

By: Senator(s) Jackson (11th), Simmons
(13th)

To: Public Health and
Welfare; Finance

SENATE BILL NO. 2741

1 AN ACT TO CREATE THE FAMILY EMPOWERMENT INITIATIVE; TO
2 AUTHORIZE THE CREATION OF INDIVIDUAL DEVELOPMENT ACCOUNTS FOR
3 LOW-INCOME INDIVIDUALS THAT MAY BE UTILIZED BY THE ACCOUNT HOLDER
4 FOR CERTAIN PURPOSES; TO AUTHORIZE THE DEPARTMENT OF HUMAN
5 SERVICES TO CONTRACT WITH FIDUCIARY ORGANIZATIONS TO SERVE AS
6 INTERMEDIARIES BETWEEN INDIVIDUAL DEVELOPMENT ACCOUNT HOLDERS AND
7 FINANCIAL INSTITUTIONS HOLDING ACCOUNT FUNDS; TO PROVIDE THAT THE
8 GROSS HOUSEHOLD INCOME OF INDIVIDUAL RETIREMENT ACCOUNT HOLDERS
9 MAY NOT EXCEED 200% OF THE POVERTY LEVEL AND THE ACCOUNT HOLDER'S
10 NET WORTH MAY NOT EXCEED \$10,000.00; TO REQUIRE INDIVIDUALS
11 OPENING AN INDIVIDUAL DEVELOPMENT ACCOUNT TO ENTER INTO AN
12 AGREEMENT WITH A FIDUCIARY ORGANIZATION; TO PROVIDE THAT THE
13 FIDUCIARY ORGANIZATION SHALL PROVIDE MATCHING FUNDS FOR AMOUNT
14 CONTRIBUTED TO THE INDIVIDUAL DEVELOPMENT ACCOUNT BY THE
15 INDIVIDUAL DEVELOPMENT ACCOUNT HOLDER; TO LIMIT THE AMOUNT OF
16 MATCHING FUNDS THAT MAY BE PROVIDED FOR AN INDIVIDUAL DEVELOPMENT
17 ACCOUNT; TO PROVIDE THE PURPOSES FOR WHICH INDIVIDUAL DEVELOPMENT
18 ACCOUNTS MAY BE UTILIZED; TO PROVIDE CIVIL PENALTIES FOR THE
19 WITHDRAWAL OF INDIVIDUAL DEVELOPMENT ACCOUNT FUNDS FOR PURPOSES
20 OTHER THAN THOSE AUTHORIZED UNDER THIS ACT; TO REQUIRE FIDUCIARY
21 ORGANIZATIONS TO MAKE QUARTERLY REPORTS TO THE DEPARTMENT OF HUMAN
22 SERVICES CONTAINING CERTAIN INFORMATION; TO PROVIDE THAT FUNDS
23 DEPOSITED IN AN INDIVIDUAL DEVELOPMENT ACCOUNT, SHALL NOT BE
24 COUNTED AS INCOME, ASSETS OR RESOURCES OF THE INDIVIDUAL IN
25 DETERMINING FINANCIAL ELIGIBILITY FOR ASSISTANCE OR SERVICES
26 PURSUANT TO ANY FEDERAL, FEDERALLY ASSISTED, STATE OR MUNICIPAL
27 PROGRAM BASED ON NEED; TO AUTHORIZE A CREDIT AGAINST STATE INCOME
28 TAX LIABILITY FOR TAXPAYERS WHO CONTRIBUTE MATCHING FUNDS TO A
29 FIDUCIARY ORGANIZATION; TO LIMIT THE AMOUNT OF SUCH CREDIT; TO
30 AMEND SECTION 27-7-15, MISSISSIPPI CODE OF 1972, TO EXCLUDE FROM
31 GROSS INCOME INTEREST OR DIVIDEND EARNED ON AN INDIVIDUAL
32 DEVELOPMENT ACCOUNT; AND FOR RELATED PURPOSES.

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



34 **SECTION 1.** This act shall be known and may be cited as the
35 "Family Empowerment Initiative."

36 **SECTION 2.** The purpose of the Family Empowerment Initiative
37 is to provide for the establishment of individual development
38 accounts designed to:

39 (a) Provide low wealth, unbanked, and underbanked
40 Mississippians an opportunity to gain economic stability to become
41 self-sufficient;

42 (b) Facilitate and mobilize savings;

43 (c) Promote home ownership, small business development,
44 education, saving for retirement, assistive technology for people
45 with disabilities, and automobile purchase; and

46 (d) Strengthen families and build sustainable
47 communities.

