To: Public Health and Welfare; Finance

MISSISSIPPI LEGISLATURE
REGULAR SESSION 2014

By: Senator(s) Jackson (11th)

SENATE BILL NO. 2269

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

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:
SECTION 1. Sections 1 through 15 of this act shall be known and may be cited as the "Family Empowerment Initiative."

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

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

   (b) Facilitate and mobilize savings;

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

   (d) Strengthen families and build sustainable communities.

SECTION 3. The Legislature hereby finds that:

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

   (b) IDAs, just like a bank or credit union account, can be the first step in saving, planning for the future, building credit and climbing the economic ladder. It assists individuals and families with modest means to save toward the purchase of a lifelong asset, such as a home or education.
(c) Of the top one hundred (100) most unbanked places (city/town/census designated place with more than two hundred fifty (250) households), Mississippi is No. 17. Jackson, Mississippi, is ranked No. 4 in the Top Ten Unbanked Mid-Sized Cities. Because many hard-working Mississippians face insurmountable obstacles to accessing the financial mainstream, they often turn to alternative, high-fee providers thereby forcing them into a cycle of debt. By using such means, individuals are hard-pressed to build savings and assets.

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

SECTION 4. As used in Sections 1 through 15 of this act the following terms shall have the following meanings:
(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 fifteen percent (15%) of the contract.

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

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

(i) An institution described in 20 USC, Section 1088(a)(1) or 1141(a), as such sections are in effect on January 1, 2015;

(ii) An area vocational education school, as defined in 20 USC, Section 2471(4), subparagraph (C) or (D), as such section is in effect on January 1, 2015; and

(iii) Any other accredited education or training organization.

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

(e) "Federal poverty level" means the poverty income guidelines published for a calendar year by the United States Department of Health and Human Services.
"Fiduciary organization" means any nonprofit, fund-raising organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, as amended; any certified community development financial institution; any credit union chartered under federal or state law.

"Financial institution" means a federally insured bank, trust company, savings bank, building and loan association, savings and loan company or association, or credit union authorized to do business in this state.

"Individual development account" means an account established for an eligible individual or family member as part of a qualified individual development account program with the following requirements:

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

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

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

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

(i) "Parallel Account" means a separate parallel account for all matching funds and earnings dedicated to
individual development account owners, the sole holder of which is a qualified financial institution, or a qualified fiduciary organization.

(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 (including computer, software, etc.) 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) "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.

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

(i) Securing postsecondary education, including, but not limited to, community college courses, courses at a four-year college or university, or post-college graduate courses for the account owner or any member of the account owner's family.
(ii) Securing postsecondary occupational training, including, but not limited to, vocational or trade school training for the account owner or any training authorized under the Workforce Investment Act through the Mississippi Department of Employment Security.

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

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

(v) Business capitalization.

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

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

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

SECTION 5. (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 of Human Services pursuant to the provisions of Section 4(6) 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 which does not exceed one hundred eighty-five percent (185%) of the federal poverty level; and

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

(4) Before becoming eligible to receive matching funds to pay for qualified purposes, individual development account owners shall complete a financial literacy education course offered by a qualified financial institution, a qualified fiduciary organization, or a governmental entity in accordance with federal guidelines.
(5) The fiduciary organization shall be responsible for coordinating arrangements between the individual and a financial institution to open the individual's IDA.

(6) 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 such IDA account holder is entitled. Such notification shall be made at such intervals as the fiduciary organization deems appropriate, but shall be required to be made at least once each calendar year. The amount of such 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 such matching funds shall not exceed Two Thousand Dollars ($2,000.00) per IDA account holder or Four Thousand Dollars ($4,000.00) per household.

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

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

(8) Once requirements in Section 7 of this act have been fulfilled, the appropriate matching funds shall be transferred
from the parallel account directly to the vendor or service
provider of the approved asset.

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

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

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

(3) If an IDA account holder has gross household income from
all sources for a calendar year which exceeds one hundred
eighty-five percent (185%) of the federal poverty level, the IDA
account holder shall not be eligible to receive funds pursuant to
the provisions of Section 5(6) of this act in the following year.
(4) 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 such 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 shall be used for
any of the following qualified purposes outlined in Section 4(12)
of this act with the following exceptions:

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

(b) 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;

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

(d) With respect to purchase of an automobile, or costs
of repair of an automobile, if paid directly to a licensed
automobile dealer or repair shop. Such a purpose cannot be the
sole purpose of the IDA. Participants must also save for another approved purpose;

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

(f) Qualified emergency withdrawals.

