10 of this act and exercise all
954 powers as authorized in Sections 1 through 10 of this act;
955 however, the application of Sections 1 through 10 of this act and
956 the offering and awarding of any mFlex tax incentive as to any
957 particular qualified business or industry shall be carried out at
958 the discretion of the authority subject to, and in compliance
959 with, Sections 1 through 10 of this act. The exercise of powers
960 conferred by Sections 1 through 10 of this act shall be deemed and
961 held to be the performance of essential public purposes.

962 (2) The authority shall have sole and exclusive jurisdiction
963 and authority to determine whether an applicant qualifies as a
964 qualified business or industry, whether an applicant's project
965 qualifies as a qualified economic development project, whether to
966 certify an applicant and its project as a qualified business or
967 industry undertaking a qualified economic development project and
968 the eligibility thereof for the mFlex tax incentive, the initial
969 calculation of any mFlex tax incentive award, any terms or
970 conditions or further requirements to be included in any mFlex
971 agreement, and any subsequent adjustments to any mFlex tax
972 incentive award or any revocation thereof, in all instances in
973 accordance with Sections 1 through 10 of this act.



974 (3) Nothing in Sections 1 through 10 of this act shall be
975 construed to constitute a guarantee or assumption by the State of
976 Mississippi of any debt of any corporation, limited liability
977 company, partnership, person or sole proprietorship, business
978 trust or other legal entity and subunit or affiliate thereof nor
979 to authorize the credit of the state to be given, pledged or
980 loaned to any corporation, limited liability company, partnership,
981 person or sole proprietorship, business trust or other legal
982 entity and subunit or affiliate thereof. Further, nothing in
983 Sections 1 through 10 of this act gives any right to any qualified
984 business or industry to the tax incentives authorized by Sections
985 1 through 10 of this act unless such incentive is awarded by
986 Sections 1 through 10 of this act.

987 **SECTION 10.** **Promulgation of rules and regulations.** The
988 authority and the Department of Revenue shall promulgate rules and
989 regulations, in accordance with the Mississippi Administrative
990 Procedures Law, Section 25-43-1.101 et seq. and all application
991 forms and other forms necessary to implement their respective
992 duties and responsibilities under the provisions of Sections 1
993 through 10 of this act.

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

996 27-7-309. (1) (a) Except as otherwise provided in this
997 subsection, every employer required to deduct and withhold from
998 wages under this article shall, for each calendar quarter, on or



999 before the fifteenth day of the month following the close of such
1000 calendar quarter, file a withholding return as prescribed by the
1001 commissioner and pay over to the commissioner the full amount
1002 required to be deducted and withheld from wages by such employer
1003 for the calendar quarter. Provided that the commissioner may, by
1004 regulation, provide that every such employer shall, on or before
1005 the fifteenth day of each month, pay over to the commissioner or a
1006 depository designated by the commissioner, the amount required to
1007 be deducted and withheld by such employer for the preceding month,
1008 if such amount is One Hundred Dollars (\$100.00) or more. Returns
1009 and payments placed in the mail must be postmarked by the due date
1010 in order to be timely filed, except when the due date falls on a
1011 weekend or holiday, returns and payments placed in the mail must
1012 be postmarked by the first working day following the due date in
1013 order to be considered timely filed.

1014 (b) The commissioner may promulgate rules and
1015 regulations to require or permit filing periods of any duration,
1016 in lieu of monthly or quarterly filing periods, for any taxpayer
1017 or group thereof.

1018 (2) Notwithstanding any of the other provisions of this
1019 section, all transient employers and all employers engaged in any
1020 business which is seasonal shall make return and pay over to the
1021 commissioner on a monthly basis, the full amounts required to be
1022 deducted and withheld from the wages by such employer for the
1023 calendar month. Such returns and payments to the commissioner by



1024 such employers shall be made on or before the fifteenth day of the
1025 month following the month for which such amounts were deducted and
1026 withheld from the wages of his employees. The commissioner shall
1027 have the authority to issue reasonable rules and regulations
1028 designating or classifying those transient and seasonal employers.

1029 (3) If the commissioner, in any case, has justifiable reason
1030 to believe that the collection of funds required to be withheld by
1031 any employer as provided herein is in jeopardy, he may require the
1032 employer to file a return and pay such amount required to be
1033 withheld at any time.

1034 (4) Every employer who fails to withhold or pay to the
1035 commissioner any sums required by this article to be withheld and
1036 paid, shall be personally and individually liable therefor, except
1037 as provided in Section 27-7-307; and any sum or sums withheld in
1038 accordance with the provisions of this article shall be deemed to
1039 be held in trust for the State of Mississippi and shall be
1040 recorded by the employer in a ledger account so as to clearly
1041 indicate the amount of tax withheld and that the amount is the
1042 property of the State of Mississippi.

1043 (5) Once an employer has become liable to a quarterly return
1044 of withholding, he must continue to file a quarterly report, even
1045 though no tax has been withheld, until such time as he notifies
1046 the commissioner, in writing, that he no longer has employees or
1047 that he is no longer liable for such quarterly returns.



1048 (6) Once an employer has become liable to a monthly return
1049 of withholding, he must continue to file a monthly report, even
1050 though no tax has been withheld until such time as he notifies the
1051 commissioner, in writing, that he no longer has employees or that
1052 he is no longer liable for such monthly returns.

1053 (7) Magnetic media reporting may be required in a manner to
1054 be determined by the commissioner.

1055 (8) Any employer who is required to deduct and withhold from
1056 wages for any monthly or quarterly period pursuant to this
1057 article, and who is also eligible to apply as a credit against any
1058 amount to be deducted and withheld for such period from wages by
1059 such employer under this article a tax credit awarded by the
1060 Mississippi Development Authority in accordance with the
1061 Mississippi Flexible Tax Incentive Act, may apply the tax credit
1062 in the amount available for such purpose, or such lesser amount
1063 determined by such employer, pursuant to the Mississippi Flexible
1064 Tax Incentive Act. The credit applied for any monthly or
1065 quarterly reporting period shall be reflected on the form of the
1066 return in the manner prescribed by the commissioner.

1067 **SECTION 12.** Section 27-7-311, Mississippi Code of 1972, is
1068 amended as follows:

1069 27-7-311. Every employer shall file an annual statement of
1070 withholding for each employee. The annual statement shall be in
1071 the form prescribed by the commissioner and shall be filed with
1072 the commissioner and two (2) copies thereof furnished the employee



1073 on or before the thirty-first day of January following the close
1074 of the calendar year. Provided, if the employment of the employee
1075 is terminated during the calendar year, the employer shall furnish
1076 such statement to the employee at the time of the termination of
1077 employment. Such statement shall show:

1078 (* * *a) The name and withholding account number of
1079 the employer;

1080 (* * *b) The name of the employee and his social
1081 security account number;

1082 (* * *c) The total compensation paid to the employee;
1083 and

1084 (* * *d) The total amount withheld by the employer
1085 pursuant to this article for the year or part of a calendar year
1086 where the employee worked for less than a full calendar year, and
1087 such other information as the commissioner shall require by rule
1088 or regulation. The total amount withheld by the employer shall
1089 reflect the gross amount withheld by the employer pursuant to this
1090 article for such year or part of such calendar year prior to, and
1091 expressly excluding, the application of any credit applied and
1092 taken by the employer of any tax credit awarded by the Mississippi
1093 Development Authority in accordance with the Mississippi Flexible
1094 Tax Incentive Act.

1095 **SECTION 13.** Section 27-13-5, Mississippi Code of 1972, is
1096 amended as follows:



1097 27-13-5. (1) (a) **Franchise tax levy.** Except as otherwise
1098 provided in subsections (3), (4), (5) and (7) of this section,
1099 there is hereby imposed, to be paid and collected as hereinafter
1100 provided, a franchise or excise tax upon every corporation,
1101 association or joint-stock company or partnership treated as a
1102 corporation under the income tax laws or regulations, organized or
1103 created for pecuniary gain, having privileges not possessed by
1104 individuals, and having authorized capital stock now existing in
1105 this state, or hereafter organized, created or established, under
1106 and by virtue of the laws of the State of Mississippi, equal to:

1107 (i) For tax years beginning before January 1,
1108 2018, Two Dollars and Fifty Cents (\$2.50) for each One Thousand
1109 Dollars (\$1,000.00), or fraction thereof, of the value of the
1110 capital used, invested or employed in the exercise of any power,
1111 privilege or right enjoyed by such organization within this state,
1112 except as hereinafter provided.

1113 (ii) For tax years beginning on or after January
1114 1, 2018, but before January 1, 2019, Two Dollars and Fifty Cents
1115 (\$2.50) for each One Thousand Dollars (\$1,000.00), or fraction
1116 thereof, in excess of One Hundred Thousand Dollars (\$100,000.00),
1117 of the value of the capital used, invested or employed in the
1118 exercise of any power, privilege or right enjoyed by such
1119 organization within this state, except as hereinafter provided.

1120 (iii) For tax years beginning on or after January
1121 1, 2019, but before January 1, 2020, Two Dollars and Twenty-five



1122 Cents (\$2.25) for each One Thousand Dollars (\$1,000.00), or
1123 fraction thereof, in excess of One Hundred Thousand Dollars
1124 (\$100,000.00), of the value of the capital used, invested or
1125 employed in the exercise of any power, privilege or right enjoyed
1126 by such organization within this state, except as hereinafter
1127 provided.