48 **SECTION 3.** The Legislature hereby finds that:

49 (a) Individual Development Accounts (IDAs) have been
50 used as a federal and state policy strategy for family economic
51 security. Federal and state policies to fund IDAs have helped
52 create accounts for numerous individuals and families across the
53 country.

54 (b) IDAs, just like a bank or credit union account, can
55 be the first step in saving, planning for the future, building
56 credit and climbing the economic ladder. It assists individuals
57 and families with modest means to save toward the purchase of a
58 lifelong asset, such as a home or education.



59 (c) Of the top one hundred (100) most unbanked places
60 (city/town/census designated place with more than two hundred
61 fifty (250) households), Mississippi is No. 17. Jackson,
62 Mississippi, is ranked No. 4 in the Top Ten Unbanked Mid-Sized
63 Cities. Because many hard-working Mississippians face
64 insurmountable obstacles to accessing the financial mainstream,
65 they often turn to alternative, high-fee providers thereby forcing
66 them into a cycle of debt. By using such means, individuals are
67 hard-pressed to build savings and assets.

68 (d) The U.S. Census Bureau highlights just one (1)
69 aspect of household finances, namely the percentage of people with
70 insufficient income to cover their day-to-day expenses. It does
71 not count the number of families who have insufficient resources –
72 money in the bank or assets such as a home or a car – to meet
73 emergencies or longer-term needs. When these longer-term needs
74 are factored in, substantially more people in the United States
75 today face a future of limited hope for long-term financial
76 security. At a time of widening income disparities this data
77 paints a stark picture of diminishing financial security for
78 millions of families. It is clear that the recession and its
79 aftermath have left unprecedented numbers of families barely able
80 to make ends meet.

81 **SECTION 4.** As used in this act the following terms shall
82 have the following meanings:



83 (a) "Administrative Costs" includes, but is not limited
84 to, soliciting matching funds, processing fees charged by the
85 fiduciary organization or financial institution, and traditional
86 overhead costs. Administrative costs shall be limited to no more
87 than fifteen percent (15%) of the contract.

88 (b) "Department" means the Department of Human
89 Services.

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

92 (i) An institution described in 20 USC, Section
93 1088(a)(1) or 1141(a), as such sections are in effect on January
94 1, 2014;

95 (ii) An area vocational education school, as
96 defined in 20 USC, Section 2471(4), subparagraph (C) or (D), as
97 such section is in effect on January 1, 2014; and

98 (iii) Any other accredited education or training
99 organization.

100 (d) "Emergency" means payments for necessary medical
101 expenses of the account owner or family member, expenses to avoid
102 the eviction of the account owner from the account owner's primary
103 residence, and for necessary living expenses following a loss of
104 income.

105 (e) "Federal poverty level" means the poverty income
106 guidelines published for a calendar year by the United States
107 Department of Health and Human Services.



108 (f) "Fiduciary organization" means any nonprofit,
109 fund-raising organization that is exempt from taxation under
110 Section 501(c)(3) of the Internal Revenue Code, as amended; any
111 certified community development financial institution; any credit
112 union chartered under federal or state law.

113 (g) "Financial institution" means a federally insured
114 bank, trust company, savings bank, building and loan association,
115 savings and loan company or association, or credit union
116 authorized to do business in this state.

117 (h) "Individual development account" means an account
118 established for an eligible individual or family member as part of
119 a qualified individual development account program with the
120 following requirements:

121 (i) The sole owner of the account is the
122 individual or family member for whom the account was created.

123 (ii) The holder of the account is a qualified
124 financial institution.

125 (iii) The assets of the account may not be
126 commingled with other property except in a common trust fund or
127 common investment fund.

128 (iv) Any amount in the account shall be paid out
129 only for the qualified purposes of the account owner, except if it
130 meets the qualifications of an emergency use.

131 (i) "Parallel Account" means a separate parallel
132 account for all matching funds and earnings dedicated to



133 individual development account owners, the sole holder of which is
134 a qualified financial institution, or a qualified fiduciary
135 organization.

