MISSISSIPPI LEGISLATURE

REGULAR SESSION 2013

By: Representative Hines

To: Banking and Financial Services; Ways and Means

HOUSE BILL NO. 101

AN ACT TO BE KNOWN AS THE FAMILY SAVINGS INITIATIVE ACT; TO PROVIDE FOR THE ESTABLISHMENT OF INDIVIDUAL DEVELOPMENT ACCOUNTS DESIGNED TO PROVIDE INDIVIDUALS AND FAMILIES WITH LIMITED MEANS AN OPPORTUNITY TO ACCUMULATE ASSETS, FACILITATE AND MOBILIZE SAVINGS, PROMOTE HOME OWNERSHIP, MICROENTERPRISE DEVELOPMENT, AND EDUCATION, AND STABILIZE FAMILIES AND BUILD COMMUNITIES; TO PROVIDE THAT THE DEPARTMENT OF HUMAN SERVICES SHALL ENTER INTO CONTRACTS WITH FIDUCIARY ORGANIZATIONS TO CARRY OUT THE PROVISIONS OF THIS ACT; TO AUTHORIZE STATE RESIDENTS TO OPEN AN INDIVIDUAL DEVELOPMENT ACCOUNT UPON APPROVAL OF A FIDUCIARY ORGANIZATION; TO PROVIDE THAT THE FIDUCIARY ORGANIZATION SHALL APPROVE THE APPLICATION ONLY IF CERTAIN CRITERIA ARE MET; TO SPECIFY THE QUALIFIED PURPOSES FOR WHICH INDIVIDUAL DEVELOPMENT ACCOUNTS MAY BE USED; TO AUTHORIZE THE CONTRIBUTION OF MATCHING FUNDS TO FIDUCIARY ORGANIZATIONS FOR INDIVIDUAL DEVELOPMENT ACCOUNTS; TO REQUIRE FIDUCIARY ORGANIZATIONS TO SUBMIT QUARTERLY REPORTS TO THE DEPARTMENT OF HUMAN SERVICES; TO CREATE A SPECIAL FUND IN THE STATE TREASURY TO CONSIST OF TRANSITIONAL EMPLOYMENT ASSISTANCE FUNDS, WHICH SHALL BE USED FOR THE PURPOSES OF THIS ACT; TO AMEND SECTION 27-7-15, MISSISSIPPI CODE OF 1972, TO EXEMPT FROM GROSS INCOME FOR STATE INCOME TAX PURPOSES INTEREST AND DIVIDENDS EARNED ON INDIVIDUAL DEVELOPMENT ACCOUNTS AND MATCHING FUNDS DEPOSITED INTO THOSE ACCOUNTS; AND FOR RELATED PURPOSES.

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

SECTION 1. This act shall be known and may be cited as the "Family Savings Initiative Act."

SECTION 2. The purpose of this act is to provide for the establishment of individual development accounts designed to:
(a) Provide individuals and families with limited means an opportunity to accumulate assets;

(b) Facilitate and mobilize savings;

(c) Promote home ownership, microenterprise development, and education; and

(d) Stabilize families and build communities.

SECTION 3. The Legislature finds that:

(a) Americans of most economic classes are having increasing difficulty climbing the economic ladder. Fully half of all Americans have negligible or no investable assets just as the price of entry to the economic mainstream, such as the cost of a house, starting a business, an adequate education, establishing a retirement account, or purchasing an automobile, is increasing;

(b) Economic well-being does not come solely from income, spending, and consumption, but also requires savings, investment, and accumulation of assets, since assets can improve economic stability, connect people with a viable and hopeful future, stimulate development of human and other capital, enable people to focus and specialize, yield personal and social dividends, and enhance the welfare of offspring;

(c) There is an urgent need for new means for Americans to navigate the labor market and to provide incentives and means for employment, upgrading, mobility, and retention;

(d) The household savings rate of the United States lags far behind other industrial nations, presenting a barrier to
economic growth. The State of Mississippi should develop policies, such as individual development accounts, that promote higher rates of personal savings and net private domestic investment;