1128 (iv) For tax years beginning on or after January
1129 1, 2020, but before January 1, 2021, Two Dollars (\$2.00) for each
1130 One Thousand Dollars (\$1,000.00), or fraction thereof, in excess
1131 of One Hundred Thousand Dollars (\$100,000.00), of the value of the
1132 capital used, invested or employed in the exercise of any power,
1133 privilege or right enjoyed by such organization within this state,
1134 except as hereinafter provided.

1135 (v) For tax years beginning on or after January 1,
1136 2021, but before January 1, 2022, One Dollar and Seventy-five
1137 Cents (\$1.75) for each One Thousand Dollars (\$1,000.00), or
1138 fraction thereof, in excess of One Hundred Thousand Dollars
1139 (\$100,000.00), of the value of the capital used, invested or
1140 employed in the exercise of any power, privilege or right enjoyed
1141 by such organization within this state, except as hereinafter
1142 provided.

1143 (vi) For tax years beginning on or after January
1144 1, 2022, but before January 1, 2023, One Dollar and Fifty Cents
1145 (\$1.50) for each One Thousand Dollars (\$1,000.00), or fraction
1146 thereof, in excess of One Hundred Thousand Dollars (\$100,000.00),



1147 of the value of the capital used, invested or employed in the
1148 exercise of any power, privilege or right enjoyed by such
1149 organization within this state, except as hereinafter provided.

1150 (vii) For tax years beginning on or after January
1151 1, 2023, but before January 1, 2024, One Dollar and Twenty-five
1152 Cents (\$1.25) for each One Thousand Dollars (\$1,000.00), or
1153 fraction thereof, in excess of One Hundred Thousand Dollars
1154 (\$100,000.00), of the value of the capital used, invested or
1155 employed in the exercise of any power, privilege or right enjoyed
1156 by such organization within this state, except as hereinafter
1157 provided.

1158 (viii) For tax years beginning on or after January
1159 1, 2024, but before January 1, 2025, One Dollar (\$1.00) for each
1160 One Thousand Dollars (\$1,000.00), or fraction thereof, in excess
1161 of One Hundred Thousand Dollars (\$100,000.00), of the value of the
1162 capital used, invested or employed in the exercise of any power,
1163 privilege or right enjoyed by such organization within this state,
1164 except as hereinafter provided.

1165 (ix) For tax years beginning on or after January
1166 1, 2025, but before January 1, 2026, Seventy-five Cents (75¢) for
1167 each One Thousand Dollars (\$1,000.00), or fraction thereof, in
1168 excess of One Hundred Thousand Dollars (\$100,000.00), of the value
1169 of the capital used, invested or employed in the exercise of any
1170 power, privilege or right enjoyed by such organization within this
1171 state, except as hereinafter provided.



1172 (x) For tax years beginning on or after January 1,
1173 2026, but before January 1, 2027, Fifty Cents (50¢) for each One
1174 Thousand Dollars (\$1,000.00), or fraction thereof, in excess of
1175 One Hundred Thousand Dollars (\$100,000.00), of the value of the
1176 capital used, invested or employed in the exercise of any power,
1177 privilege or right enjoyed by such organization within this state,
1178 except as hereinafter provided.

1179 (xi) For tax years beginning on or after January
1180 1, 2027, but before January 1, 2028, Twenty-five Cents (25¢) for
1181 each One Thousand Dollars (\$1,000.00), or fraction thereof, in
1182 excess of One Hundred Thousand Dollars (\$100,000.00), of the value
1183 of the capital used, invested or employed in the exercise of any
1184 power, privilege or right enjoyed by such organization within this
1185 state, except as hereinafter provided.

1186 (b) In no case shall the franchise tax due for the
1187 accounting period be less than Twenty-five Dollars (\$25.00).

1188 (c) It is the purpose of this section to require the
1189 payment to the State of Mississippi of this tax for the right
1190 granted by the laws of this state to exist as such organization,
1191 and to enjoy, under the protection of the laws of this state, the
1192 powers, rights, privileges and immunities derived from the state
1193 by the form of such existence.

1194 (2) **Annual report of domestic corporations.** Each domestic
1195 corporation shall file an annual report as required by the
1196 provisions of Section 79-4-16.22.



1197 (3) (a) A corporation that has negotiated a fee-in-lieu as
1198 defined in Section 57-75-5 shall not be subject to the tax levied
1199 by this section on such project; however, the fee-in-lieu payment
1200 shall be otherwise treated in the same manner as the payment of
1201 franchise taxes.

1202 (b) (i) As used in this paragraph:

1203 1. "Authority" shall have the meaning
1204 ascribed to such term in Section 57-75-5(b);

1205 2. "Project" shall have the meaning ascribed
1206 to such term in Section 57-75-5(f)(xxix); and

1207 3. "Enterprise" shall mean the corporation
1208 authorized for the project pursuant to Section 57-75-5(f)(xxix).

1209 (ii) The term of the franchise tax fee-in-lieu
1210 agreement negotiated under this subsection and authorized by
1211 Section 57-75-5(j), between the authority and the enterprise for
1212 the project shall not exceed twenty-five (25) years. The
1213 franchise tax fee-in-lieu agreement shall apply only to new
1214 franchise tax liability attributable to the project, and shall not
1215 apply to any existing franchise tax liability of the enterprise in
1216 connection with any current operations in this state.

1217 (iii) In the event that the annual number of
1218 full-time jobs maintained by the enterprise falls below the
1219 minimum annual number of full-time jobs required by the authority
1220 pursuant to a written agreement between the authority and the
1221 enterprise for two (2) consecutive years, the franchise tax



1222 fee-in-lieu for the project shall be suspended until the first tax
1223 year during which the annual number of full-time jobs maintained
1224 by the enterprise reaches the minimum annual number of full-time
1225 jobs required by the authority pursuant to a written agreement
1226 between the authority and the enterprise.

1227 (iv) The enterprise shall be entitled to utilize a
1228 single sales apportionment factor in the calculation of its
1229 liability for franchise tax imposed by this chapter which is
1230 attributable to the project for any year for which it files a
1231 Mississippi franchise tax return. The enterprise shall be
1232 entitled to continue to utilize such single sales apportionment
1233 factor notwithstanding a suspension of the franchise tax
1234 fee-in-lieu pursuant to subparagraph (iii) of this paragraph.

1235 (4) An approved business enterprise as defined in the Growth
1236 and Prosperity Act shall not be subject to the tax levied by this
1237 section on the value of capital used, invested or employed by the
1238 approved business enterprise in a growth and prosperity county or
1239 supervisors district as provided in the Growth and Prosperity Act.

1240 (5) A business enterprise operating a project as defined in
1241 Section 57-64-33, in a county that is a member of a regional
1242 economic development alliance created under the Regional Economic
1243 Development Act shall not be subject to the tax levied by this
1244 section on the value of capital used, invested or employed by the
1245 business enterprise in such a county as provided in Section
1246 57-64-33.



1247 (6) The tax levied by this chapter and paid by a business
1248 enterprise located in a redevelopment project area under Sections
1249 57-91-1 through 57-91-11 shall be deposited into the Redevelopment
1250 Project Incentive Fund created in Section 57-91-9.

1251 (7) A business enterprise as defined in Section 57-113-1 or
1252 57-113-21 that is exempt from certain state taxes under Section
1253 57-113-5 or 57-113-25 shall not be subject to the tax levied by
1254 this section on the value of capital used, invested or employed by
1255 the business enterprise.

1256 (8) A taxpayer who is eligible to apply as a credit against
1257 the tax levied by this chapter a tax credit awarded by the
1258 Mississippi Development Authority in accordance with the
1259 Mississippi Flexible Tax Incentive Act may apply the tax credit in
1260 the amount available for such purpose, or such lesser amount
1261 determined by the taxpayer, pursuant to the Mississippi Flexible
1262 Tax Incentive Act. The credit applied for a tax-reporting period
1263 shall be reflected on the form of the return in the manner
1264 prescribed by the commissioner.

1265 **SECTION 14.** Section 27-13-7, Mississippi Code of 1972, is
1266 amended as follows:

1267 27-13-7. (1) (a) **Franchise tax levy.** Except as otherwise
1268 provided in subsections (3), (4), (5) and (7) of this section,
1269 there is hereby imposed, levied and assessed upon every
1270 corporation, association or joint-stock company, or partnership
1271 treated as a corporation under the income tax laws or regulations



1272 as hereinbefore defined, organized and existing under and by
1273 virtue of the laws of some other state, territory or country, or
1274 organized and existing without any specific statutory authority,
1275 now or hereafter doing business or exercising any power, privilege
1276 or right within this state, as hereinbefore defined, a franchise
1277 or excise tax equal to:

1278 (i) For tax years beginning before January 1,
1279 2018, Two Dollars and Fifty Cents (\$2.50) of each One Thousand
1280 Dollars (\$1,000.00), or fraction thereof, of the value of capital
1281 used, invested or employed within this state, except as
1282 hereinafter provided.

1283 (ii) For tax years beginning on or after January
1284 1, 2018, but before January 1, 2019, Two Dollars and Fifty Cents
1285 (\$2.50) for each One Thousand Dollars (\$1,000.00), or fraction
1286 thereof, in excess of One Hundred Thousand Dollars (\$100,000.00),
1287 of the value of the capital used, invested or employed in the
1288 exercise of any power, privilege or right enjoyed by such
1289 organization within this state, except as hereinafter provided.