136 (j) "Postsecondary educational expenses" means:

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

141 (ii) Fees, books, supplies, and equipment
142 (including computer, software, etc.) required for courses of
143 instruction for an IDA account holder or immediate family member
144 thereof who is a student at an eligible educational institution.

145 (k) "Operating costs" includes, but is not limited to,
146 costs of training IDA participants in economic and financial
147 literacy and IDA uses, marketing participation, counseling
148 participants and conducting required verification and compliance
149 activities.

150 (l) "Qualified Purposes" the account owner's
151 accumulated savings and matching funds shall be used for any of
152 the following purposes:

153 (i) Securing postsecondary education, including,
154 but not limited to, community college courses, courses at a
155 four-year college or university, or post-college, graduate courses
156 for the account owner or any member of the account owner's family.



157 (ii) Securing postsecondary occupational training,
158 including, but not limited to, vocational or trade school training
159 for the account owner or any training authorized under the
160 Workforce Investment Act through the Mississippi Department of
161 Employment Security.

162 (iii) Purchasing a home for the first time,
163 defined as not being named on a legally registered home ownership
164 title for a minimum of thirty-six (36) months.

165 (iv) Costs for major repairs or improvement to a
166 primary residence.

167 (v) Business capitalization.

168 (vi) Purchasing of an automobile necessary to
169 transport the account owner or family member to a place of
170 employment or education.

171 (vii) Assistive technology for people with
172 disabilities; including but not limited to screen readers for
173 computers, assistive listening devices, accessible hand controls
174 for cars, and even motorized wheelchairs.

175 (viii) Any other activity based on a plan approved
176 by the department.

177 **SECTION 5.** (1) An individual who is a resident of this
178 state may submit an application to open an individual development
179 account to a fiduciary organization approved by the Department of
180 Human Services pursuant to the provisions of Section 4(6) of this



181 act. The fiduciary organization shall approve the application
182 only if:

183 (a) The individual has gross household income from all
184 sources for the calendar year preceding the year in which the
185 application is made which does not exceed one hundred eighty-five
186 percent (185%) of the federal poverty level; and

187 (b) Individual household net worth at the time the IDA
188 account is opened does not exceed Ten Thousand Dollars
189 (\$10,000.00) disregarding the primary dwelling and one motor
190 vehicle owned by the household.

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

193 (3) The agreement shall provide for the amount of the
194 savings deposits, the match fund rate, the asset goal, and the
195 financial literacy classes to be completed, any additional
196 training specific to the asset, and financial counseling the
197 individual will attend, as well as other services designed to
198 increase the independence of the person through the achievement of
199 the account's approved purpose.

200 (4) Before becoming eligible to receive matching funds to
201 pay for qualified purposes, individual development account owners
202 shall complete a financial literacy education course offered by a
203 qualified financial institution, a qualified fiduciary
204 organization, or a governmental entity in accordance with federal
205 guidelines.



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

209 (6) Each fiduciary organization shall provide written
210 notification to each of its eligible IDA account holders of the
211 amount of matching funds provided by the fiduciary to which each
212 such IDA account holder is entitled. Such notification shall be
213 made at such intervals as the fiduciary organization deems
214 appropriate, but shall be required to be made at least once each
215 calendar year. The amount of such matching funds for each IDA
216 account holder shall be Three Dollars (\$3.00) for each One Dollar
217 (\$1.00) contributed to the IDA by the IDA account holder during
218 the preceding calendar year. The amount of such matching funds
219 shall not exceed Two Thousand Dollars (\$2,000.00) per IDA account
220 holder or Four Thousand Dollars (\$4,000.00) per household.

221 (7) In order to receive matching funds, the account owner
222 must:

223 (a) Have saved for a minimum of six (6) months;
224 (b) Have reached his or her savings goal; and
225 (c) Have completed a financial literacy education
226 course offered by a qualified financial institution, a qualified
227 fiduciary organization, or a governmental entity in accordance
228 with federal guidelines.

229 (8) Once requirements in Section 7 of this act have been
230 fulfilled, the appropriate matching funds shall be transferred



231 from the parallel account directly to the vendor or service
232 provider of the approved asset.

233 (9) If the amount of matching funds available is
234 insufficient to disburse the maximum amounts specified in this
235 subsection, amounts of disbursements shall be reduced
236 proportionately based upon available funds.

