

By: Senator(s) Jackson (11th)

To: Finance

SENATE BILL NO. 2038

1 AN ACT TO CREATE THE FAMILY SAVINGS INITIATIVE ACT; 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 AN INDIVIDUAL DEVELOPMENT ACCOUNT HOLDER
7 AND A FINANCIAL INSTITUTION HOLDING ACCOUNT FUNDS; TO PROVIDE THAT
8 THE GROSS HOUSEHOLD INCOME OF INDIVIDUAL RETIREMENT ACCOUNT
9 HOLDERS MAY NOT EXCEED 200% OF THE POVERTY LEVEL AND THE ACCOUNT
10 HOLDER'S NET WORTH MAY NOT EXCEED \$10,000.00; TO REQUIRE
11 INDIVIDUALS OPENING AN INDIVIDUAL DEVELOPMENT ACCOUNT TO ENTER
12 INTO AN AGREEMENT WITH A FIDUCIARY ORGANIZATION; TO PROVIDE THAT
13 THE FIDUCIARY ORGANIZATION SHALL PROVIDE MATCHING FUNDS FOR THE
14 AMOUNT 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.** Sections 1 through 13 of this act shall be known
35 and may be cited as the "Family Savings Initiative Act."

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

39 (a) Provide individuals and families with limited means
40 an opportunity to accumulate assets;

41 (b) Facilitate and mobilize savings;

42 (c) Promote homeownership, microenterprise development,
43 education, saving for retirement, and automobile purchase; and

44 (d) Stabilize families and build communities.

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

46 (a) Americans of most economic classes are having
47 increasing difficulty climbing the economic ladder. Fully,
48 one-half (1/2) of all Americans have negligible or no investable
49 assets just as the price of entry to the economic mainstream, such
50 as the cost of a house, starting a business, an adequate
51 education, establishing a retirement account, or purchasing an
52 automobile, is increasing;

53 (b) Economic well-being does not come solely from
54 income, spending and consumption, but also requires savings,
55 investment and accumulation of assets, since assets can improve
56 economic stability, connect people with a viable and hopeful
57 future, stimulate development of human and other capital, enable



58 people to focus and specialize, yield personal and social
59 dividends, and enhance the welfare of offspring;

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

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

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

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



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

88 **SECTION 4.** As used in Sections 1 through 13 of this act:

89 (a) "Administrative costs" includes, but is not limited
90 to, soliciting matching funds, processing fees charged by the
91 fiduciary organization or financial institution, and traditional
92 overhead costs. Administrative costs shall be limited to not more
93 than ten percent (10%) of the contract.

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

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

98 (i) An institution described in 20 USC, Section
99 1088(a)(1) or 1141(a), as such sections are in effect on January
100 1, 2000;

101 (ii) An area vocational education school, as
102 defined in 20 USC, Section 2471(4), subparagraph (C) or (D), as
103 such section is in effect on January 1, 2000; and

104 (iii) Any other accredited education or training
105 organization.



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

109 (e) "Fiduciary organization" means the organization
110 that will serve as an intermediary between an individual
111 development account holder and a financial institution holding
112 account funds. A fiduciary organization shall be a not-for-profit
113 organization described in Section 501(c)(3) of the Internal
114 Revenue Code of 1986, 26 USC, Section 501(c)(3), as in effect on
115 January 1, 2000.

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

121 (g) "Individual development account" or "IDA" means an
122 account created pursuant to Sections 1 through 13 of this act
123 exclusively for the purpose of paying the expenses of an eligible
124 individual or family for the purposes set forth in Section 7 of
125 this act.

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



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

135 (j) "Postsecondary educational expenses" means:

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

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

144 (k) "Qualified acquisition costs" means:

145 (i) The costs of acquiring, constructing, or
146 reconstructing a residence to be occupied by an IDA account holder
147 or an immediate family member thereof, including, but not limited
148 to, any usual or reasonable settlement, financing, or other
149 closing costs; and

150 (ii) The costs of acquiring or repairing a motor
151 vehicle to be used by an IDA account holder or an immediate family
152 member thereof, including, but not limited to, any taxes,
153 insurance, or registration costs incurred in acquiring a motor
154 vehicle.



