HOUSE BILL NO. 1080

AN ACT TO CREATE THE TAX CREDIT SCHOLARSHIP ACT; TO PROVIDE THAT QUALIFYING STUDENTS SHALL BE ELIGIBLE TO USE A SCHOLARSHIP FROM CERTAIN SCHOLARSHIP ORGANIZATIONS TO COVER ELIGIBLE EDUCATIONAL EXPENSES; TO PROVIDE FOR A TAX CREDIT NOT TO EXCEED 50% OF THE TAXPAYERS TAX LIABILITY FOR CONTRIBUTIONS TO CERTAIN SCHOLARSHIP ORGANIZATIONS; TO STIPULATE THE REQUIREMENTS FOR NONPUBLIC SCHOOLS ACCEPTING STUDENTS FOR ENROLLMENT WHO RECEIVE SCHOLARSHIPS UNDER THE PROVISIONS OF THIS ACT; TO PRESCRIBE THE REQUIREMENTS FOR SCHOLARSHIP ORGANIZATIONS ADMINISTERING TAX CREDIT SCHOLARSHIPS; TO REQUIRE THE DEPARTMENT OF REVENUE TO PROVIDE AN ANNUAL LEGISLATIVE REPORT ON THE TAX CREDITS ALLOWED UNDER THIS ACT; TO ALLOW PARENTS TO REQUEST AN ASSESSMENT OF EDUCATIONAL PROGRESS OF STUDENTS ENROLLED; TO PRESCRIBE THE POWERS AND DUTIES OF THE DEPARTMENT OF REVENUE WITH REGARD TO THE ADMINISTRATION OF THIS ACT; TO PROVIDE THAT NONPUBLIC SCHOOLS WHICH ADMIT STUDENTS RECEIVING TAX CREDIT SCHOLARSHIPS ARE NOT AGENTS OF THE STATE OR FEDERAL GOVERNMENT; TO AMEND SECTION 27-7-15, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT AMOUNTS RECEIVED AS TAX CREDIT SCHOLARSHIPS TO PAY EDUCATIONAL EXPENSES SHALL BE EXCLUDED FROM GROSS INCOME; AND FOR RELATED PURPOSES.

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

SECTION 1. This act shall be known and may be cited as the "Tax Credit Scholarship Act."

SECTION 2. As used in Sections 1 through 11 of this act:

(a) "Nonpublic school" means a school, other than a public school or a school receiving public funds or other public assistance:

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(i) At which the compulsory attendance
requirements of the relevant sections in the state law may be met;
(ii) That is accredited by a state or nationally
recognized accrediting entity; and
(iii) That does not discriminate based on the
grounds of race, color or national origin.
(b) "Owner or operator" means an owner, president,
officer, or director of an eligible nonprofit scholarship funding
organization or a person with equivalent decision-making authority
over an eligible nonprofit scholarship funding organization.
(c) "Parent" means the natural or adoptive parent or
legal guardian of a child, including a foster care parent.
(d) "Qualifying student" means a student who is a legal
resident of Mississippi:
(i) No younger than five (5) years of age and no
older than twenty (20) years of age;
(ii) Who lives in a household whose income does
not exceed the amount specified in Section 3 of this act; and
(iii) Who were not enrolled in a nonpublic school
during the school year prior to first receiving a tax credit
scholarship under this act.
(e) "Receipt" means a document that is issued by the
receiving school to the scholarship organization that makes
payment for education expenses on behalf of a qualifying student
which confirms and acknowledges receipt of donation, and that contains, at a minimum:

(i) The name and address of the school; and

(ii) The name, address and scholarship amount of each qualifying student for whom the expense has been paid through the scholarship organization.

(f) "Receiving school" means a nonpublic school that the qualifying student seeks to attend.

(g) "Scholarship organization" means a charitable organization incorporated or qualified to do business in this state that:

(i) Is exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code;

(ii) Complies with the applicable state and federal antidiscrimination provisions;

(iii) Is registered with the Office of the Secretary of State; and

(iv) Awards Tax Credit Scholarships to qualifying students.

(h) "Education expenses" means expenses incurred on behalf of a qualifying student, including, but not limited to, school supplies, textbooks, fees, tuition for attending a nonpublic school, uniforms, educational software, tutoring services, online learning services and similar educational
expenses. Education expenses shall not include fees or expenses related to athletic programs or transportation expenses.