(e) In the current fiscal environment, the State of Mississippi should invest existing resources in high-yielding initiatives. There is reason to believe that the financial returns, including increased income, tax revenue, and decreased welfare cash assistance, of individual development accounts will far exceed the cost of investment;

(f) Hundreds of thousands of Mississippian continue to live in poverty. Poverty is a loss of human resources, an assault on human dignity, and a drain on social and fiscal resources of this state. Traditional public assistance programs, concentrating on income and consumption, have rarely been successful in promoting and supporting the transition to economic self-sufficiency; and

(g) Income-based social policy should be complemented with asset-based social policy, because while income-based policies ensure that consumption needs, including food, child care, rent, clothing, and health care, are met, asset-based policies provide the means to achieve economic self-sufficiency and climb the economic ladder.

SECTION 4. As used in this act:
(a) "Administrative costs" includes, but is not limited to, soliciting matching funds, processing fees charged by the fiduciary organization or financial institution, and traditional overhead costs. Administrative costs shall be limited to no more than ten percent (10%) of the contract.

(b) "Department" means the Department of Human Services;

(c) "Eligible educational institution" means the following:

(i) An institution described in 20 USCS Section 1088 or 1141, as those sections are in effect on January 1, 2013;

(ii) An area vocational education school; and

(iii) Any other accredited education or training organization.

(d) "Federal poverty level" means the poverty income guidelines published for a calendar year by the United States Department of Health and Human Services;

(e) "Fiduciary organization" means the organization that will serve as an intermediary between an individual account holder and a financial institution holding account funds. A fiduciary organization shall be a not-for-profit organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, 26 USCS Section 501(c)(3), as in effect on January 1, 2013;

(f) "Financial institution" means an organization authorized to do business under state or federal laws relating to
financial institutions, and includes, but is not limited to, a bank, trust company, savings bank, building and loan association, savings and loan company or association, or credit union;

(g) "Individual development account" or "IDA" means an account created under this act exclusively for the purpose of paying the expenses of an eligible individual or family for the purposes set forth in Section 7 of this act;

(h) "Net worth" means the aggregate market value of all assets that are owned, in whole or in part, by any member of the household, less the obligations or debts of any member of the household;

(i) "Operating costs" includes, but is not limited to, costs of training IDA participants in economic and financial literacy and IDA uses, marketing participation, counseling participants and conducting required verification and compliance activities;

(j) "Postsecondary educational expenses" means:

(i) Tuition and fees required for the enrollment or attendance of an IDA account holder or immediate family member thereof who is a student at an eligible educational institution; and

(ii) Fees, books, supplies, and equipment required for courses of instruction for an IDA account holder or immediate family member thereof who is a student at an eligible educational institution;
(k) "Qualified acquisition costs" means the costs of acquiring, constructing, or reconstructing a residence to be occupied by an IDA account holder or an immediate family member thereof, including, but not limited to, any usual or reasonable settlement, financing, or other closing costs;

(l) "Qualified business" means any business that does not contravene any law or public policy;

(m) "Qualified business capitalization expenses" means qualified expenditures for the capitalization of a qualified business pursuant to a qualified plan;

(n) "Qualified emergency withdrawals" means a withdrawal by an eligible individual that is a withdrawal of only those funds, or a portion of those funds, deposited by the individual in the individual development account of the individual, and is permitted by a fiduciary organization on a case-by-case basis in accordance with the rules established by the department;

(o) "Qualified expenditures" means expenditures included in a qualified plan, including, but not limited to, capital, plant, equipment, working capital and inventory expenses;

(p) "Qualified first time home buyer" means an individual who has no ownership interest in a principal residence during the three-year period ending on the date of acquisition of the principal residence to which this act applies;
"Qualified plan" means a plan for the operation of a business by an IDA account holder or an immediate family member thereof that:

(i) Is approved by a financial institution, or by a nonprofit microenterprise program or loan fund, having demonstrated business expertise;

(ii) Includes a description of services or goods to be sold, a marketing plan, and projected financial statements;

and

(iii) May require the eligible individual to obtain the assistance of an experienced entrepreneurial advisor;

"Qualified principal residence" means a principal residence of an IDA account holder or an immediate family member thereof, the qualified acquisition costs of which do not exceed the average area purchase price applicable to that residence, determined in accordance with paragraphs (2) and (3) of Section 143(e) of the Internal Revenue Code, 26 USCS Section 143(e)(2) and (3), as in effect on January 1, 2013.