1290 (iii) For tax years beginning on or after January
1291 1, 2019, but before January 1, 2020, Two Dollars and Twenty-five
1292 Cents (\$2.25) for each One Thousand Dollars (\$1,000.00), or
1293 fraction thereof, in excess of One Hundred Thousand Dollars
1294 (\$100,000.00), of the value of the capital used, invested or
1295 employed in the exercise of any power, privilege or right enjoyed



1296 by such organization within this state, except as hereinafter
1297 provided.

1298 (iv) For tax years beginning on or after January
1299 1, 2020, but before January 1, 2021, Two Dollars (\$2.00) for each
1300 One Thousand Dollars (\$1,000.00), or fraction thereof, in excess
1301 of One Hundred Thousand Dollars (\$100,000.00), of the value of the
1302 capital used, invested or employed in the exercise of any power,
1303 privilege or right enjoyed by such organization within this state,
1304 except as hereinafter provided.

1305 (v) For tax years beginning on or after January 1,
1306 2021, but before January 1, 2022, One Dollar and Seventy-five
1307 Cents (\$1.75) for each One Thousand Dollars (\$1,000.00), or
1308 fraction thereof, in excess of One Hundred Thousand Dollars
1309 (\$100,000.00), of the value of the capital used, invested or
1310 employed in the exercise of any power, privilege or right enjoyed
1311 by such organization within this state, except as hereinafter
1312 provided.

1313 (vi) For tax years beginning on or after January
1314 1, 2022, but before January 1, 2023, One Dollar and Fifty Cents
1315 (\$1.50) for each One Thousand Dollars (\$1,000.00), or fraction
1316 thereof, in excess of One Hundred Thousand Dollars (\$100,000.00),
1317 of the value of the capital used, invested or employed in the
1318 exercise of any power, privilege or right enjoyed by such
1319 organization within this state, except as hereinafter provided.



1320 (vii) For tax years beginning on or after January
1321 1, 2023, but before January 1, 2024, One Dollar and Twenty-five
1322 Cents (\$1.25) for each One Thousand Dollars (\$1,000.00), or
1323 fraction thereof, in excess of One Hundred Thousand Dollars
1324 (\$100,000.00), of the value of the capital used, invested or
1325 employed in the exercise of any power, privilege or right enjoyed
1326 by such organization within this state, except as hereinafter
1327 provided.

1328 (viii) For tax years beginning on or after January
1329 1, 2024, but before January 1, 2025, One Dollar (\$1.00) for each
1330 One Thousand Dollars (\$1,000.00), or fraction thereof, in excess
1331 of One Hundred Thousand Dollars (\$100,000.00), of the value of the
1332 capital used, invested or employed in the exercise of any power,
1333 privilege or right enjoyed by such organization within this state,
1334 except as hereinafter provided.

1335 (ix) For tax years beginning on or after January
1336 1, 2025, but before January 1, 2026, Seventy-five Cents (75¢) for
1337 each One Thousand Dollars (\$1,000.00), or fraction thereof, in
1338 excess of One Hundred Thousand Dollars (\$100,000.00), of the value
1339 of the capital used, invested or employed in the exercise of any
1340 power, privilege or right enjoyed by such organization within this
1341 state, except as hereinafter provided.

1342 (x) For tax years beginning on or after January 1,
1343 2026, but before January 1, 2027, Fifty Cents (50¢) for each One
1344 Thousand Dollars (\$1,000.00), or fraction thereof, in excess of



1345 One Hundred Thousand Dollars (\$100,000.00), of the value of the
1346 capital used, invested or employed in the exercise of any power,
1347 privilege or right enjoyed by such organization within this state,
1348 except as hereinafter provided.

1349 (xi) For tax years beginning on or after January
1350 1, 2027, but before January 1, 2028, Twenty-five Cents (25¢) for
1351 each One Thousand Dollars (\$1,000.00), or fraction thereof, in
1352 excess of One Hundred Thousand Dollars (\$100,000.00), of the value
1353 of the capital used, invested or employed in the exercise of any
1354 power, privilege or right enjoyed by such organization within this
1355 state, except as hereinafter provided.

1356 (b) In no case shall the franchise tax due for the
1357 accounting period be less than Twenty-five Dollars (\$25.00).

1358 (c) It is the purpose of this section to require the
1359 payment of a tax by all organizations not organized under the laws
1360 of this state, measured by the amount of capital or its
1361 equivalent, for which such organization receives the benefit and
1362 protection of the government and laws of the state.

1363 (2) **Annual report of foreign corporations.** Each foreign
1364 corporation authorized to transact business in this state shall
1365 file an annual report as required by the provisions of Section
1366 79-4-16.22.

1367 (3) (a) A corporation that has negotiated a fee-in-lieu as
1368 defined in Section 57-75-5 shall not be subject to the tax levied
1369 by this section on such project; however, the fee-in-lieu payment



1370 shall be otherwise treated in the same manner as the payment of
1371 franchise taxes.

1372 (b) (i) As used in this paragraph:

1373 1. "Authority" shall have the meaning
1374 ascribed to such term in Section 57-75-5(b);

1375 2. "Project" shall have the meaning ascribed
1376 to such term in Section 57-75-5(f)(xxix); and

1377 3. "Enterprise" shall mean the corporation
1378 authorized for the project pursuant to Section 57-75-5(f)(xxix).

1379 (ii) The term of the franchise tax fee-in-lieu
1380 agreement negotiated under this subsection and authorized by
1381 Section 57-75-5(j), between the authority and the enterprise for
1382 the project shall not exceed twenty-five (25) years. The
1383 franchise tax fee-in-lieu agreement shall apply only to new
1384 franchise tax liability attributable to the project, and shall not
1385 apply to any existing franchise tax liability of the enterprise in
1386 connection with any current operations in this state.

1387 (iii) In the event that the annual number of
1388 full-time jobs maintained by the enterprise falls below the
1389 minimum annual number of full-time jobs required by the authority
1390 pursuant to a written agreement between the authority and the
1391 enterprise for two (2) consecutive years, the franchise tax
1392 fee-in-lieu for the project shall be suspended until the first tax
1393 year during which the annual number of full-time jobs maintained
1394 by the enterprise reaches the minimum annual number of full-time



1395 jobs required by the authority pursuant to a written agreement
1396 between the authority and the enterprise.

1397 (iv) The enterprise shall be entitled to utilize a
1398 single sales apportionment factor in the calculation of its
1399 liability for franchise tax imposed by this chapter which is
1400 attributable to the project for any year for which it files a
1401 Mississippi franchise tax return. The enterprise shall be
1402 entitled to continue to utilize such single sales apportionment
1403 factor notwithstanding a suspension of the franchise tax
1404 fee-in-lieu pursuant to subparagraph (iii) of this paragraph.

1405 (4) An approved business enterprise as defined in the Growth
1406 and Prosperity Act shall not be subject to the tax levied by this
1407 section on the value of capital used, invested or employed by the
1408 approved business enterprise in a growth and prosperity county or
1409 supervisors district as provided in the Growth and Prosperity Act.

1410 (5) A business enterprise operating a project as defined in
1411 Section 57-64-33, in a county that is a member of a regional
1412 economic development alliance created under the Regional Economic
1413 Development Act shall not be subject to the tax levied by this
1414 section on the value of capital used, invested or employed by the
1415 business enterprise in such a county as provided in Section
1416 57-64-33.

1417 (6) The tax levied by this chapter and paid by a business
1418 enterprise located in a redevelopment project area under Sections



1419 57-91-1 through 57-91-11 shall be deposited into the Redevelopment
1420 Project Incentive Fund created in Section 57-91-9.

1421 (7) A business enterprise as defined in Section 57-113-1 or
1422 57-113-21 that is exempt from certain state taxes under Section
1423 57-113-5 or 57-113-25 shall not be subject to the tax levied by
1424 this section on the value of capital used, invested or employed by
1425 the business enterprise.

1426 (8) A taxpayer who is eligible to apply as a credit against
1427 the tax levied by this chapter a tax credit awarded by the
1428 Mississippi Development Authority in accordance with the
1429 Mississippi Flexible Tax Incentive Act may apply the tax credit in
1430 the amount available for such purpose, or such lesser amount
1431 determined by the taxpayer, pursuant to the Mississippi Flexible
1432 Tax Incentive Act. The credit applied for a tax-reporting period
1433 shall be reflected on the form of the return in the manner
1434 prescribed by the commissioner.

1435 **SECTION 15.** Section 27-65-93, Mississippi Code of 1972, is
1436 amended as follows:

1437 27-65-93. (1) The commissioner shall, from time to time,
1438 promulgate rules and regulations, not inconsistent with the
1439 provisions of the sales tax law, for making returns and for the
1440 ascertainment, assessment and collection of the tax imposed by the
1441 sales tax law as he may deem necessary to enforce its provisions;
1442 and, upon request, he shall furnish any taxpayer with a copy of
1443 the rules and regulations.



1444 (2) All forms, necessary for the enforcement of the sales
1445 tax law, shall be prescribed, printed and furnished by the
1446 commissioner.