237 **SECTION 6.** (1) Deposits to individual development accounts
238 made by the account owner shall come from earned income,
239 including, but not limited to, wages, earned income tax credit
240 returns, child support payments, supplemental security income
241 (SSI), disability benefits, community service under Temporary
242 Assistance For Needy Families (TANF), AmeriCorps stipends, VISTA
243 stipends, and job training programs. However, federal TANF
244 (Temporary Assistance For Needy Families) matching funds shall
245 only be used for the qualified purposes as defined in Section 4(1)
246 of this act.

247 (2) Eligible individuals shall certify that their deposits
248 do not exceed their income. A cap on deposits made by the account
249 owner is set at two hundred percent (200%) federal poverty level.

250 (3) If an IDA account holder has gross household income from
251 all sources for a calendar year which exceeds one hundred
252 eighty-five percent (185%) of the federal poverty level, the IDA
253 account holder shall not be eligible to receive funds pursuant to
254 the provisions of Section 5(6) of this act in the following year.



255 (4) In the event of an IDA account holder's death, the
256 account may be transferred to the ownership of a contingent
257 beneficiary or beneficiaries. An account holder shall name a
258 contingent beneficiary or beneficiaries at the time the account is
259 established and may change such beneficiary or beneficiaries at
260 any time. If the named beneficiary or beneficiaries are deceased
261 or cannot otherwise accept the transfer, the monies shall be
262 transferred to the fiduciary organization to redistribute as
263 matching funds.

264 **SECTION 7.** Individual development accounts shall be used for
265 any of the following qualified purposes outlined in Section 4(12)
266 of this act with the following exceptions:

267 (a) Postsecondary educational expenses paid directly to
268 an eligible educational institution;

269 (b) With respect to a qualified principal residence for
270 a qualified first-time home buyer, or the costs of major repairs
271 or improvements to a qualified principal residence, if paid
272 directly to the persons to whom the amounts are due;

273 (c) Amounts paid directly to a business capitalization
274 account which is established in a federally insured financial
275 institution and is restricted to use solely for qualified business
276 capitalization expenses;

277 (d) With respect to purchase of an automobile, or costs
278 of repair of an automobile, if paid directly to a licensed
279 automobile dealer or repair shop. Such a purpose cannot be the



280 sole purpose of the IDA. Participants must also save for another
281 approved purpose;

282 (e) With respect to purchase assistive technology for
283 people with disabilities, if paid directly to the assistive
284 technology manufacturer or retailer; and

285 (f) Qualified emergency withdrawals.

286 (i) If an emergency occurs, an account owner may
287 withdraw all or part of the account owner's deposits to an
288 individual development account with the approval of the fiduciary
289 organization.

290 (ii) The account owner shall reimburse his or her
291 individual development account for the amount withdrawn under this
292 section within twelve (12) months after the date of the
293 withdrawal. Failure of the account owner to make a timely
294 reimbursement to the account will remove the account owner from
295 the Individual Development Account Program. Until the
296 reimbursement has been made in full, an account owner may not
297 withdraw any matching funds or accrued interest on matching funds
298 from the account.

299 (iii) If an account owner withdraws money from an
300 individual development account for other than a qualified purpose,
301 the fiduciary organization shall remove the account owner from the
302 program.

303 **SECTION 8.** (1) If the fiduciary organization receives
304 evidence that monies withdrawn from IDAs are withdrawn under false



305 pretenses or are used for purposes other than for the approved
306 purposes indicated at the time of the withdrawal, the fiduciary
307 organization shall make arrangements with the financial
308 institution to impose a penalty of loss of matches and may, at its
309 discretion, close the account. All penalties collected by
310 fiduciary organizations shall remain with the fiduciary
311 organization to distribute as matching funds to other eligible
312 individuals.

313 (2) The fiduciary organization shall establish a grievance
314 committee and a procedure to hear, review, and decide in writing
315 any grievance made by an IDA account holder who disputes a
316 decision of the operating organization that a withdrawal is
317 subject to penalty.

318 (3) Each fiduciary organization shall establish such
319 procedures as are necessary, including prohibiting eligibility for
320 further matching funds, to ensure compliance with this section.