SECTION 5. (1) The Department of Human Services shall enter into contracts with one or more fiduciary organizations under the provisions of this section in such a manner that different regions of the state are served by one or more fiduciary organizations. An organization based in this state that desires to enter into such a contract shall submit a proposal to the department for the right to be approved as a fiduciary organization. Those proposals
shall be made upon forms prescribed by the department and shall contain ANY information as the department may require.

(2) Organizations' proposals shall be evaluated and contracts awarded by the department on the basis of such items as geographic diversity and an organization's:

(a) Ability to market the project to potential account holders;

(b) Ability to leverage additional matching and operating funds;

(c) Ability to provide safe and secure investments for individual accounts;

(d) Overall administrative capacity, including, but not limited to, the certifications or verifications required to assure compliance with eligibility requirements, authorized uses of the accounts, matching contributions by individuals or businesses, and penalties for unauthorized distributions;

(e) Capacity to provide financial counseling and other related service to potential participants;

(f) Capacity to provide other activities designed to increase the independence of individuals and families through home ownership, small business development, enhanced education and training, or to provide links to those other activities; and

(g) Operating costs.

(3) For each contract entered into under the provisions of this section, the contract shall begin no later than October 1 of
each year. The fiduciary organization shall use not less than seventy percent (70%) for matching funds and not more than thirty percent (30%) for operating and administrative costs. Administrative costs shall be limited to ten percent (10%) of the contract.

(4) Responsibilities of a fiduciary organization shall include, but not be limited to, marketing participation, soliciting matching contributions, counseling project participants, conducting basic economic and financial literacy training and IDA use training for project participants, and conducting required verification and compliance activities. Neither a fiduciary organization nor an employee of, or person associated with a fiduciary organization, shall receive anything of value, other than compensation for services, for any act performed in connection with the establishment of an IDA or in furtherance of the provisions of this act.

SECTION 6. (1) An individual who is a resident of this state may submit an application to open an individual development account to a fiduciary organization approved by the department under the provisions of Section 5 of this act. The fiduciary organization shall approve the application only if:

(a) The individual has gross household income from all sources for the calendar year preceding the year in which the application is made that does not exceed two hundred percent (200%) of the federal poverty level; and
(b) The individual's household net worth at the time the IDA account is opened does not exceed Ten Thousand Dollars ($10,000.00) disregarding the primary dwelling and one (1) motor vehicle owned by the household.

(2) An individual opening an IDA shall be required to enter into an IDA agreement with the fiduciary organization.

(3) The fiduciary organization shall be responsible for coordinating arrangements between the individual and a financial institution to open the individual's IDA.

(4) (a) Each fiduciary organization shall provide written notification to each of its eligible IDA account holders of the amount of matching funds provided by the fiduciary to which each IDA account holder is entitled. The notification shall be made at any intervals as the fiduciary organization deems appropriate, but shall be required to be made at least once each calendar year. The amount of the matching funds for each IDA account holder shall be Three Dollars ($3.00) for each One Dollar ($1.00) contributed to the IDA by the IDA account holder during the preceding calendar year. The amount of the matching funds shall not exceed Two Thousand Dollars ($2,000.00) per IDA account holder or Four Thousand Dollars ($4,000.00) per household.