1447 (3) The commissioner may adopt rules and regulations
1448 providing for the issuance of permits to manufacturers, utilities,
1449 construction contractors, companies receiving bond financing
1450 through the Mississippi Business Finance Corporation or the
1451 Mississippi Development Authority, and other taxpayers as
1452 determined by the commissioner, and the commissioner shall adopt
1453 rules and regulations providing for the issuance of a permit to
1454 any qualified business or industry, which is certified as such by
1455 the Mississippi Development Authority pursuant to the Mississippi
1456 Flexible Tax Incentive Act and awarded any mFlex tax incentive
1457 amount for such qualified business's or industry's qualified
1458 economic development project, certified as such by the Mississippi
1459 Development Authority pursuant to the Mississippi Flexible Tax
1460 Incentive Act, to purchase tangible personal property taxed under
1461 Section 27-65-17, items taxed under Section 27-65-18, items taxed
1462 under Section 27-65-19, services taxed under Section 27-65-23,
1463 items taxed under Section 27-65-24, and items taxed under Section
1464 27-65-26 without the payment to the vendor of the tax imposed by
1465 the sales and use tax laws, and providing for persons to report
1466 and pay the tax directly to the commissioner in instances where
1467 the commissioner determines that these provisions will facilitate
1468 and expedite the collection of the tax at the proper rates which



1469 may be due on purchases by the permittee. Under the provisions of
1470 this chapter, the vendor is relieved of collecting and remitting
1471 the taxes specified hereunder and the person holding the permit
1472 shall become liable for such taxes instead of the seller. The
1473 full enforcement provisions of the sales tax law shall apply in
1474 the collection of the tax from the permittee.

1475 **SECTION 16.** Section 27-67-17, Mississippi Code of 1972, is
1476 amended as follows:

1477 27-67-17. (1) Except as otherwise provided in this section,
1478 the commissioner shall collect the tax imposed by this article,
1479 and every person subject to its provisions shall remit to the
1480 commissioner, on or before the twentieth day of each month, the
1481 amount of tax due by such person for the preceding calendar month.
1482 Returns and payments placed in the mail must be postmarked by the
1483 due date in order to be timely filed, except that when the due
1484 date falls on a weekend or holiday, returns and payments placed in
1485 the mail must be postmarked by the first working day following the
1486 due date in order to be considered timely filed. Every taxpayer
1487 shall file a return with his remittance, which return shall be
1488 prescribed by the commissioner and shall show for the calendar
1489 month preceding the tax payment date, the total sale or purchase
1490 price, or value of tangible personal property or specified digital
1491 products sold, used, stored or consumed by him for benefit
1492 received or service performed, and such other information as the



1493 commissioner may deem pertinent and necessary for determining the
1494 amount of tax due thereunder.

1495 (2) The commissioner, in his discretion, may authorize in
1496 writing the filing of returns and the payment of tax on a
1497 quarterly basis by any person required or authorized to pay the
1498 tax imposed, such authority to be subject to revocation for good
1499 cause by the commissioner.

1500 (3) In instances where it is impractical to file returns and
1501 pay the tax monthly or quarterly, the commissioner may authorize
1502 the filing of semiannual or annual returns.

1503 (4) The commissioner, in his discretion, may authorize the
1504 computation of the tax on the basis of a formula in lieu of direct
1505 accounting of specific properties in instances where such method
1506 will expedite, simplify or provide a more equitable means of
1507 determining liability under this article. All formulas shall be
1508 subject to revocation for good cause by the commissioner.

1509 (5) A taxpayer who is eligible to apply as a credit against
1510 the tax levied by this chapter a tax credit awarded by the
1511 Mississippi Development Authority in accordance with the
1512 Mississippi Flexible Tax Incentive Act may apply the tax credit in
1513 the amount available for such purpose, or such lesser amount
1514 determined by the taxpayer, pursuant to the Mississippi Flexible
1515 Tax Incentive Act. The credit applied for a tax-reporting period
1516 shall be reflected on the form of the return in the manner
1517 prescribed by the commissioner.



1518 **SECTION 17.** Section 57-1-14, Mississippi Code of 1972, is
1519 amended as follows:

1520 57-1-14. (1) Except as otherwise provided in subsection (3)
1521 of this section, any records of the Mississippi Development
1522 Authority which contain client information concerning development
1523 projects shall be exempt from the provisions of the Mississippi
1524 Public Records Act of 1983 for a period of two (2) years after
1525 receipt of the information by the department. Confidential client
1526 information as described in this section shall not include the
1527 information which must be disclosed by the certified applicant
1528 related to a qualified economic development project in the annual
1529 report described in Section 57-1-759.

1530 (2) Except as otherwise provided in subsection (3) of this
1531 section, confidential client information in public records held by
1532 the department shall be exempt from the provisions of the
1533 Mississippi Public Records Act of 1983 during the period of review
1534 and negotiation on a project proposal and for a period of thirty
1535 (30) days after approval, disapproval or abandonment of the
1536 proposal not to exceed one (1) year by the department in writing.

1537 (3) Any breakouts or subcategories of the total qualified
1538 investment amounts reported pursuant to Sections 3(d), 7(2)(a) and
1539 7(2)(b) of this act, and information reported pursuant to Sections
1540 3(g), 3(h), 3(j), 7(2)(f), 7(2)(g), 7(2)(h) and 7(2)(i) of this
1541 act shall not be subject to any disclosure under the Mississippi
1542 Public Records Act of 1983. In addition, any information and



1543 documentation, including without limitation, copies of any
1544 certifications, together with any amendments thereto, made by the
1545 Mississippi Development Authority, and copies of any mFlex
1546 agreements, together with any amendments thereto, approved and
1547 executed by the Mississippi Development Authority, pursuant to the
1548 Mississippi Flexible Tax Incentive Act, which are (a) provided by
1549 the authority to the Governor, Lieutenant Governor and/or Speaker
1550 of the House of Representatives pursuant to Section 4(7) or
1551 Section 7(11) of this act; (b) provided by the authority to the
1552 University Research Center division of the Mississippi
1553 Institutions of Higher Learning pursuant to Section 8(5) of this
1554 act; and (c) provided by the University Research Center division
1555 of the Mississippi Institutions of Higher Learning to the
1556 Governor, Lieutenant Governor, Speaker of the House of
1557 Representatives and/or the authority, shall not be subject to any
1558 disclosure under the Mississippi Public Records Act of 1983.

1559 **SECTION 18.** Section 27-7-22, Mississippi Code of 1972, is
1560 amended as follows:

1561 27-7-22. (1) For any qualified business, as defined in
1562 Section 57-51-5, which is located in a county, or portion thereof,
1563 designated as an enterprise zone pursuant to Title 57, Chapter 51,
1564 Mississippi Code of 1972, there shall be allowed as a credit
1565 against the tax imposed by this chapter, an amount equal to One
1566 Thousand Dollars (\$1,000.00) per net full-time employee as
1567 determined by the average annual employment of the business



1568 reported to the Employment Security Commission. Such credit shall
1569 be allowed annually to each qualified business for a period not to
1570 exceed ten (10) years. If the amount allowable as a credit
1571 exceeds the tax imposed by this chapter, the amount of such excess
1572 shall not be refundable or carried forward to any other taxable
1573 year.

1574 For the purpose of determining the credit allowed to a
1575 qualified business which is an existing trade or business having
1576 expanded its buildings and facilities, the number of net full-time
1577 employees shall be the difference between the average annual
1578 employment of such business before and after such expansion.

1579 If the Mississippi Enterprise Zone Act is repealed, any
1580 qualified business which had been granted a tax credit under this
1581 subsection prior to the date of such repeal shall be entitled to
1582 such tax credit until the period for which it was granted expires.

1583 (2) For any qualified business, as defined in Section
1584 57-54-5, there shall be allowed as a credit against the tax
1585 imposed by this chapter, an amount equal to One Thousand Dollars
1586 (\$1,000.00) per net full-time employee as determined by the
1587 average annual employment of the business reported to the
1588 Employment Security Commission. Such credit shall be allowed
1589 annually to each qualified business for a period not to exceed ten
1590 (10) years. If the amount allowable as a credit exceeds the tax
1591 imposed by this chapter, the amount of such excess shall not be
1592 refundable or carried forward to any other taxable year.



1593 For the purpose of determining the credit allowed to a
1594 qualified business which is an existing trade or business having
1595 expanded its buildings and facilities, the number of net full-time
1596 employees shall be the difference between the average annual
1597 employment of such business before and after such expansion.

1598 If the Mississippi Advanced Technology Initiative Act is
1599 repealed, any qualified business which had been granted a tax
1600 credit under this subsection prior to the date of such repeal
1601 shall be entitled to such tax credit until the period for which it
1602 was granted expires.

1603 (3) For any qualified company, certified as such by the
1604 Mississippi Board of Economic Development under Section 57-53-1,
1605 there shall be allowed as a credit against the tax imposed by this
1606 chapter, an amount equal to One Thousand Dollars (\$1,000.00) per
1607 net full-time employee in this state, provided there is a minimum
1608 of seventy-five (75) net full-time employees, as determined by the
1609 average annual employment of the company in this state reported to
1610 the Employment Security Commission. Such credit shall be allowed
1611 annually to each qualified company for a period not to exceed ten
1612 (10) years. If the amount allowable as a credit exceeds the tax
1613 imposed by this chapter, the amount of such excess shall not be
1614 refundable or carried forward to any other taxable year.

1615 For the purpose of determining the credit allowed to a
1616 qualified company which has expanded its existing buildings and
1617 facilities, the number of net full-time employees shall be the



1618 difference between the average annual employment of such company
1619 before and after such expansion.