321 **SECTION 9.** An organization based in this state which desires
322 to enter into such a contract shall submit a proposal to the
323 department for the right to be approved as a fiduciary
324 organization. The department shall select fiduciary organizations
325 through competitive processes. Organizations' proposals shall be
326 evaluated and contracts awarded by the department on the basis of
327 such items as geographic diversity and an organization's:

328 (a) Ability to implement and administer the individual
329 development account program, including the ability to verify



330 account owner eligibility, certify that matching funds are used
331 only for qualified purposes, and exercise general fiscal
332 accountability;

333 (b) Capacity to provide or raise matching funds for the
334 deposits of account owners;

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

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

342 (e) Capacity to provide, or to arrange for the
343 provisions of, financial counseling, financial literacy education
344 and training specific to the assets the account owners will be
345 purchasing, and other related services to account owners;

346 (f) Connection to other activities and programs
347 designed to increase the independence of this state's low-income
348 households and individuals through education and training, home
349 ownership, small business capitalization, and other asset-building
350 programs;

351 (g) Program design, including match rates and savings
352 goals, to lead to asset purchase; and

353 (h) Operating costs.



354 SECTION 10. (1) For each contract entered into pursuant to
355 the provisions of this section, the contract shall begin no later
356 than October 1 of each year. The fiduciary organization shall use
357 not less than seventy percent (70%) for matching funds and not
358 more than thirty percent (30%) for operating and administrative
359 costs. Administrative costs shall be limited to fifteen percent
360 (15%) of the contract.

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

372 (3) Subject to rules promulgated by the department, a
373 fiduciary organization has sole authority over, and responsibility
374 for, the administration of individual development accounts. The
375 responsibility of the fiduciary organization extends to all
376 aspects of the account program, including marketing to all
377 eligible individuals and families, soliciting matching funds,
378 counseling account owners, providing financial literacy education,



379 and conducting required verification and compliance activities.
380 The fiduciary organization may establish program provisions as the
381 organization believes necessary to ensure account owner compliance
382 with this act.

383 (4) A fiduciary organization may act in partnership with
384 other entities, including businesses, government agencies,
385 corporations, nonprofit organizations, community action programs,
386 community development corporations, housing authorities and
387 faith-based entities, to assist in the fulfillment of its
388 responsibilities under this act.

389 (5) A fiduciary organization may use a reasonable portion of
390 money allocated by the Legislature to the Individual Development
391 Account Program for administration, operation and research, and
392 evaluation purposes. A fiduciary organization may not expend more
393 than fifteen percent (15%) of allocated funds for those purposes.

394 (6) A fiduciary organization selected by the department to
395 administer funds allocated by the State of Mississippi for
396 Individual Development Account purposes shall provide the
397 department an annual report based on regularly collected data of
398 the fiduciary organization's Individual Development Account
399 Program activity. The report shall be filed not later than ninety
400 (90) days after the end of the fiscal year. The report shall
401 include, but is not limited to, the following:

402 (a) The number of individual development accounts
403 administered by the fiduciary organization.



404 (b) The amount of deposits and matching funds for each
405 account.

406 (c) The asset purchase goal of each account.

407 (d) The number of withdrawals made.

408 (e) Any other information the department may require
409 for the purpose of determining whether the Individual Development
410 Account Program is achieving the purposes for which it was
411 established.

412 (7) Each fiduciary organization shall provide quarterly to
413 the department the following information:

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

416 (b) The amounts deposited in the IDA;

417 (c) The amounts not yet allocated to IDAs;

418 (d) The amounts withdrawn from the individual
419 development accounts and the purposes for which the amounts were
420 withdrawn;

421 (e) The balances remaining in the IDAs;

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

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



429 (8) The department shall make all reasonable and necessary
430 rules to ensure the fiduciary organization's compliance with this
431 act.

432 **SECTION 11.** The department shall prepare a written report
433 annually regarding the implementation of the Family Empowerment
434 Initiative and shall make recommendations for improving the
435 program. The report shall be transmitted to the Legislature on or
436 before August 1 of each year.

437 **SECTION 12.** Financial institutions holding individual
438 development accounts, at a minimum, shall:

439 (a) Keep the account in the name of the account owner.

440 (b) Permit deposits to be made in the account.

441 (c) Require the account to earn a market rate of
442 interest.

443 (d) Maintain the individual development accounts as fee
444 free.

445 (e) Permit the account owner, after obtaining the
446 written authorization of the fiduciary organization, to withdraw
447 money from the account for any qualified purpose.