(b) If the amount of matching funds available are insufficient to disburse the maximum amounts specified in this subsection, amounts of disbursements shall be reduced proportionately based upon available funds.
(5) In the event of an IDA account holder's death, the account may be transferred to the ownership of a contingent beneficiary or beneficiaries. An account holder shall name a contingent beneficiary or beneficiaries at the time the account is established and may change the beneficiary or beneficiaries at any time. If the named beneficiary or beneficiaries are deceased or cannot otherwise accept the transfer, the monies shall be transferred to the fiduciary organization to redistribute as matching funds.

SECTION 7. Individual development accounts may be used for any of the following qualified purposes:

(a) Qualified acquisition costs with respect to a qualified principal residence for a qualified first time home buyer, or the costs of major repairs or improvements to a qualified principal residence, if paid directly to the persons to whom the amounts are due. A qualified residence being one defined as:

(i) A residence that has received a Home Energy Audit as outlined in the United States Department of Energy's Weatherization Assistance Program. Recommended measures should be installed before residential dwelling is occupied by new owner.

(ii) A residence that incorporates the principles of Energy-Efficiency, Green Building, the United States Department of Housing and Urban Developments Healthy Homes Program, and the
United States Environmental Protection Agency's Energy Star Program.

(iii) An Energy-Efficient Mortgage is recommended, but not mandatory;

(b) Amounts paid directly to vendors used solely for qualified business capitalization expenses consistent with a qualified plan;

(c) Postsecondary educational expenses paid directly to a vendor for education and training purposes; and

(d) Qualified emergency withdrawals.

SECTION 8. (1) If the fiduciary organization receives evidence that monies withdrawn from IDAs are withdrawn under false pretenses or are used for purposes other than for the approved purposes indicated at the time of the withdrawal, the fiduciary organization shall make arrangements with the financial institution to impose a penalty of loss of matches and may, at its discretion, close the account. All penalties collected by fiduciary organizations shall remain with the fiduciary organization to distribute as matching funds to other eligible individuals.

(2) The fiduciary organization shall establish a grievance committee and a procedure to hear, review, and decide in writing any grievance made by an IDA account holder who disputes a decision of the operating organization that a withdrawal is subject to penalty.
(3) Each fiduciary organization shall establish any procedures as are necessary, including prohibiting eligibility for further matching funds, to ensure compliance with this section.

SECTION 9. Any individual, business, organization, or other entity may contribute matching funds to a fiduciary organization.

SECTION 10. Each fiduciary organization shall provide quarterly to the department the following information:

(a) The number of individuals making deposits into an IDA;

(b) The amounts deposited in the IDA;

(c) The amounts not yet allocated to IDAs;

(d) The amounts withdrawn from the IDAs and the purposes for which the amounts were withdrawn;

(e) The balances remaining in the IDAs;

(f) The service configurations (such as peer support, structured planning exercises, mentoring, and case management) that increased the rate and consistency of participation in the demonstration project and how those configurations varied among different populations or communities; and

(g) The number of grievances filed, the resolution of the grievances, and any penalties imposed.

SECTION 11. The department shall prepare a written report annually regarding the implementation of this act and shall make recommendations for improving the program. The report shall be
transmitted to the Legislature on or before December 1 of each year.

SECTION 12. The department shall be responsible for implementation of this act and shall promulgate rules as necessary in accordance with the provisions of this act.

SECTION 13. There is created in the State Treasury a special fund to be known as the "Individual Development Account Trust Fund." This special fund shall consist of Transitional Employment Assistance Program funds, and monies in the special fund shall be used for the purposes set forth in this act. All income from the investment of funds in the special fund shall be credited to the special fund, and any funds remaining in the special fund at the end of a fiscal year shall not lapse into the State General Fund.

SECTION 14. Funds deposited in an IDA shall not be counted as income, assets or resources of the individual in determining financial eligibility for assistance or services under any federal, federally assisted, state, or municipal program based on need.

