Exhibit N

BIPEC Position Statement

BIPEC
BUSINESS AND INDUSTRY
POLITICAL EDUCATION COMMITTEE

BIPEC believes Mississippi's position on the taxation of software and related products / services should be based on solid economic and competitiveness principles. Generally, BIPEC has identified the following overarching criteria that should guide the Legislature in forming that policy.

- Policy at this stage should be broadly applicable to all businesses rather than applied on a selective or industry specific basis.
- The policy should promote economic competitiveness and distinguish Mississippi from other states that might be perceived as imposing higher tax burdens on businesses and the means of production. Our policy should reduce the overall tax burden on those choosing to do business in Mississippi as compared to other states.
- The policy of what is and is not taxed should be clear and unambiguous, and any legislation should explicitly state that any ambiguity is to be construed against taxation to prevent unintended future expansion of the tax base. In other words, non-taxation of a given item should be the general rule and taxation is the exception and only when specifically, and unambiguously provided.
- The policy should promote simplicity and ease of administration both by businesses and the Department. Compliance should not require businesses or the state to have to incur significant additional costs or resources.
- The policy should reduce overall taxation of businesses and avoid "stacking" of tax on multiple levels of business inputs or "hidden" taxes that become embedded in the cost of the end product. Our tax policy should focus on how / whether we tax the output of a business, not the input.

Within the confines of the above principles, BIPEC recommends the Legislation adopt the following positions specific to the taxation of software and software related products:

- All software used by businesses as an input in the production of a final product or service should be non-taxable.
    - This would place software and related products on par with non-taxable raw materials and labor costs that are incurred to produce a final product/service.
    - This policy reflects the core nature of software as simply replacing in a more efficient manner those business inputs which used to be in the form of human input (salaries) which we never subjected to sales tax.
        - Examples: accounting software replacing teams of bookkeepers; purchasing software replacing purchasing agents; HR software replacing large payroll departments; machinery operating software replacing shop technicians; etc.
    - This would allow the state to focus its sales tax policy on which outputs (end products and services) to tax rather than taxing the inputs used to generate those outputs.
    - Such a policy renders moot the debate of remotely accessed software and thereby avoids the uncertainty of the state's right to tax property that never physically entered the jurisdiction.

- Eliminating tax on inputs reduces "stacking" of hidden taxes that become embedded in final product/service prices, which raises the cost of production in the state.
- This policy would also distinguish Mississippi from most other higher-taxed jurisdictions and positions us as extremely business friendly.
- Such a policy would make Mississippi a very attractive jurisdiction to develop high-technology jobs and industries.

- Consumer transactions should be taxed at the normal sales rates.
  - This reflects the above policy of taxing the end-use of a given product or service rather than the inputs used to generate those outputs.
  - Individual consumers do not have same complexities with multiple rates, multiple users across multiple jurisdictions, bundled taxable and nontaxable subcomponents, embedded data, etc. that businesses routinely encounter.

- Software-related services (i.e., the "computer software sales and services" referenced in Miss. Code Ann. Section 27-65-23) should be taxed in manner similar to the software above (i.e., business inputs treated differently than consumer transactions).

- Other aspects of cloud computing also should be exempt.
  - Specifically PaaS and IaaS, even though they are forms or examples of "cloud computing", represent the rental / use of TPP located in other jurisdictions.
  - These should not be taxed in Mississippi because that property has never entered the state.
  - Any expansion to tax these items would take Mississippi's sales tax policy in a totally uncharted and unprecedented direction.

- If software <u>is</u> to be taxed, the Legislature will have to address following downstream issues:

  - Mississippi should enact a special and universal reduced tax rate for software and related services that are used as a business input (perhaps 1.5%) to mitigate the economic impact of this expanded sales tax base.
    - The special rate should not be limited to specific industries or professions.

  - The definition of software must clearly exclude data and data processing services.
    - The committee generally agrees on this.

  - Use of a direct pay permit self-accrual and self-remittance mechanism must be adopted for all businesses.
    - Vendors must be removed completely from the collection obligation so users can self-accrue and/or claim refunds for overpaid taxes based on their own facts and circumstances

  - The Legislature should clarify the definition of the generic term "SaaS" to distinguish between remote use of software and hiring someone to perform services that use software
    - Best addressed by "true object" test utilized by other states, but even that raises uncertainties and confusion.
    - Only those services that create/modify software should be taxed, if at all. This is consistent with the historic application of "computer software sales and services" referenced in Miss. Code Ann. Section 27-65-23.
    - Other professional services should not be taxed even if they rely heavily on software to provide those services.

- Sourcing of multi-jurisdictional license agreements should be based on the actual location of licensed users.
  - References to billing address, headquarters location, etc. are unreliable and inaccurate because those often are completely irrelevant as to where the product is actually used, especially across larger multi-jurisdiction organizations.

- Intercompany use of software or charge-outs of costs to affiliates must be fully exempt. There is no principled reason to tax related parties on the use of the same software throughout an organization if it already is subject to tax at the original acquisition level.

- The method to segregate bundled transactions (combinations of taxable and non-taxable items) cannot depend on vendor cooperation or consent.
  - Vendors often will not share sensitive proprietary information such as the values associated with separate product components / services with customers.
  - The user is in best position to know exactly what they are purchasing and to allocate price based on value and internal usage.

- Any ambiguities or uncertainties as to whether a product or service is taxable must be resolved in favor of non-taxation.
  - This promotes clarity and properly puts onus on the state to clearly state what is and is not taxed.
  - It also avoids or limits "tax creep" as technologies and products/services evolve. If future products are to be taxed, that should be determined by the Legislature and not an administrative agency.

- Emergency / redundant systems should be fully exempt.
  - This is especially important to a state such as Mississippi that is prone to natural disasters.

- The state must adopt a very clear and unconditional system for providing credit for sales taxes paid to other states to avoid double taxation and potential constitutional issues.
  - The statute of limitations for claiming such a credit and recovering overpaid taxes must be very generous to account for other states audits where liability might be finally determined well after our normal refund period is closed.