155 (1) "Qualified business" means any business that does
156 not contravene any law or public policy.

157 (m) "Qualified business capitalization expenses" means
158 qualified expenditures for the capitalization of a qualified
159 business pursuant to a qualified plan.

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

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

170 (p) "Qualified first-time home buyer" means an
171 individual who has no ownership interest in a principal residence
172 during the three-year period ending on the date of acquisition of
173 the principal residence to which Sections 1 through 13 of this act
174 applies.

175 (q) "Qualified plan" means a plan for the operation of
176 a business by an IDA account holder or an immediate family member
177 thereof which:



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

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

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

186 (r) "Qualified principal residence" means a principal
187 residence within the meaning of Section 1034 of the Internal
188 Revenue Code of 1986, 26 USC, Section 1034, as in effect on
189 January 1, 2000, of an IDA account holder or an immediate family
190 member thereof, the qualified acquisition costs of which do not
191 exceed the average area purchase price applicable to such
192 residence, determined in accordance with paragraphs (2) and (3) of
193 Section 143(e) of the Internal Revenue Code, 26 USC, Section
194 143(e) (2) and (3), as in effect on January 1, 2000.

195 **SECTION 5.** (1) The Department of Human Services shall enter
196 into contracts with one or more fiduciary organizations pursuant
197 to the provisions of this section in such a manner that different
198 regions of the state are served by one or more fiduciary
199 organizations. An organization based in this state which desires
200 to enter into such a contract shall submit a proposal to the
201 department for the right to be approved as a fiduciary
202 organization. Such proposals shall be made upon forms prescribed



203 by the department and shall contain such information as the
204 department may require.

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

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

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

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

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

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

221 (f) Capacity to provide other activities designed to
222 increase the independence of individuals and families through
223 homeownership, small business development, enhanced education and
224 training, saving for retirement, and automobile purchase, or to
225 provide links to such other activities; and

226 (g) Operating costs.



227 (3) For each contract entered into pursuant to the
228 provisions of this section, the contract shall begin not later
229 than October 1 of each year. The fiduciary organization shall use
230 not less than seventy percent (70%) for matching funds and not
231 more than thirty percent (30%) for operating and administrative
232 costs. Administrative costs shall be limited to ten percent (10%)
233 of the contract.

234 (4) Responsibilities of a fiduciary organization shall
235 include, but not be limited to, marketing participation,
236 soliciting matching contributions, counseling project
237 participants, conducting basic economic and financial literacy
238 training and IDA use training for project participants, and
239 conducting required verification and compliance activities.
240 Neither a fiduciary organization nor an employee of, or person
241 associated with a fiduciary organization, shall receive anything
242 of value, other than compensation for services, for any act
243 performed in connection with the establishment of an IDA or in
244 furtherance of the provisions of Sections 1 through 13 of this
245 act.

246 **SECTION 6.** (1) An individual who is a resident of this
247 state may submit an application to open an individual development
248 account to a fiduciary organization approved by the Department of
249 Human Services pursuant to the provisions of Section 5 of this
250 act. The fiduciary organization shall approve the application
251 only if:



252 (a) The individual has gross household income from all
253 sources for the calendar year preceding the year in which the
254 application is made which does not exceed two hundred percent
255 (200%) of the federal poverty level; and

256 (b) Individual's household net worth at the time the
257 IDA account is opened does not exceed Ten Thousand Dollars
258 (\$10,000.00) disregarding the primary dwelling and one (1) motor
259 vehicle owned by the household.

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

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

265 (4) (a) Each fiduciary organization shall provide written
266 notification to each of its eligible IDA account holders of the
267 amount of matching funds provided by the fiduciary to which each
268 such IDA account holder is entitled. Such notification shall be
269 made at such intervals as the fiduciary organization deems
270 appropriate, but shall be required to be made at least once each
271 calendar year. The amount of such matching funds for each IDA
272 account holder shall be Three Dollars (\$3.00) for each One Dollar
273 (\$1.00) contributed to the IDA by the IDA account holder during
274 the preceding calendar year. The amount of such matching funds
275 shall not exceed Two Thousand Dollars (\$2,000.00) per IDA account
276 holder or Four Thousand Dollars (\$4,000.00) per household.