SECTION 15. Section 27-7-15, Mississippi Code of 1972, is amended as follows:

27-7-15. (1) For the purposes of this article, except as otherwise provided, the term "gross income" means and includes the income of a taxpayer derived from salaries, wages, fees or compensation for service, of whatever kind and in whatever form paid, including income from governmental agencies and subdivisions
thereof; or from professions, vocations, trades, businesses, commerce or sales, or renting or dealing in property, or reacquired property; also from annuities, interest, rents, dividends, securities, insurance premiums, reinsurance premiums, considerations for supplemental insurance contracts, or the transaction of any business carried on for gain or profit, or gains, or profits, and income derived from any source whatever and in whatever form paid. The amount of all such items of income shall be included in the gross income for the taxable year in which received by the taxpayer. The amount by which an eligible employee's salary is reduced pursuant to a salary reduction agreement authorized under Section 25-17-5 shall be excluded from the term "gross income" within the meaning of this article.

(2) In determining gross income for the purpose of this section, the following, under regulations prescribed by the commissioner, shall be applicable:

(a) **Dealers in property.** Federal rules, regulations and revenue procedures shall be followed with respect to installment sales unless a transaction results in the shifting of income from inside the state to outside the state.

(b) **Casual sales of property.**

(i) Prior to January 1, 2001, federal rules, regulations and revenue procedures shall be followed with respect to installment sales except they shall be applied and administered as if H.R. 3594, the Installment Tax Correction Act of 2000 of the
106th Congress, had not been enacted. This provision will generally affect taxpayers, reporting on the accrual method of accounting, entering into installment note agreements on or after December 17, 1999. Any gain or profit resulting from the casual sale of property will be recognized in the year of sale.

(ii) From and after January 1, 2001, federal rules, regulations and revenue procedures shall be followed with respect to installment sales except as provided in this subparagraph (ii). Gain or profit from the casual sale of property shall be recognized in the year of sale. When a taxpayer recognizes gain on the casual sale of property in which the gain is deferred for federal income tax purposes, a taxpayer may elect to defer the payment of tax resulting from the gain as allowed and to the extent provided under regulations prescribed by the commissioner. If the payment of the tax is made on a deferred basis, the tax shall be computed based on the applicable rate for the income reported in the year the payment is made. Except as otherwise provided in subparagraph (iii) of this paragraph (b), deferring the payment of the tax shall not affect the liability for the tax. If at any time the installment note is sold, contributed, transferred or disposed of in any manner and for any purpose by the original note holder, or the original note holder is merged, liquidated, dissolved or withdrawn from this state, then all deferred tax payments under this section shall immediately become due and payable.
(iii) If the selling price of the property is reduced by any alteration in the terms of an installment note, including default by the purchaser, the gain to be recognized is recomputed based on the adjusted selling price in the same manner as for federal income tax purposes. The tax on this amount, less the previously paid tax on the recognized gain, is payable over the period of the remaining installments. If the tax on the previously recognized gain has been paid in full to this state, the return on which the payment was made may be amended for this purpose only. The statute of limitations in Section 27-7-49 shall not bar an amended return for this purpose.

(c) Reserves of insurance companies. In the case of insurance companies, any amounts in excess of the legally required reserves shall be included as gross income.

(d) Affiliated companies or persons. As regards sales, exchanges or payments for services from one to another of affiliated companies or persons or under other circumstances where the relation between the buyer and seller is such that gross proceeds from the sale or the value of the exchange or the payment for services are not indicative of the true value of the subject matter of the sale, exchange or payment for services, the commissioner shall prescribe uniform and equitable rules for determining the true value of the gross income, gross sales, exchanges or payment for services, or require consolidated returns of affiliates.
(e) **Alimony and separate maintenance payments.** The federal rules, regulations and revenue procedures in determining the deductibility and taxability of alimony payments shall be followed in this state.

(f) **Reimbursement for expenses of moving.** There shall be included in gross income (as compensation for services) any amount received or accrued, directly or indirectly, by an individual as a payment for or reimbursement of expenses of moving from one *** residence to another residence which is attributable to employment or self-employment.

3) In the case of taxpayers other than residents, gross income includes gross income from sources within this state.