448 **SECTION 13.** (1) Any individual, business, organization, or
449 other entity may contribute matching funds to a fiduciary
450 organization. The funds shall be designated to the fiduciary
451 organization to allocate to all its participants on a
452 proportionate basis.



453 (2) A credit shall be allowed against the income tax
454 liability imposed by the Mississippi Income Tax Act, beginning at
455 Mississippi Code § 26-51-101, for any Mississippi taxpayer who
456 contributes to a fiduciary organization created pursuant to this
457 act in an amount equal to fifty percent (50%) of the amount of
458 matching funds contributed to a fiduciary organization during the
459 calendar year.

460 (3) The amount of the credit that may be used by a taxpayer
461 for a taxable year shall not exceed the lesser of Twenty-five
462 Thousand Dollars (\$25,000.00) or the amount of individual or
463 corporate income tax otherwise due. Any unused credit may be
464 carried over for a maximum of three (3) years up to a total tax
465 credit allowed in the amount of Twenty-five Thousand Dollars
466 (\$25,000.00).

467 (4) To claim the benefits of this section, a taxpayer must
468 notify the fiduciary organization that the taxpayer intends to
469 make a contribution and the amount of the contribution. The
470 fiduciary organization shall then notify the department and
471 request a certification from the department certifying the amount
472 of the tax credit to which the taxpayer is entitled. The
473 fiduciary organization shall deliver the certification to the
474 taxpayer upon receipt of the contribution.

475 (5) A taxpayer must file the certificate with the taxpayer's
476 income tax return for the first year in which the taxpayer claims
477 a tax credit under this act.



478 (6) The total amount of tax credits certified under this act
479 shall not exceed One Hundred Thousand Dollars (\$100,000.00) per
480 calendar year.

481 (7) The Department of Finance and Administration shall
482 promulgate any regulations necessary to carry out the provisions
483 of this section.

484 **SECTION 14.** (1) An account owner's savings and matching
485 funds shall not affect his or her eligibility for any means-tested
486 public benefits, including, but not limited to, Medicaid, state
487 children's health insurance programs, TANF, Supplemental Nutrition
488 Assistance Program, supplemental security income, or
489 government-subsidized foster care and adoption payments, and child
490 care or housing payments.

491 (2) Funds deposited in individual development accounts shall
492 not be counted as income, assets, or resources of the account
493 owner for the purpose of determining financial eligibility for
494 assistance or service pursuant to any federal, federally assisted,
495 state, or municipal program based on need.

496 (3) Money deposited into individual development accounts
497 shall not be included in gross income for income tax purposes.
498 Any amount withdrawn from a parallel account, matching funds, may
499 not be includable in an eligible individual's gross income.

500 (4) Money withdrawn from an individual development account
501 shall only be included in gross income if used for a purpose other
502 than a qualified purpose.



503 **SECTION 15.** The Department of Human Services shall not be
504 obligated to fund individual development parallel accounts or be
505 obligated to enter into contracts with fiduciary organizations
506 unless the Legislature appropriates funding to the department for
507 the establishment of an Individual Development Account Program,
508 nor shall the department be obligated to spend funds on an
509 Individual Development Account Program above the amount
510 appropriated by the Legislature for such a program.

511 **SECTION 16.** Section 27-7-15, Mississippi Code of 1972, is
512 amended as follows:

513 27-7-15. (1) For the purposes of this article, except as
514 otherwise provided, the term "gross income" means and includes the
515 income of a taxpayer derived from salaries, wages, fees or
516 compensation for service, of whatever kind and in whatever form
517 paid, including income from governmental agencies and subdivisions
518 thereof; or from professions, vocations, trades, businesses,
519 commerce or sales, or renting or dealing in property, or
520 reacquired property; also from annuities, interest, rents,
521 dividends, securities, insurance premiums, reinsurance premiums,
522 considerations for supplemental insurance contracts, or the
523 transaction of any business carried on for gain or profit, or
524 gains, or profits, and income derived from any source whatever and
525 in whatever form paid. The amount of all such items of income
526 shall be included in the gross income for the taxable year in
527 which received by the taxpayer. The amount by which an eligible



528 employee's salary is reduced pursuant to a salary reduction
529 agreement authorized under Section 25-17-5 shall be excluded from
530 the term "gross income" within the meaning of this article.