1620 (4) For any qualified business or industry which is
1621 certified as such by the Mississippi Board of Economic Development
1622 pursuant to the Mississippi Flexible Tax Incentive Act and awarded
1623 any mFlex tax incentive amount for such qualified business's or
1624 industry's qualified economic development project, there shall be
1625 allowed as a credit against the tax imposed by this chapter, an
1626 amount prescribed by, and subject to, the Mississippi Flexible Tax
1627 Incentive Act.

1628 **SECTION 19.** From and after January 1, 2023, if the amount of
1629 any mFlex tax incentive or other incentive that a qualified
1630 business or other entity is eligible to receive under the
1631 Mississippi Flexible Tax Incentive Act is less than the amount of
1632 the mFlex tax incentive or other incentive that the qualified
1633 business or other entity would have been eligible to receive or to
1634 use if the mFlex tax incentive or other incentive had been
1635 calculated using any applicable income tax rates in Section
1636 27-7-5, Mississippi Code of 1972, that were in effect before
1637 January 1, 2023, then the qualified business or other entity shall
1638 receive a grant from the Mississippi Development Authority equal
1639 to the difference between such two amounts.

1640 **SECTION 20.** Section 57-62-9, Mississippi Code of 1972, is
1641 amended as follows:



1642 **[For businesses or industries that received or applied for**
1643 **incentive payments prior to July 1, 2005, this section shall read**
1644 **as follows:]**

1645 57-62-9. (1) Except as otherwise provided in this section,
1646 a qualified business or industry that meets the qualifications
1647 specified in this chapter may receive quarterly incentive payments
1648 for a period not to exceed ten (10) years from the Department of
1649 Revenue pursuant to the provisions of this chapter in an amount
1650 which shall be equal to the net benefit rate multiplied by the
1651 actual gross payroll of new direct jobs for a calendar quarter as
1652 verified by the Mississippi Department of Employment Security, but
1653 not to exceed the amount of money previously paid into the fund by
1654 the employer. A qualified business or industry that is a project
1655 as defined in Section 57-75-5(f)(iv)1 may elect the date upon
1656 which the ten-year period will begin. Such date may not be later
1657 than sixty (60) months after the date the business or industry
1658 applied for incentive payments.

1659 (2) (a) A qualified business or industry that is a project
1660 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to
1661 receive incentive payments for an additional period not to exceed
1662 five (5) years beyond the expiration date of the initial ten-year
1663 period if:

1664 (i) The qualified business or industry creates at
1665 least three thousand (3,000) new direct jobs within five (5) years



1666 after the date the business or industry commences commercial
1667 production;

1668 (ii) Within five (5) years after the date the
1669 business or industry commences commercial production, the average
1670 annual wage of the jobs is at least one hundred fifty percent
1671 (150%) of the most recently published state average annual wage or
1672 the most recently published average annual wage of the county in
1673 which the qualified business or industry is located as determined
1674 by the Mississippi Department of Employment Security, whichever is
1675 the lesser. The criteria for the average annual wage requirement
1676 shall be based upon the state average annual wage or the average
1677 annual wage of the county whichever is appropriate, at the time of
1678 creation of the minimum number of jobs, and the threshold
1679 established at that time will remain constant for the duration of
1680 the additional period; and

1681 (iii) The qualified business or industry meets and
1682 maintains the job and wage requirements of subparagraphs (i) and
1683 (ii) of this paragraph (a) for four (4) consecutive calendar
1684 quarters.

1685 (b) A qualified business or industry that is a project
1686 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
1687 incentive payments for the additional period provided in paragraph
1688 (a) of this subsection (2) may apply to the MDA to receive
1689 incentive payments for an additional period not to exceed ten (10)



1690 years beyond the expiration date of the additional period provided
1691 in paragraph (a) of this subsection (2) if:

1692 (i) The qualified business or industry creates at
1693 least four thousand (4,000) new direct jobs after qualifying for
1694 the additional incentive period provided in paragraph (a) of this
1695 subsection (2) but before the expiration of the additional period.
1696 For purposes of determining whether the business or industry meets
1697 the minimum jobs requirement of this subparagraph (i), the number
1698 of jobs the business or industry created in order to meet the
1699 minimum jobs requirement of paragraph (a) of this subsection (2)
1700 shall be subtracted from the minimum jobs requirement of this
1701 subparagraph (i);

1702 (ii) The average annual wage of the jobs is at
1703 least one hundred fifty percent (150%) of the most recently
1704 published state average annual wage or the most recently published
1705 average annual wage of the county in which the qualified business
1706 or industry is located as determined by the Mississippi Department
1707 of Employment Security, whichever is the lesser. The criteria for
1708 the average annual wage requirement shall be based upon the state
1709 average annual wage or the average annual wage of the county
1710 whichever is appropriate, at the time of creation of the minimum
1711 number of jobs, and the threshold established at that time will
1712 remain constant for the duration of the additional period; and

1713 (iii) The qualified business or industry meets and
1714 maintains the job and wage requirements of subparagraphs (i) and



1715 (ii) of this paragraph (b) for four (4) consecutive calendar
1716 quarters.

1717 (3) In order to receive incentive payments, an establishment
1718 shall apply to the MDA. The application shall be on a form
1719 prescribed by the MDA and shall contain such information as may be
1720 required by the MDA to determine if the applicant is qualified.

1721 (4) In order to qualify to receive such payments, the
1722 establishment applying shall be required to:

1723 (a) Be engaged in a qualified business or industry;

1724 (b) Provide an average salary, excluding benefits which
1725 are not subject to Mississippi income taxes, of at least one
1726 hundred twenty-five percent (125%) of the most recently published
1727 state average annual wage or the most recently published average
1728 annual wage of the county in which the qualified business or
1729 industry is located as determined by the Mississippi Department of
1730 Employment Security, whichever is the lesser. The criteria for
1731 this requirement shall be based upon the state average annual wage
1732 or the average annual wage of the county whichever is appropriate,
1733 at the time of application, and the threshold established upon
1734 application will remain constant for the duration of the project;

1735 (c) The business or industry must create and maintain a
1736 minimum of ten (10) full-time jobs in counties that have an
1737 average unemployment rate over the previous twelve-month period
1738 which is at least one hundred fifty percent (150%) of the most
1739 recently published state unemployment rate, as determined by the



1740 Mississippi Department of Employment Security or in Tier Three
1741 counties as determined under Section 57-73-21. In all other
1742 counties, the business or industry must create and maintain a
1743 minimum of twenty-five (25) full-time jobs. The criteria for this
1744 requirement shall be based on the designation of the county at the
1745 time of the application. The threshold established upon the
1746 application will remain constant for the duration of the project.
1747 The business or industry must meet its job creation commitment
1748 within twenty-four (24) months of the application approval.
1749 However, if the qualified business or industry is applying for
1750 incentive payments for an additional period under subsection (2)
1751 of this section, the business or industry must comply with the
1752 applicable job and wage requirements of subsection (2) of this
1753 section.

1754 (5) The MDA shall determine if the applicant is qualified to
1755 receive incentive payments. If the applicant is determined to be
1756 qualified by the MDA, the MDA shall conduct a cost/benefit
1757 analysis to determine the estimated net direct state benefits and
1758 the net benefit rate applicable for a period not to exceed ten
1759 (10) years and to estimate the amount of gross payroll for the
1760 period. If the applicant is determined to be qualified to receive
1761 incentive payments for an additional period under subsection (2)
1762 of this section, the MDA shall conduct a cost/benefit analysis to
1763 determine the estimated net direct state benefits and the net
1764 benefit rate applicable for the appropriate additional period and



1765 to estimate the amount of gross payroll for the additional period.
1766 In conducting such cost/benefit analysis, the MDA shall consider
1767 quantitative factors, such as the anticipated level of new tax
1768 revenues to the state along with the cost to the state of the
1769 qualified business or industry, and such other criteria as deemed
1770 appropriate by the MDA, including the adequacy of retirement
1771 benefits that the business or industry provides to individuals it
1772 employs in new direct jobs in this state. In no event shall
1773 incentive payments, cumulatively, exceed the estimated net direct
1774 state benefits. Once the qualified business or industry is
1775 approved by the MDA, an agreement shall be deemed to exist between
1776 the qualified business or industry and the State of Mississippi,
1777 requiring the continued incentive payment, together with any
1778 amount due pursuant to subsection (8) of this section, if
1779 applicable, to be made as long as the qualified business or
1780 industry retains its eligibility.

1781 (6) Upon approval of such an application, the MDA shall
1782 notify the Department of Revenue and shall provide it with a copy
1783 of the approved application and the estimated net direct state
1784 benefits. The Department of Revenue may require the qualified
1785 business or industry to submit such additional information as may
1786 be necessary to administer the provisions of this chapter. The
1787 qualified business or industry shall report to the Department of
1788 Revenue periodically to show its continued eligibility for
1789 incentive payments. The qualified business or industry may be



1790 audited by the Department of Revenue to verify such eligibility.
1791 In addition, the State Auditor may conduct performance and
1792 compliance audits under this chapter according to Section
1793 7-7-211(o) and may bill the oversight agency.

1794 (7) If the qualified business or industry is located in an
1795 area that has been declared by the Governor to be a disaster area
1796 and as a result of the disaster the business or industry is unable
1797 to create or maintain the full-time jobs required by this section:

1798 (a) The Commissioner of Revenue may extend the period
1799 of time that the business or industry may receive incentive
1800 payments for a period of time not to exceed two (2) years;

1801 (b) The Commissioner of Revenue may waive the
1802 requirement that a certain number of jobs be maintained for a
1803 period of time not to exceed twenty-four (24) months; and

1804 (c) The MDA may extend the period of time within which
1805 the jobs must be created for a period of time not to exceed
1806 twenty-four (24) months.