277 (b) If the amount of matching funds available are
278 insufficient to disburse the maximum amounts specified in this
279 subsection, amounts of disbursements shall be reduced
280 proportionately based upon available funds.

281 (5) If an IDA account holder has gross household income from
282 all sources for a calendar year which exceeds two hundred percent
283 (200%) of the federal poverty level, the IDA account holder shall
284 not be eligible to receive funds pursuant to the provisions of
285 subsection (4) of this section in the following year.

286 (6) In the event of an IDA account holder's death, the
287 account may be transferred to the ownership of a contingent
288 beneficiary or beneficiaries. An account holder shall name a
289 contingent beneficiary or beneficiaries at the time the account is
290 established and may change such beneficiary or beneficiaries at
291 any time. If the named beneficiary or beneficiaries are deceased
292 or cannot otherwise accept the transfer, the monies shall be
293 transferred to the fiduciary organization to redistribute as
294 matching funds.

295 **SECTION 7.** (1) Except as otherwise provided in subsection
296 (2) of this section, individual development accounts may be used
297 for any of the following qualified purposes:

298 (a) Qualified acquisition costs with respect to a
299 qualified principal residence for a qualified first-time home
300 buyer, or the costs of major repairs or improvements to a



301 qualified principal residence, if paid directly to the persons to
302 whom the amounts are due;

303 (b) Amounts paid directly to a business capitalization
304 account which is established in a federally insured financial
305 institution and is restricted to use solely for qualified business
306 capitalization expenses consistent with a qualified plan;

307 (c) Postsecondary educational expenses paid directly to
308 an eligible educational institution;

309 (d) Amounts paid directly to an individual retirement
310 account or education IRA established pursuant to federal law in
311 the name of the IDA account holder or an immediate family member
312 thereof;

313 (e) Qualified acquisition costs with respect to
314 purchase of an automobile, or costs of repair of an automobile, if
315 paid directly to a licensed automobile dealer or repair shop.
316 Such a purpose cannot be the sole purpose of the IDA.

317 Participants must also save for another approved purpose; and

318 (f) Qualified emergency withdrawals.

319 (2) Federal Temporary Assistance For Needy Families matching
320 funds shall only be used for the purposes set forth in paragraphs
321 (a), (b) and (c) of subsection (1) of this section.

322 **SECTION 8.** (1) If the fiduciary organization receives
323 evidence that monies withdrawn from IDAs are withdrawn under false
324 pretenses or are used for purposes other than for the approved
325 purposes indicated at the time of the withdrawal, the fiduciary



326 organization shall make arrangements with the financial
327 institution to impose a penalty of loss of matches and may, at its
328 discretion, close the account. All penalties collected by
329 fiduciary organizations shall remain with the fiduciary
330 organization to distribute as matching funds to other eligible
331 individuals.

332 (2) The fiduciary organization shall establish a grievance
333 committee and a procedure to hear, review, and decide in writing
334 any grievance made by an IDA account holder who disputes a
335 decision of the operating organization that a withdrawal is
336 subject to penalty.

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

340 **SECTION 9.** Each fiduciary organization shall provide
341 quarterly to the Department of Human Services the following
342 information:

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

345 (b) The amounts deposited in the IDA;

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

347 (d) The amounts withdrawn from the individual
348 development accounts and the purposes for which the amounts were
349 withdrawn;

350 (e) The balances remaining in the IDAs;



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

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

358 **SECTION 10.** The department shall prepare a written report
359 annually regarding the implementation of the Family Savings
360 Initiative Act and shall make recommendations for improving the
361 program. The report shall be transmitted to the Legislature on or
362 before August 1 of each year.

363 **SECTION 11.** The department shall be responsible for
364 implementation of Sections 1 through 13 of this act and shall
365 promulgate rules as necessary in accordance with the provisions
366 Sections 1 through 13 of this act.