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

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

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

539 (i) Prior to January 1, 2001, federal rules,
540 regulations and revenue procedures shall be followed with respect
541 to installment sales except they shall be applied and administered
542 as if H.R. 3594, the Installment Tax Correction Act of 2000 of the
543 106th Congress, had not been enacted. This provision will
544 generally affect taxpayers, reporting on the accrual method of
545 accounting, entering into installment note agreements on or after
546 December 17, 1999. Any gain or profit resulting from the casual
547 sale of property will be recognized in the year of sale.

548 (ii) From and after January 1, 2001, federal
549 rules, regulations and revenue procedures shall be followed with
550 respect to installment sales except as provided in this
551 subparagraph (ii). Gain or profit from the casual sale of
552 property shall be recognized in the year of sale. When a taxpayer



553 recognizes gain on the casual sale of property in which the gain
554 is deferred for federal income tax purposes, a taxpayer may elect
555 to defer the payment of tax resulting from the gain as allowed and
556 to the extent provided under regulations prescribed by the
557 commissioner. If the payment of the tax is made on a deferred
558 basis, the tax shall be computed based on the applicable rate for
559 the income reported in the year the payment is made. Except as
560 otherwise provided in subparagraph (iii) of this paragraph (b),
561 deferring the payment of the tax shall not affect the liability
562 for the tax. If at any time the installment note is sold,
563 contributed, transferred or disposed of in any manner and for any
564 purpose by the original note holder, or the original note holder
565 is merged, liquidated, dissolved or withdrawn from this state,
566 then all deferred tax payments under this section shall
567 immediately become due and payable.

568 (iii) If the selling price of the property is
569 reduced by any alteration in the terms of an installment note,
570 including default by the purchaser, the gain to be recognized is
571 recomputed based on the adjusted selling price in the same manner
572 as for federal income tax purposes. The tax on this amount, less
573 the previously paid tax on the recognized gain, is payable over
574 the period of the remaining installments. If the tax on the
575 previously recognized gain has been paid in full to this state,
576 the return on which the payment was made may be amended for this



577 purpose only. The statute of limitations in Section 27-7-49 shall
578 not bar an amended return for this purpose.

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

582 (d) **Affiliated companies or persons.** As regards sales,
583 exchanges or payments for services from one to another of
584 affiliated companies or persons or under other circumstances where
585 the relation between the buyer and seller is such that gross
586 proceeds from the sale or the value of the exchange or the payment
587 for services are not indicative of the true value of the subject
588 matter of the sale, exchange or payment for services, the
589 commissioner shall prescribe uniform and equitable rules for
590 determining the true value of the gross income, gross sales,
591 exchanges or payment for services, or require consolidated returns
592 of affiliates.

593 (e) **Alimony and separate maintenance payments.** The
594 federal rules, regulations and revenue procedures in determining
595 the deductibility and taxability of alimony payments shall be
596 followed in this state.

597 (f) **Reimbursement for expenses of moving.** There shall
598 be included in gross income (as compensation for services) any
599 amount received or accrued, directly or indirectly, by an
600 individual as a payment for or reimbursement of expenses of moving



601 from one residence to another residence which is attributable to
602 employment or self-employment.

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

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

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

612 (b) The amount received by the insured as a return of
613 premium or premiums paid by him under life insurance policies,
614 endowment, or annuity contracts, either during the term or at
615 maturity or upon surrender of the contract.

616 (c) The value of property acquired by gift, bequest,
617 devise or descent, but the income from such property shall be
618 included in the gross income.

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

624 (e) The amounts received through accident or health
625 insurance as compensation for personal injuries or sickness, plus



626 the amount of any damages received for such injuries or such
627 sickness or injuries, or through the War Risk Insurance Act, or
628 any law for the benefit or relief of injured or disabled members
629 of the military or naval forces of the United States.

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

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

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

649 (i) Income from dividends that has already borne a tax
650 as dividend income under the provisions of this article, when such



651 dividends may be specifically identified in the possession of the
652 recipient.

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

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

668 (l) Amounts received as retirement allowances,
669 pensions, annuities or optional retirement allowances paid by any
670 public or governmental retirement system not designated in
671 paragraph (k) or any private retirement system or plan of which
672 the recipient was a member at any time during the period of his
673 employment. Amounts received as a distribution under a Roth
674 Individual Retirement Account shall be treated in the same manner
675 as provided under the Internal Revenue Code of 1986, as amended.