4) The words "gross income" do not include the following items of income which shall be exempt from taxation under this article:

(a) The proceeds of life insurance policies and contracts paid upon the death of the insured. However, the income from the proceeds of such policies or contracts shall be included in the gross income.

(b) The amount received by the insured as a return of premium or premiums paid by him under life insurance policies, endowment, or annuity contracts, either during the term or at maturity or upon surrender of the contract.
(c) The value of property acquired by gift, bequest, devise or descent, but the income from such property shall be included in the gross income.

(d) Interest upon the obligations of the United States or its possessions, or securities issued under the provisions of the Federal Farm Loan Act of July 17, 1916, or bonds issued by the War Finance Corporation, or obligations of the State of Mississippi or political subdivisions thereof.

(e) The amounts received through accident or health insurance as compensation for personal injuries or sickness, plus the amount of any damages received for such injuries or such sickness or injuries, or through the War Risk Insurance Act, or any law for the benefit or relief of injured or disabled members of the military or naval forces of the United States.

(f) Income received by any religious denomination or by any institution or trust for moral or mental improvements, religious, Bible, tract, charitable, benevolent, fraternal, missionary, hospital, infirmary, educational, scientific, literary, library, patriotic, historical or cemetery purposes or for two (2) or more of such purposes, if such income be used exclusively for carrying out one or more of such purposes.

(g) Income received by a domestic corporation which is "taxable in another state" as this term is defined in this article, derived from business activity conducted outside this state. Domestic corporations taxable both within and without the
state shall determine Mississippi income on the same basis as
provided for foreign corporations under the provisions of this
article.

(h) In case of insurance companies, there shall be
excluded from gross income such portion of actual premiums
received from an individual policyholder as is paid back or
credited to or treated as an abatement of premiums of such
policyholder within the taxable year.

(i) Income from dividends that has already borne a tax
as dividend income under the provisions of this article, when such
dividends may be specifically identified in the possession of the
recipient.

(j) Amounts paid by the United States to a person as
added compensation for hazardous duty pay as a member of the Armed
Forces of the United States in a combat zone designated by
Executive Order of the President of the United States.

(k) Amounts received as retirement allowances,
pensions, annuities or optional retirement allowances paid under
the federal Social Security Act, the Railroad Retirement Act, the
Federal Civil Service Retirement Act, or any other retirement
system of the United States government, retirement allowances paid
under the Mississippi Public Employees' Retirement System,
Mississippi Highway Safety Patrol Retirement System or any other
retirement system of the State of Mississippi or any political
subdivision thereof. The exemption allowed under this paragraph
(k) shall be available to the spouse or other beneficiary at the
death of the primary retiree.

(l) Amounts received as retirement allowances,
pensions, annuities or optional retirement allowances paid by any
public or governmental retirement system not designated in
paragraph (k) or any private retirement system or plan of which
the recipient was a member at any time during the period of his
employment. Amounts received as a distribution under a Roth
Individual Retirement Account shall be treated in the same manner
as provided under the Internal Revenue Code of 1986, as amended.
The exemption allowed under this paragraph (l) shall be available
to the spouse or other beneficiary at the death of the primary
retiree.

(m) National Guard or Reserve Forces of the United
States compensation not to exceed the aggregate sum of Five
Thousand Dollars ($5,000.00) for any taxable year through the 2005
taxable year, and not to exceed the aggregate sum of Fifteen
Thousand Dollars ($15,000.00) for any taxable year thereafter.

(n) Compensation received for active service as a
member below the grade of commissioned officer and so much of the
compensation as does not exceed the maximum enlisted amount
received for active service as a commissioned officer in the Armed
Forces of the United States for any month during any part of which
such members of the Armed Forces (i) served in a combat zone as
designated by Executive Order of the President of the United
States or a qualified hazardous duty area as defined by federal law, or both; or (ii) was hospitalized as a result of wounds, disease or injury incurred while serving in such combat zone. For the purposes of this paragraph (n), the term "maximum enlisted amount" means and has the same definition as that term has in 26 USCS 112.