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

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

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

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 such procedures as are necessary, including prohibiting eligibility for further matching funds, to ensure compliance with this section.

SECTION 9. An organization based in this state which desires to enter into such a contract shall submit a proposal to the department for the right to be approved as a fiduciary organization. The department shall select fiduciary organizations through competitive processes. 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 implement and administer the individual development account program, including the ability to verify
account owner eligibility, certify that matching funds are used
only for qualified purposes, and exercise general fiscal
accountability;

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

(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, or to arrange for the
provisions of, financial counseling, financial literacy education
and training specific to the assets the account owners will be
purchasing, and other related services to account owners;

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

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

(h) Operating costs.
SECTION 10. (1) For each contract entered into pursuant to 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 fifteen percent (15%) of the contract.

(2) 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 Sections 1 through 15 of this act.

(3) Subject to rules promulgated by the department, a fiduciary organization has sole authority over, and responsibility for, the administration of individual development accounts. The responsibility of the fiduciary organization extends to all aspects of the account program, including marketing to all eligible individuals and families, soliciting matching funds,
counseling account owners, providing financial literacy education, and conducting required verification and compliance activities.

The fiduciary organization may establish program provisions as the organization believes necessary to ensure account owner compliance with Sections 1 through 15 of this act.

(4) A fiduciary organization may act in partnership with other entities, including businesses, government agencies, corporations, nonprofit organizations, community action programs, community development corporations, housing authorities and faith-based entities, to assist in the fulfillment of its responsibilities under Sections 1 through 15 of this act.

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

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

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

(c) The asset purchase goal of each account.

(d) The number of withdrawals made.

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

(7) 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 individual development accounts 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) which increased the rate and consistency of participation in the demonstration project and how such configurations varied among different populations or communities; and
(g) The number of grievances filed, the resolution of the grievances, and any penalties imposed.

(8) The department shall make all reasonable and necessary rules to ensure the fiduciary organization's compliance with Sections 1 through 15 of this act.

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

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

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

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

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

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

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

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

(2) A credit shall be allowed against the income tax liability imposed by the Mississippi Income Tax Act, beginning at Section 26-51-101, Mississippi Code of 1972, for any Mississippi taxpayer who contributes to a fiduciary organization created pursuant to Sections 1 through 15 of this act in an amount equal to fifty percent (50%) of the amount of matching funds contributed to a fiduciary organization during the calendar year.

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

(4) To claim the benefits of this section, a taxpayer must notify the fiduciary organization that the taxpayer intends to make a contribution and the amount of the contribution. The fiduciary organization shall then notify the department and request a certification from the department certifying the amount of the tax credit to which the taxpayer is entitled. The fiduciary organization shall deliver the certification to the taxpayer upon receipt of the contribution.
(5) A taxpayer must file the certificate with the taxpayer's income tax return for the first year in which the taxpayer claims a tax credit under Sections 1 through 15 of this act.

(6) The total amount of tax credits certified under Sections 1 through 15 of this act shall not exceed One Hundred Thousand Dollars ($100,000.00) per calendar year.

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

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

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

(3) Money deposited into individual development accounts shall not be included in gross income for income tax purposes. Any amount withdrawn from a parallel account, matching funds, may not be includable in an eligible individual's gross income.
(4) Money withdrawn from an individual development account shall only be included in gross income if used for a purpose other than a qualified purpose.

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

SECTION 16. 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 1916, or bonds issued by the War Finance Corporation, or obligations of the State of Mississippi or political subdivisions thereof.
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.

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.

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.

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 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 Retirement Account to a Roth Individual Retirement Account. The exemption allowed under this paragraph (ff) shall be available to the spouse or other beneficiary at the death of the primary retiree.

(gg) Interest or dividends earned on an Individual Development Account as defined in Section 4 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 17. This act shall take effect and be in force from and after July 1, 2014.