(i) "Tax Credit Scholarship" means a scholarship issued by a scholarship organization to a receiving school to pay the educational expenses of a qualifying student. However, the amount of the scholarship may not exceed ninety percent (90%) of the amount of the tuition for attending a nonpublic school.

SECTION 3. A qualifying student is eligible to utilize a Tax Credit Scholarship from a scholarship organization to cover eligible educational expenses if the student is a member of a household whose total annual income the year before he or she receives a scholarship under this program does not exceed an amount equal to two (2) times the income standard used to qualify for a reduced price lunch under the national free or reduced price lunch program established under 42 USCS Section 1751 et seq.

SECTION 4. (1) A credit is allowed against the taxes imposed in Chapter 7 of Title 27, Mississippi Code of 1972, to a taxpayer who is not a dependant of another taxpayer for contributions made to a scholarship organization in an amount not to exceed fifty percent (50%) of the taxpayer's income tax liability.

(2) Any tax credit claimed under this section but not used in any taxable year may be carried forward for five (5) consecutive years from the close of the tax year in which the credits were earned.
(3) A tax credit may not be claimed without a Tax Credit Scholarship receipt from a scholarship organization.

(4) A taxpayer is not eligible to receive a tax credit under this section if the taxpayer or his dependent receives a Tax Credit Scholarship.

(5) A contribution may not be used for the credit authorized in this section if it is designated by a taxpayer to a specific student or a specific school.

(6) Taxpayers may claim a tax credit authorized under this section only for contributions actually made to a scholarship organization.

(7) Taxpayers may not claim a tax deduction for contributions for which a credit was claimed under this section.

SECTION 5. A nonpublic school, excepting any home school, that accepts students pursuant to this act shall:

(a) Comply with state and federal antidiscrimination laws;

(b) Meet state and local health and safety laws and codes that are applicable to nonpublic schools;

(c) Conduct criminal background checks on employees and then exclude from employment any people not permitted by state law to work in a nonpublic school;

(d) Annually make available to parents and supporting scholarship organizations an assessment of educational progress of scholarship recipients in order to ensure that schools provide
academic accountability to parents of enrolled students and
supporting scholarship organizations (this provision shall not be
construed to require any particular means or method of assessing
educational progress on the part of education service providers
except as provided in this section);
(e) Accept eligible students on the basis of the
admissions criteria of the school within the school's capacity to
accept additional students;
(f) Be accredited by a state or nationally recognized
accrediting entity.

SECTION 6. A scholarship organization shall:
(a) Provide Tax Credit Scholarships, from eligible
contributions, to qualifying students to defray education
expenses;
(b) Not have an owner or operator who also owns or
operates a nonpublic school that participates in the Tax Credit
Scholarship program;
(c) Not have an owner or operator who in the last seven
(7) years has filed for personal bankruptcy or corporate
bankruptcy in a corporation of which he or she owned more than
twenty percent (20%);
(d) Not restrict or reserve scholarships for use at a
single nonpublic school or provide Tax Credit Scholarships to a
child of an owner or operator of a nonpublic school;
(e) Verify the eligibility through transcripts and attendance records of a qualifying student who applies for a Tax Credit Scholarship, after receiving written permission from the parent or parents of the student to obtain information necessary to verify eligibility;

(f) Limit administrative expenses for the organization's management and distribution of eligible contributions pursuant to this section to not more than ten percent (10%) of eligible contributions;

(g) Expend net eligible contributions remaining after reasonable and necessary administrative expenses are expended as provided in this paragraph. On or before the end of the calendar year following the calendar year in which a scholarship organization receives revenues from donations and obligates them for the awarding of scholarships, the scholarship organization shall designate the obligated revenues for specific student recipients. No more than ten percent (10%) of these net eligible contributions remaining after administrative expenses during the state fiscal year in which such contributions are collected may be carried forward to the following calendar year. Any amounts carried forward must be expended for annual or partial-year scholarships in the following calendar year. Net eligible contributions remaining on December 13 of each year that are in excess of the ten percent (10%) that must be carried forward must
be transferred to the State Treasury for deposit in the General Revenue Fund;

(h) Provide to the Department of Revenue an annual financial and compliance report of its accounts and records. It also must include a report on financial statements presented in accordance with generally accepted accounting principles for nonprofit organizations and a determination of compliance with statutory eligibility and expenditure requirements provided in this section. Reports must be provided to the Department of Revenue within one hundred eighty (180) days after completion of the eligible scholarship organization's fiscal year;

(i) Submit to the Department of Revenue a quarterly report that includes the number and dollar amount of contributions to the scholarship organization; the number and dollar amount of Tax Credit Scholarships, including the average amount of each scholarship; and the number of applicants for Tax Credit Scholarships, including the number turned down for a scholarship and the reasons for rejection; and

(j) Provide taxpayer who make contributions to the scholarship organization with an itemized receipt for the amount of the contribution.