(o) The proceeds received from federal and state forestry incentive programs.

(p) The amount representing the difference between the increase of gross income derived from sales for export outside the United States as compared to the preceding tax year wherein gross income from export sales was highest, and the net increase in expenses attributable to such increased exports. In the absence of direct accounting, the ratio of net profits to total sales may be applied to the increase in export sales. This paragraph (p) shall only apply to businesses located in this state engaging in the international export of Mississippi goods and services. Such goods or services shall have at least fifty percent (50%) of value added at a location in Mississippi.

(q) Amounts paid by the federal government for the construction of soil conservation systems as required by a conservation plan adopted pursuant to 16 USCS 3801 et seq.

(r) The amount deposited in a medical savings account, and any interest accrued thereon, that is a part of a medical savings account program as specified in the Medical Savings
Account Act under Sections 71-9-1 through 71-9-9; provided, however, that any amount withdrawn from such account for purposes other than paying eligible medical expense or to procure health coverage shall be included in gross income.

(s) Amounts paid by the Mississippi Soil and Water Conservation Commission from the Mississippi Soil and Water Cost-Share Program for the installation of water quality best management practices.

(t) Dividends received by a holding corporation, as defined in Section 27-13-1, from a subsidiary corporation, as defined in Section 27-13-1.

(u) Interest, dividends, gains or income of any kind on any account in the Mississippi Affordable College Savings Trust Fund, as established in Sections 37-155-101 through 37-155-125, to the extent that such amounts remain on deposit in the MACS Trust Fund or are withdrawn pursuant to a qualified withdrawal, as defined in Section 37-155-105.

(v) Interest, dividends or gains accruing on the payments made pursuant to a prepaid tuition contract, as provided for in Section 37-155-17.

(w) Income resulting from transactions with a related member where the related member subject to tax under this chapter was required to, and did in fact, add back the expense of such transactions as required by Section 27-7-17(2). Under no circumstances may the exclusion from income exceed the deduction.
add-back of the related member, nor shall the exclusion apply to any income otherwise excluded under this chapter.

(x) Amounts that are subject to the tax levied pursuant to Section 27-7-901, and are paid to patrons by gaming establishments licensed under the Mississippi Gaming Control Act.

(y) Amounts that are subject to the tax levied pursuant to Section 27-7-903, and are paid to patrons by gaming establishments not licensed under the Mississippi Gaming Control Act.

(z) Interest, dividends, gains or income of any kind on any account in a qualified tuition program and amounts received as distributions under a qualified tuition program shall be treated in the same manner as provided under the United States Internal Revenue Code, as amended. For the purposes of this paragraph (z), the term "qualified tuition program" means and has the same definition as that term has in 26 USCS 529.

(aa) The amount deposited in a health savings account, and any interest accrued thereon, that is a part of a health savings account program as specified in the Health Savings Accounts Act created in Sections 83-62-1 through 83-62-9; however, any amount withdrawn from such account for purposes other than paying qualified medical expenses or to procure health coverage shall be included in gross income, except as otherwise provided by Sections 83-62-7 and 83-62-9.
(bb) Amounts received as qualified disaster relief payments shall be treated in the same manner as provided under the United States Internal Revenue Code, as amended.

(cc) Amounts received as a "qualified Hurricane Katrina distribution" as defined in the United States Internal Revenue Code, as amended.

(dd) Amounts received by an individual which may be excluded from income as foreign earned income for federal income tax purposes.

(ee) Amounts received by a qualified individual, directly or indirectly, from an employer or nonprofit housing organization that are qualified housing expenses associated with an employer-assisted housing program. For purposes of this paragraph (ee):

(i) "Qualified individual" means any individual whose household income does not exceed one hundred twenty percent (120%) of the area median gross income (as defined by the United States Department of Housing and Urban Development), adjusted for household size, for the area in which the housing is located.