1807 (8) Notwithstanding any other provision of this section to
1808 the contrary, from and after January 1, 2023, if the amount of the
1809 incentive payment that a qualified business or industry is
1810 eligible to receive under this chapter is less than the amount
1811 that the incentive payment would have been if the payment had been
1812 calculated using any applicable income tax rates in Section 27-7-5
1813 that were in effect before January 1, 2023, then the qualified
1814 business or industry also shall receive a grant equal to the



1815 difference between such two (2) amounts. Further, the term
1816 "incentive payment," as such term is used in this chapter, shall
1817 be deemed to not refer to or otherwise include any grant payment
1818 payable to a qualified business or industry pursuant to this
1819 subsection.

1820 **[For businesses or industries that received or applied for**
1821 **incentive payments from and after July 1, 2005, but prior to July**
1822 **1, 2010, this section shall read as follows:]**

1823 57-62-9. (1) (a) Except as otherwise provided in this
1824 section, a qualified business or industry that meets the
1825 qualifications specified in this chapter may receive quarterly
1826 incentive payments for a period not to exceed ten (10) years from
1827 the Department of Revenue pursuant to the provisions of this
1828 chapter in an amount which shall be equal to the net benefit rate
1829 multiplied by the actual gross payroll of new direct jobs for a
1830 calendar quarter as verified by the Mississippi Department of
1831 Employment Security, but not to exceed:

1832 (i) Ninety percent (90%) of the amount of money
1833 previously paid into the fund by the employer if the employer
1834 provides an average annual salary, excluding benefits which are
1835 not subject to Mississippi income taxes, of at least one hundred
1836 seventy-five percent (175%) of the most recently published state
1837 average annual wage or the most recently published average annual
1838 wage of the county in which the qualified business or industry is



1839 located as determined by the Mississippi Department of Employment
1840 Security, whichever is the lesser;

1841 (ii) Eighty percent (80%) of the amount of money
1842 previously paid into the fund by the employer if the employer
1843 provides an average annual salary, excluding benefits which are
1844 not subject to Mississippi income taxes, of at least one hundred
1845 twenty-five percent (125%) but less than one hundred seventy-five
1846 percent (175%) of the most recently published state average annual
1847 wage or the most recently published average annual wage of the
1848 county in which the qualified business or industry is located as
1849 determined by the Mississippi Department of Employment Security,
1850 whichever is the lesser; or

1851 (iii) Seventy percent (70%) of the amount of money
1852 previously paid into the fund by the employer if the employer
1853 provides an average annual salary, excluding benefits which are
1854 not subject to Mississippi income taxes, of less than one hundred
1855 twenty-five percent (125%) of the most recently published state
1856 average annual wage or the most recently published average annual
1857 wage of the county in which the qualified business or industry is
1858 located as determined by the Mississippi Department of Employment
1859 Security, whichever is the lesser.

1860 (b) A qualified business or industry that is a project
1861 as defined in Section 57-75-5(f)(iv)1 may elect the date upon
1862 which the ten-year period will begin. Such date may not be later



1863 than sixty (60) months after the date the business or industry
1864 applied for incentive payments.

1865 (2) (a) A qualified business or industry that is a project
1866 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to
1867 receive incentive payments for an additional period not to exceed
1868 five (5) years beyond the expiration date of the initial ten-year
1869 period if:

1870 (i) The qualified business or industry creates at
1871 least three thousand (3,000) new direct jobs within five (5) years
1872 after the date the business or industry commences commercial
1873 production;

1874 (ii) Within five (5) years after the date the
1875 business or industry commences commercial production, the average
1876 annual wage of the jobs is at least one hundred fifty percent
1877 (150%) of the most recently published state average annual wage or
1878 the most recently published average annual wage of the county in
1879 which the qualified business or industry is located as determined
1880 by the Mississippi Department of Employment Security, whichever is
1881 the lesser. The criteria for the average annual wage requirement
1882 shall be based upon the state average annual wage or the average
1883 annual wage of the county whichever is appropriate, at the time of
1884 creation of the minimum number of jobs, and the threshold
1885 established at that time will remain constant for the duration of
1886 the additional period; and



1887 (iii) The qualified business or industry meets and
1888 maintains the job and wage requirements of subparagraphs (i) and
1889 (ii) of this paragraph (a) for four (4) consecutive calendar
1890 quarters.

1891 (b) A qualified business or industry that is a project
1892 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
1893 incentive payments for the additional period provided in paragraph
1894 (a) of this subsection (2) may apply to the MDA to receive
1895 incentive payments for an additional period not to exceed ten (10)
1896 years beyond the expiration date of the additional period provided
1897 in paragraph (a) of this subsection (2) if:

1898 (i) The qualified business or industry creates at
1899 least four thousand (4,000) new direct jobs after qualifying for
1900 the additional incentive period provided in paragraph (a) of this
1901 subsection (2) but before the expiration of the additional period.
1902 For purposes of determining whether the business or industry meets
1903 the minimum jobs requirement of this subparagraph (i), the number
1904 of jobs the business or industry created in order to meet the
1905 minimum jobs requirement of paragraph (a) of this subsection (2)
1906 shall be subtracted from the minimum jobs requirement of this
1907 subparagraph (i);

1908 (ii) The average annual wage of the jobs is at
1909 least one hundred fifty percent (150%) of the most recently
1910 published state average annual wage or the most recently published
1911 average annual wage of the county in which the qualified business



1912 or industry is located as determined by the Mississippi Department
1913 of Employment Security, whichever is the lesser. The criteria for
1914 the average annual wage requirement shall be based upon the state
1915 average annual wage or the average annual wage of the county
1916 whichever is appropriate, at the time of creation of the minimum
1917 number of jobs, and the threshold established at that time will
1918 remain constant for the duration of the additional period; and

1919 (iii) The qualified business or industry meets and
1920 maintains the job and wage requirements of subparagraphs (i) and
1921 (ii) of this paragraph (b) for four (4) consecutive calendar
1922 quarters.

1923 (3) In order to receive incentive payments, an establishment
1924 shall apply to the MDA. The application shall be on a form
1925 prescribed by the MDA and shall contain such information as may be
1926 required by the MDA to determine if the applicant is qualified.

1927 (4) (a) In order to qualify to receive such payments, the
1928 establishment applying shall be required to meet the definition of
1929 the term "qualified business or industry";

1930 (b) The criteria for the average annual salary
1931 requirement shall be based upon the state average annual wage or
1932 the average annual wage of the county whichever is appropriate, at
1933 the time of application, and the threshold established upon
1934 application will remain constant for the duration of the project;

1935 (c) The business or industry must meet its job creation
1936 commitment within twenty-four (24) months of the application



1937 approval. However, if the qualified business or industry is
1938 applying for incentive payments for an additional period under
1939 subsection (2) of this section, the business or industry must
1940 comply with the applicable job and wage requirements of subsection
1941 (2) of this section.

1942 (5) (a) The MDA shall determine if the applicant is
1943 qualified to receive incentive payments.

1944 (b) If the applicant is determined to be qualified to
1945 receive incentive payments for an additional period under
1946 subsection (2) of this section, the MDA shall conduct a
1947 cost/benefit analysis to determine the estimated net direct state
1948 benefits and the net benefit rate applicable for the appropriate
1949 additional period and to estimate the amount of gross payroll for
1950 the additional period. In conducting such cost/benefit analysis,
1951 the MDA shall consider quantitative factors, such as the
1952 anticipated level of new tax revenues to the state along with the
1953 cost to the state of the qualified business or industry, and such
1954 other criteria as deemed appropriate by the MDA, including the
1955 adequacy of retirement benefits that the business or industry
1956 provides to individuals it employs in new direct jobs in this
1957 state. In no event shall incentive payments, cumulatively, exceed
1958 the estimated net direct state benefits. Once the qualified
1959 business or industry is approved by the MDA, an agreement shall be
1960 deemed to exist between the qualified business or industry and the
1961 State of Mississippi, requiring the continued incentive payment,



1962 together with any amount due pursuant to subsection (8) of this
1963 section, if applicable, to be made as long as the qualified
1964 business or industry retains its eligibility.

1965 (6) Upon approval of such an application, the MDA shall
1966 notify the Department of Revenue and shall provide it with a copy
1967 of the approved application and the estimated net direct state
1968 benefits. The Department of Revenue may require the qualified
1969 business or industry to submit such additional information as may
1970 be necessary to administer the provisions of this chapter. The
1971 qualified business or industry shall report to the Department of
1972 Revenue periodically to show its continued eligibility for
1973 incentive payments. The qualified business or industry may be
1974 audited by the Department of Revenue to verify such eligibility.
1975 In addition, the State Auditor may conduct performance and
1976 compliance audits under this chapter according to Section
1977 7-7-211(o) and may bill the oversight agency.

1978 (7) If the qualified business or industry is located in an
1979 area that has been declared by the Governor to be a disaster area
1980 and as a result of the disaster the business or industry is unable
1981 to create or maintain the full-time jobs required by this section:

1982 (a) The Commissioner of Revenue may extend the period
1983 of time that the business or industry may receive incentive
1984 payments for a period of time not to exceed two (2) years;



1985 (b) The Commissioner of Revenue may waive the
1986 requirement that a certain number of jobs be maintained for a
1987 period of time not to exceed twenty-four (24) months; and

1988 (c) The MDA may extend the period of time within which
1989 the jobs must be created for a period of time not to exceed
1990 twenty-four (24) months.