SECTION 7. The Mississippi Department of Revenue shall:

(a) Develop, and annually verify and update, by March 15, a list of eligible nonprofit scholarship funding organizations that meet the requirements of Section 6 of this act. The
department shall post this list on the department's Internet website and update the list at least quarterly;

(b) Establish a process by which individuals may notify the Department of Revenue of any violation by a parent or nonpublic school of state laws relating to program participation. The Secretary of State shall conduct an inquiry of any written complaint of a violation of this act, or make a referral to the appropriate agency for an investigation, if the complaint is signed by the complainant and is legally sufficient. A complaint is legally sufficient if it provides facts that show that a violation of this section or any rule adopted by the Department of Revenue or Secretary of State is likely to have occurred. In order to determine legal sufficiency, the Secretary of State may require supporting information or documentation from the complainant; and

(c) Require quarterly reports by an eligible nonprofit scholarship organization regarding the number of students participating in the Tax Credit Scholarship program; and the nonpublic schools at which the students are enrolled.

SECTION 8. The Department of Revenue shall annually report to the Legislature, as well as the public at large, the following information:

(a) The number of corporate taxpayers claiming the tax credit authorized in Section 4 of this act and the average amount of each credit claimed and the total dollar amount claimed;
(b) The number of individual taxpayers claiming the tax credit authorized in Section 4 of this act and the average for each credit claimed and the total dollar amount claimed;

c) The number of schools accepting eligible students that are awarded Tax Credit Scholarships;

d) The number of scholarship organizations;

e) The number and dollar amount of contributions to scholarship organizations;

(f) The number and dollar amount of Tax Credit Scholarships, including the average amount of each scholarship;

and

g) The number of applicants for Tax Credit Scholarships, including the number turned down for a scholarship and the reasons for rejection.

SECTION 9. (1) Upon request by the student's parents, a receiving school shall administer nationally recognized norm-referenced tests that measure learning gains in math and language arts in grades that require testing under the state's accountability testing laws for public schools, provided that:

(a) The costs of the testing requirements shall be covered by the Tax Credit Scholarships distributed by the scholarship organizations; and

(b) The results of the tests shall be provided to the parents of each student tested.
(2) At its discretion, a receiving school may administer the state assessment tests instead of nationally recognized norm-referenced tests.

SECTION 10. The provisions of this act regarding nonpublic schools and their relation to student scholarship organizations apply only to nonpublic schools that choose to accept eligible students that are awarded Tax Credit Scholarships.

SECTION 11. (1) A receiving nonpublic school that accepts eligible students that are awarded Tax Credit Scholarships is not an agent or arm of the state or federal government and participating, nonpublic schools shall possess the freedom to provide for the educational needs of their students without governmental control.

(2) Except as provided by this act, the Department of Education, Department of Revenue or any other state agency may not regulate the educational program of a receiving nonpublic school that accepts eligible students that are awarded Tax Credit Scholarships under this act.

SECTION 12. 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.

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

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

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

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

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

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

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

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

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

(n) Compensation received for active service as a member below the grade of commissioned officer and so much of the compensation as does not exceed the maximum enlisted amount received for active service as a commissioned officer in the Armed Forces of the United States for any month during any part of which such members of the Armed Forces (i) served in a combat zone as designated by Executive Order of the President of the United States.
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) Amounts received for the performance of disaster or emergency-related work as defined in Section 27-113-5.

(hh) The amount deposited in a catastrophe savings account established under Sections 27-7-1001 through 27-7-1007, interest income earned on the catastrophe savings account, and distributions from the catastrophe savings account; however, any amount withdrawn from a catastrophe savings account for purposes other than paying qualified catastrophe expenses shall be included in gross income, except as otherwise provided by Sections 27-7-1001 through 27-7-1007.

(ii) Amounts received as a Tax Credit Scholarship under Sections 1 through 11 of this act to pay educational expenses as defined in Section 2 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 this subsection 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 13. This act shall take effect and be in force from and after January 1, 2016.