(ii) "Nonprofit housing organization" means an organization that is organized as a not-for-profit organization under the laws of this state or another state and has as one (1) of its purposes:

1. Homeownership education or counseling;

2. The development of affordable housing; or
3. The development or administration of employer-assisted housing programs.

   (iii) "Employer-assisted housing program" means a separate written plan of any employer (including, without limitation, tax-exempt organizations and public employers) for the exclusive benefit of the employer's employees to pay qualified housing expenses to assist the employer's employees in securing affordable housing.

   (iv) "Qualified housing expenses" means:

      1. With respect to rental assistance, an amount not to exceed Two Thousand Dollars ($2,000.00) paid for the purpose of assisting employees with security deposits and rental subsidies; and

      2. With respect to homeownership assistance, an amount not to exceed the lesser of Ten Thousand Dollars ($10,000.00) or six percent (6%) of the purchase price of the employee's principal residence that is paid for the purpose of assisting employees with down payments, payment of closing costs, reduced interest mortgages, mortgage guarantee programs, mortgage forgiveness programs, equity contribution programs, or contributions to home buyer education and/or homeownership counseling of eligible employees.

   (ff) For the 2010 taxable year and any taxable year thereafter, amounts converted in accordance with the United States Internal Revenue Code, as amended, from a traditional Individual...
(gg) Interest or dividends earned on an individual development account (IDA) and matching funds deposited in an IDA, as authorized under Sections 1 through 14 of this act.

(5) Prisoners of war, missing in action-taxable status.

(a) **Members of the Armed Forces.** Gross income does not include compensation received for active service as a member of the Armed Forces of the United States for any month during any part of which such member is in a missing status, as defined in paragraph (d) of this subsection, during the Vietnam Conflict as a result of such conflict.

(b) **Civilian employees.** Gross income does not include compensation received for active service as an employee for any month during any part of which such employee is in a missing status during the Vietnam Conflict as a result of such conflict.

(c) **Period of conflict.** For the purpose of this subsection, the Vietnam Conflict began February 28, 1961, and ends on the date designated by the President by Executive Order as the date of the termination of combatant activities in Vietnam. For the purpose of this subsection, an individual is in a missing status as a result of the Vietnam Conflict if immediately before such status began he was performing service in Vietnam or was
performing service in Southeast Asia in direct support of military
operations in Vietnam. "Southeast Asia," as used in this
paragraph, is defined to include Cambodia, Laos, Thailand and
waters adjacent thereto.

(d) "Missing status" means the status of an employee or
member of the Armed Forces who is in active service and is
officially carried or determined to be absent in a status of (i)
missing; (ii) missing in action; (iii) interned in a foreign
country; (iv) captured, beleaguered or besieged by a hostile
force; or (v) detained in a foreign country against his will; but
does not include the status of an employee or member of the Armed
Forces for a period during which he is officially determined to be
absent from his post of duty without authority.

(e) "Active service" means active federal service by an
employee or member of the Armed Forces of the United States in an
active duty status.

(f) "Employee" means one who is a citizen or national
of the United States or an alien admitted to the United States for
permanent residence and is a resident of the State of Mississippi
and is employed in or under a federal executive agency or
department of the Armed Forces.

(g) "Compensation" means (i) basic pay; (ii) special
pay; (iii) incentive pay; (iv) basic allowance for quarters; (v)
basic allowance for subsistence; and (vi) station per diem
allowances for not more than ninety (90) days.
(h) If refund or credit of any overpayment of tax for any taxable year resulting from the application of subsection (5) of this section is prevented by the operation of any law or rule of law, such refund or credit of such overpayment of tax may, nevertheless, be made or allowed if claim therefor is filed with the **Department of Revenue** within three (3) years after the date of the enactment of this subsection.

(i) The provisions of this subsection shall be effective for taxable years ending on or after February 28, 1961.

(6) A shareholder of an S corporation, as defined in Section 27-8-3(1)(g), shall take into account the income, loss, deduction or credit of the S corporation only to the extent provided in Section 27-8-7(2).

**SECTION 16.** This act shall take effect and be in force from and after July 1, 2013.