676 The exemption allowed under this paragraph (l) shall be available
677 to the spouse or other beneficiary at the death of the primary
678 retiree.

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

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

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

699 (p) The amount representing the difference between the
700 increase of gross income derived from sales for export outside the



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

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

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

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



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

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

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

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

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

746 (y) Amounts that are subject to the tax levied pursuant
747 to Section 27-7-903, and are paid to patrons by gaming



748 establishments not licensed under the Mississippi Gaming Control
749 Act.

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

757 (aa) The amount deposited in a health savings account,
758 and any interest accrued thereon, that is a part of a health
759 savings account program as specified in the Health Savings
760 Accounts Act created in Sections 83-62-1 through 83-62-9; however,
761 any amount withdrawn from such account for purposes other than
762 paying qualified medical expenses or to procure health coverage
763 shall be included in gross income, except as otherwise provided by
764 Sections 83-62-7 and 83-62-9.

765 (bb) Amounts received as qualified disaster relief
766 payments shall be treated in the same manner as provided under the
767 United States Internal Revenue Code, as amended.

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



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

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

779 (i) "Qualified individual" means any individual
780 whose household income does not exceed one hundred twenty percent
781 (120%) of the area median gross income (as defined by the United
782 States Department of Housing and Urban Development), adjusted for
783 household size, for the area in which the housing is located.

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

788 1. Home ownership education or counseling;
789 2. The development of affordable housing; or
790 3. The development or administration of
791 employer-assisted housing programs.

792 (iii) "Employer-assisted housing program" means a
793 separate written plan of any employer (including, without
794 limitation, tax-exempt organizations and public employers) for the
795 exclusive benefit of the employer's employees to pay qualified



796 housing expenses to assist the employer's employees in securing
797 affordable housing.

798 (iv) "Qualified housing expenses" means:

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

803 2. With respect to home ownership assistance,
804 an amount not to exceed the lesser of Ten Thousand Dollars
805 (\$10,000.00) or six percent (6%) of the purchase price of the
806 employee's principal residence that is paid for the purpose of
807 assisting employees with down payments, payment of closing costs,
808 reduced interest mortgages, mortgage guarantee programs, mortgage
809 forgiveness programs, equity contribution programs, or
810 contributions to home buyer education and/or home ownership
811 counseling of eligible employees.

812 (ff) For the 2010 taxable year and any taxable year
813 thereafter, amounts converted in accordance with the United States
814 Internal Revenue Code, as amended, from a traditional Individual
815 Retirement Account to a Roth Individual Retirement Account. The
816 exemption allowed under this paragraph (ff) shall be available to
817 the spouse or other beneficiary at the death of the primary
818 retiree.

819 (gg) Interest or dividends earned on an Individual
820 Development Account as defined in Section 4 of this act.



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

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

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

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

843 (d) "Missing status" means the status of an employee or
844 member of the Armed Forces who is in active service and is
845 officially carried or determined to be absent in a status of (i)



846 missing; (ii) missing in action; (iii) interned in a foreign
847 country; (iv) captured, beleaguered or besieged by a hostile
848 force; or (v) detained in a foreign country against his will; but
849 does not include the status of an employee or member of the Armed
850 Forces for a period during which he is officially determined to be
851 absent from his post of duty without authority.

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

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

860 (g) "Compensation" means (i) basic pay; (ii) special
861 pay; (iii) incentive pay; (iv) basic allowance for quarters; (v)
862 basic allowance for subsistence; and (vi) station per diem
863 allowances for not more than ninety (90) days.

864 (h) If refund or credit of any overpayment of tax for
865 any taxable year resulting from the application of subsection (5)
866 of this section is prevented by the operation of any law or rule
867 of law, such refund or credit of such overpayment of tax may,
868 nevertheless, be made or allowed if claim therefor is filed with
869 the * * * Department of Revenue within three (3) years after the
870 date of the enactment of this subsection.



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

873 (6) A shareholder of an S corporation, as defined in Section
874 27-8-3(1)(g), shall take into account the income, loss, deduction
875 or credit of the S corporation only to the extent provided in
876 Section 27-8-7(2).

877 **SECTION 17.** This act shall take effect and be in force from
878 and after July 1, 2013.