1991 (8) Notwithstanding any other provision of this section to
1992 the contrary, from and after January 1, 2023, if the amount of the
1993 incentive payment that a qualified business or industry is
1994 eligible to receive under this chapter is less than the amount
1995 that the incentive payment would have been if the payment had been
1996 calculated using any applicable income tax rates in Section 27-7-5
1997 that were in effect before January 1, 2023, then the qualified
1998 business or industry also shall receive a grant equal to the
1999 difference between such two (2) amounts. Further, the term
2000 "incentive payment," as such term is used in this chapter, shall
2001 be deemed to not refer to or otherwise include any grant payment
2002 payable to a qualified business or industry pursuant to this
2003 subsection.

2004 **[For businesses or industries that apply for incentive**
2005 **payments from and after July 1, 2010, this section shall read as**
2006 **follows:]**

2007 57-62-9. (1) (a) Except as otherwise provided in this
2008 section, a qualified business or industry that meets the
2009 qualifications specified in this chapter may receive quarterly



2010 incentive payments for a period not to exceed ten (10) years from
2011 the Department of Revenue pursuant to the provisions of this
2012 chapter in an amount which shall be equal to ninety percent (90%)
2013 of the amount of actual income tax withheld for employees with new
2014 direct jobs, but in no event more than four percent (4%) of the
2015 total annual salary paid for new direct jobs during such period,
2016 excluding benefits which are not subject to Mississippi income
2017 taxes.

2018 (b) A qualified business or industry that is a project
2019 as defined in Section 57-75-5(f)(iv)1 may elect the date upon
2020 which the ten-year period will begin. Such date may not be later
2021 than sixty (60) months after the date the business or industry
2022 applied for incentive payments.

2023 (c) A qualified business or industry as defined in
2024 Section 57-62-5(a)(iii) may elect the date upon which the ten-year
2025 period will begin and may elect to begin receiving incentive
2026 payments as early as the second quarter after that date.

2027 Incentive payments will be calculated on all jobs above the
2028 existing number of jobs as of the date the MDA determines that the
2029 applicant is qualified to receive incentive payments. In the
2030 event that the qualified business or industry falls below the
2031 number of existing jobs at the time of determination that the
2032 applicant is qualified to receive the incentive payment, the
2033 incentive payment shall cease until the qualified business or
2034 industry once again exceeds that number. If after forty-eight



2035 (48) months, the qualified business or industry has failed to
2036 create at least three thousand (3,000) new direct jobs, incentive
2037 payments shall cease and the qualified business or industry shall
2038 not be qualified to receive further incentive payments.

2039 (2) (a) A qualified business or industry that is a project
2040 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to
2041 receive incentive payments for an additional period not to exceed
2042 five (5) years beyond the expiration date of the initial ten-year
2043 period if:

2044 (i) The qualified business or industry creates at
2045 least three thousand (3,000) new direct jobs within five (5) years
2046 after the date the business or industry commences commercial
2047 production;

2048 (ii) Within five (5) years after the date the
2049 business or industry commences commercial production, the average
2050 annual wage of the jobs is at least one hundred fifty percent
2051 (150%) of the most recently published state average annual wage or
2052 the most recently published average annual wage of the county in
2053 which the qualified business or industry is located as determined
2054 by the Mississippi Department of Employment Security, whichever is
2055 the lesser. The criteria for the average annual wage requirement
2056 shall be based upon the state average annual wage or the average
2057 annual wage of the county whichever is appropriate, at the time of
2058 creation of the minimum number of jobs, and the threshold



2059 established at that time will remain constant for the duration of
2060 the additional period; and

2061 (iii) The qualified business or industry meets and
2062 maintains the job and wage requirements of subparagraphs (i) and
2063 (ii) of this paragraph (a) for four (4) consecutive calendar
2064 quarters.

2065 (b) A qualified business or industry that is a project
2066 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
2067 incentive payments for the additional period provided in paragraph
2068 (a) of this subsection (2) may apply to the MDA to receive
2069 incentive payments for an additional period not to exceed ten (10)
2070 years beyond the expiration date of the additional period provided
2071 in paragraph (a) of this subsection (2) if:

2072 (i) The qualified business or industry creates at
2073 least four thousand (4,000) new direct jobs after qualifying for
2074 the additional incentive period provided in paragraph (a) of this
2075 subsection (2) but before the expiration of the additional period.
2076 For purposes of determining whether the business or industry meets
2077 the minimum jobs requirement of this subparagraph (i), the number
2078 of jobs the business or industry created in order to meet the
2079 minimum jobs requirement of paragraph (a) of this subsection (2)
2080 shall be subtracted from the minimum jobs requirement of this
2081 subparagraph (i);

2082 (ii) The average annual wage of the jobs is at
2083 least one hundred fifty percent (150%) of the most recently



2084 published state average annual wage or the most recently published
2085 average annual wage of the county in which the qualified business
2086 or industry is located as determined by the Mississippi Department
2087 of Employment Security, whichever is the lesser. The criteria for
2088 the average annual wage requirement shall be based upon the state
2089 average annual wage or the average annual wage of the county
2090 whichever is appropriate, at the time of creation of the minimum
2091 number of jobs, and the threshold established at that time will
2092 remain constant for the duration of the additional period; and

2093 (iii) The qualified business or industry meets and
2094 maintains the job and wage requirements of subparagraphs (i) and
2095 (ii) of this paragraph (b) for four (4) consecutive calendar
2096 quarters.

2097 (3) In order to receive incentive payments, an establishment
2098 shall apply to the MDA. The application shall be on a form
2099 prescribed by the MDA and shall contain such information as may be
2100 required by the MDA to determine if the applicant is qualified.

2101 (4) (a) In order to qualify to receive such payments, the
2102 establishment applying shall be required to meet the definition of
2103 the term "qualified business or industry";

2104 (b) The criteria for the average annual salary
2105 requirement shall be based upon the state average annual wage or
2106 the average annual wage of the county whichever is appropriate, at
2107 the time of application, and the threshold established upon
2108 application will remain constant for the duration of the project;



2109 (c) Except as otherwise provided for a qualified
2110 business or industry as defined in Section 57-62-5(a)(iii), the
2111 business or industry must meet its job creation commitment within
2112 twenty-four (24) months of the application approval. However, if
2113 the qualified business or industry is applying for incentive
2114 payments for an additional period under subsection (2) of this
2115 section, the business or industry must comply with the applicable
2116 job and wage requirements of subsection (2) of this section.

2117 (5) (a) The MDA shall determine if the applicant is
2118 qualified to receive incentive payments.

2119 (b) If the applicant is determined to be qualified to
2120 receive incentive payments for an additional period under
2121 subsection (2) of this section, the MDA shall conduct an analysis
2122 to estimate the amount of gross payroll for the appropriate
2123 additional period. Incentive payments, cumulatively, shall not
2124 exceed ninety percent (90%) of the amount of actual income tax
2125 withheld for employees with new direct jobs, but in no event more
2126 than four percent (4%) of the total annual salary paid for new
2127 direct jobs during the additional period, excluding benefits which
2128 are not subject to Mississippi income taxes. Once the qualified
2129 business or industry is approved by the MDA, an agreement shall be
2130 deemed to exist between the qualified business or industry and the
2131 State of Mississippi, requiring the continued incentive payment,
2132 together with any amount due pursuant to subsection (8) of this



2133 section, if applicable, to be made as long as the qualified
2134 business or industry retains its eligibility.

2135 (6) Upon approval of such an application, the MDA shall
2136 notify the Department of Revenue and shall provide it with a copy
2137 of the approved application and the minimum job and salary
2138 requirements. The Department of Revenue may require the qualified
2139 business or industry to submit such additional information as may
2140 be necessary to administer the provisions of this chapter. The
2141 qualified business or industry shall report to the Department of
2142 Revenue periodically to show its continued eligibility for
2143 incentive payments. The qualified business or industry may be
2144 audited by the Department of Revenue to verify such eligibility.
2145 In addition, the State Auditor may conduct performance and
2146 compliance audits under this chapter according to Section
2147 7-7-211(o) and may bill the oversight agency.

2148 (7) If the qualified business or industry is located in an
2149 area that has been declared by the Governor to be a disaster area
2150 and as a result of the disaster the business or industry is unable
2151 to create or maintain the full-time jobs required by this section:

2152 (a) The Commissioner of Revenue may extend the period
2153 of time that the business or industry may receive incentive
2154 payments for a period of time not to exceed two (2) years;

2155 (b) The Commissioner of Revenue may waive the
2156 requirement that a certain number of jobs be maintained for a
2157 period of time not to exceed twenty-four (24) months; and



2158 (c) The MDA may extend the period of time within which
2159 the jobs must be created for a period of time not to exceed
2160 twenty-four (24) months.

2161 (8) Notwithstanding any other provision of this section to
2162 the contrary, from and after January 1, 2023, if the amount of the
2163 incentive payment that a qualified business or industry is
2164 eligible to receive under this chapter is less than the amount
2165 that the incentive payment would have been if the payment had been
2166 calculated using any applicable income tax rates in Section 27-7-5
2167 that were in effect before January 1, 2023, then the qualified
2168 business or industry also shall receive a grant equal to the
2169 difference between such two (2) amounts. Further, the term
2170 "incentive payment," as such term is used in this chapter, shall
2171 be deemed to not refer to or otherwise include any grant payment
2172 payable to a qualified business or industry pursuant to this
2173 subsection.

2174 **SECTION 21.** Section 57-62-11, Mississippi Code of 1972, is
2175 amended as follows:

2176 57-62-11. (1) There is created in the State Treasury a
2177 special fund to be known as the Mississippi Advantage Jobs
2178 Incentive Payment Fund, into which shall be deposited withholding
2179 tax revenue required to be deposited into such fund pursuant to
2180 Section 27-7-312 and any other monies designated for deposit
2181 therein. The money in the fund shall be used for the purpose of



2182 making the incentive payments and grants authorized under this
2183 chapter.

2184 (2) The Mississippi Advantage Jobs Incentive Payment Fund
2185 shall be administered by the Department of Revenue, and monies in
2186 the fund, less three percent (3%) to be retained by the Department
2187 of Revenue to pay the reasonable and necessary expenses of the
2188 Department of Revenue in administering its duties under this
2189 chapter, shall be expended pursuant to the approved application.
2190 Amounts in the fund at the end of any fiscal year that are not
2191 necessary to make future incentive payments and grants shall be
2192 paid into the General Fund.

2193 (3) The liability of the State of Mississippi to make the
2194 incentive payments and grants authorized under this chapter shall
2195 be limited to the balance contained in the fund.

2196 **SECTION 22.** Section 57-99-1, Mississippi Code of 1972, is
2197 amended as follows:

2198 57-99-1. As used in Sections 57-99-1 through 57-99-9, the
2199 following words and phrases shall have the meanings ascribed in
2200 this section unless the context clearly indicates otherwise:

2201 (a) "Qualified business or industry" means any company
2202 and affiliates thereof, pursuant to rules and regulations of the
2203 MDA, which is:

2204 (i) A project that has been certified by the MMEIA
2205 as a project defined in Section 57-75-5(f)(xxi) and creates at



2206 least one thousand five hundred (1,500) jobs within sixty (60)
2207 months of the beginning of the project;

2208 (ii) A project that has been certified by the
2209 MMEIA as a project defined in Section 57-75-5(f)(xxii) and creates
2210 at least five hundred (500) jobs within seventy-two (72) months of
2211 the beginning of the project;

2212 (iii) A project:

2213 1. That has been certified by the MMEIA as a
2214 project defined in Section 57-75-5(f)(xxviii);

2215 2. Creates at least twenty-five (25) jobs
2216 within sixty (60) months of the beginning of the project; and

2217 3. In which the average annual wages and
2218 taxable benefits of the jobs created by such project are at least
2219 one hundred ten percent (110%) of the most recently published
2220 average annual wage of the state or the most recently published
2221 average annual wage of the county in which the project is located,
2222 as determined by the Mississippi Department of Employment
2223 Security, whichever is the lesser; or

2224 (iv) A project:

2225 1. That has been certified by the MMEIA as a
2226 project defined in Section 57-75-5(f)(xxix);

2227 2. That creates at least twenty-five (25)
2228 jobs within sixty (60) months following the date required by the
2229 MMEIA and prescribed by written agreement between the MMEIA and



2230 the enterprise establishing the project described in item 1 of
2231 this subparagraph (iv); and

2232 3. In which the average annual wages of the
2233 jobs created by such project are at least one hundred ten percent
2234 (110%) of the most recently published average annual wage of the
2235 state, as determined by the Mississippi Department of Employment
2236 Security.

2237 (b) "Qualified job" means full-time employment in this
2238 state within the project site of a qualified business or industry
2239 that has qualified to receive an incentive payment pursuant to
2240 Sections 57-99-1 through 57-99-9, which employment did not exist
2241 in this state before the date of approval by the MDA of the
2242 application of the qualified business or industry pursuant to the
2243 provisions of Sections 57-99-1 through 57-99-9. "Qualified job"
2244 also shall include full-time employment in this state of employees
2245 who are employed by an entity other than the establishment that
2246 has qualified to receive an incentive payment such as employees
2247 who are leased to and managed by the qualified business or
2248 industry, if such employment did not exist in this state before
2249 the date of approval by the MDA of the application of the
2250 establishment; provided, however, that in order for a qualified
2251 business or industry to receive incentive payments for such
2252 employees, the actual employer of the employees must agree to such
2253 payments being made to the qualified business or industry.



2254 (c) "Full-time employment" means a job of at least
2255 thirty-five (35) hours per week.

2256 (d) "Rebate amount" means the amount of Mississippi
2257 income taxes withheld from employees in qualified jobs that is
2258 available for rebate to the qualified business or industry,
2259 provided that:

2260 (i) Except as otherwise provided in this paragraph
2261 (d), the rebate amount shall be three and one-half percent
2262 (3-1/2%) of the wages and taxable benefits for qualified jobs; and

2263 (ii) Except as otherwise provided in Section
2264 57-99-3(5), in no event shall incentive payments exceed the actual
2265 Mississippi income taxes withheld from employees in qualified jobs
2266 that are available for rebate to the qualified business or
2267 industry.

2268 (e) "MDA" means the Mississippi Development Authority.

2269 (f) "MMEIA" means the Mississippi Major Economic Impact
2270 Authority.

2271 **SECTION 23.** Section 57-99-3, Mississippi Code of 1972, is
2272 amended as follows:

2273 57-99-3. (1) Except as otherwise provided in this section,
2274 a qualified business or industry that meets the qualifications
2275 specified in Sections 57-99-1 through 57-99-9 may receive
2276 quarterly incentive payments for a period not to exceed
2277 twenty-five (25) years from the Department of Revenue pursuant to
2278 the provisions of Sections 57-99-1 through 57-99-9 in an amount



2279 which shall be equal to the lesser of three and one-half percent
2280 (3-1/2%) of the wages and taxable benefits for qualified jobs or
2281 the actual amount of Mississippi income tax withheld by the
2282 employer for the qualified jobs. A qualified business or industry
2283 may elect the date upon which the incentive rebate period will
2284 begin. Such date may not be later than sixty (60) months after
2285 the date the business or industry applied for incentive payments;
2286 however, in the case of a qualified business or industry described
2287 in Section 57-99-1(a) (ii), such date may not be later than
2288 seventy-two (72) months after the date the business or industry
2289 applied for incentive payments, or for a qualified business or
2290 industry described in Section 57-99-1(a) (iv), such date may not be
2291 later than the date that is sixty (60) months after the earlier
2292 of:

2293 (a) The date the qualified business or industry applied
2294 for incentive payments; or

2295 (b) The start of commercial production as defined in a
2296 definitive agreement between such qualified business or industry
2297 and the MDA.

2298 (2) In order to receive incentive payments, an establishment
2299 shall apply to the MDA. The application shall be on a form
2300 prescribed by the MDA and shall contain such information as may be
2301 required by the MDA to determine if the applicant is qualified.

2302 (3) In order to qualify to receive such payments, the
2303 establishment applying shall be required to:



2304 (a) Be engaged in a qualified business or industry; and
2305 (b) The business or industry must create and maintain
2306 the minimum number of qualified jobs as set forth in Section
2307 57-99-1. Establishments that are approved as a qualified business
2308 or industry under Sections 57-99-1 through 57-99-9 may not receive
2309 incentive payments under Section 57-62-1 et seq.

2310 (4) Upon approval of such an application, the MDA shall
2311 notify the Department of Revenue and shall provide it with a copy
2312 of the approved application. The Department of Revenue may
2313 require the qualified business or industry to submit such
2314 additional information as may be necessary to administer the
2315 provisions of Sections 57-99-1 through 57-99-9. The qualified
2316 business or industry shall report to the Department of Revenue
2317 periodically to show its continued eligibility for incentive
2318 payments. The qualified business or industry may be audited by
2319 the Department of Revenue to verify such eligibility.

2320 (5) Notwithstanding any other provision of Sections 57-99-1
2321 through 57-99-9 to the contrary, from and after January 1, 2023,
2322 if the amount of the incentive payments that a qualified business
2323 or industry is eligible to receive under Sections 57-99-1 through
2324 57-99-9 is less than the amount that the incentive payments would
2325 have been if the payments had been calculated using any applicable
2326 income tax rates in Section 27-7-5 that were in effect before
2327 January 1, 2023, then the qualified business or industry also
2328 shall receive a grant equal to the difference between such two (2)



2329 amounts. Further, the term "incentive payment," as such term is
2330 used in Sections 57-99-1 through 57-99-9, shall be deemed to not
2331 refer to or otherwise include any grant payment payable to a
2332 qualified business or industry pursuant to this subsection.

2333 **SECTION 24.** Section 57-99-5, Mississippi Code of 1972, is
2334 amended as follows:

2335 57-99-5. (1) There is created in the State Treasury a
2336 special fund to be known as the "MMEIA Withholding Rebate Fund,"
2337 into which shall be deposited withholding tax revenue required to
2338 be deposited into such fund pursuant to Section 27-7-312 and any
2339 other monies designated for deposit therein. The money in the
2340 fund shall be used for the purpose of making the incentive
2341 payments and grants authorized under Sections 57-99-1 through
2342 57-99-9.

2343 (2) The liability of the State of Mississippi to make the
2344 incentive payments and grants authorized under Sections 57-99-1
2345 through 57-99-9 shall be limited to the balance contained in the
2346 fund.

2347 **SECTION 25.** This act shall take effect and be in force from
2348 and after July 1, 2022.