367 **SECTION 12.** Funds deposited in an IDA, shall not be counted
368 as income, assets or resources of the individual in determining
369 financial eligibility for assistance or services pursuant to any
370 federal, federally assisted, state or municipal program based on
371 need.

372 **SECTION 13.** (1) Any individual, business, organization, or
373 other entity may contribute matching funds to a fiduciary
374 organization. The funds shall be designated to the fiduciary



375 organization to allocate to all its participants on a
376 proportionate basis.

377 (2) A credit shall be allowed against the income tax
378 liability imposed by Section 27-7-5 for any Mississippi taxpayer
379 who contributes to a fiduciary organization created pursuant to
380 Sections 1 through 13 of this act in an amount equal to fifty
381 percent (50%) of the amount of matching funds contributed to a
382 fiduciary organization during the calendar year.

383 (3) The amount of the credit that may be used by a taxpayer
384 for a taxable year shall not exceed the lesser of Twenty-five
385 Thousand Dollars (\$25,000.00) or the amount of income tax
386 otherwise due. Any unused credit may be carried over for a
387 maximum of three (3) years.

388 (4) (a) To claim the benefits of this section, a taxpayer
389 must notify the fiduciary organization that the taxpayer intends
390 to make a contribution and the amount of the contribution. The
391 fiduciary organization shall then notify the department and
392 request a certification from the department certifying the amount
393 of the tax credit to which the taxpayer is entitled. The
394 fiduciary organization shall deliver the certification to the
395 taxpayer upon receipt of the contribution.

396 (b) A taxpayer shall file the certificate with the
397 taxpayer's income tax return for the first year in which the
398 taxpayer claims a tax credit under this section.



399 (5) The total amount of tax credits certified under Sections
400 1 through 13 of this act shall not exceed One Hundred Thousand
401 Dollars (\$100,000.00) per calendar year.

402 (6) The Department of Revenue shall promulgate any
403 regulations necessary to carry out the provisions of this section.

404 **SECTION 14.** Section 27-7-15, Mississippi Code of 1972, is
405 amended as follows:

406 27-7-15. (1) For the purposes of this article, except as
407 otherwise provided, the term "gross income" means and includes the
408 income of a taxpayer derived from salaries, wages, fees or
409 compensation for service, of whatever kind and in whatever form
410 paid, including income from governmental agencies and subdivisions
411 thereof; or from professions, vocations, trades, businesses,
412 commerce or sales, or renting or dealing in property, or
413 reacquired property; also from annuities, interest, rents,
414 dividends, securities, insurance premiums, reinsurance premiums,
415 considerations for supplemental insurance contracts, or the
416 transaction of any business carried on for gain or profit, or
417 gains, or profits, and income derived from any source whatever and
418 in whatever form paid. The amount of all such items of income
419 shall be included in the gross income for the taxable year in
420 which received by the taxpayer. The amount by which an eligible
421 employee's salary is reduced pursuant to a salary reduction
422 agreement authorized under Section 25-17-5, shall be excluded from
423 the term "gross income" within the meaning of this article.



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

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

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

432 (i) Prior to January 1, 2001, federal rules,
433 regulations and revenue procedures shall be followed with respect
434 to installment sales except they shall be applied and administered
435 as if H.R. 3594, the Installment Tax Correction Act of 2000 of the
436 106th Congress, had not been enacted. This provision will
437 generally affect taxpayers, reporting on the accrual method of
438 accounting, entering into installment note agreements on or after
439 December 17, 1999. Any gain or profit resulting from the casual
440 sale of property will be recognized in the year of sale.

441 (ii) From and after January 1, 2001, federal
442 rules, regulations and revenue procedures shall be followed with
443 respect to installment sales except as provided in this
444 subparagraph (ii). Gain or profit from the casual sale of
445 property shall be recognized in the year of sale. When a taxpayer
446 recognizes gain on the casual sale of property in which the gain
447 is deferred for federal income tax purposes, a taxpayer may elect
448 to defer the payment of tax resulting from the gain as allowed and



449 to the extent provided under regulations prescribed by the
450 commissioner. If the payment of the tax is made on a deferred
451 basis, the tax shall be computed based on the applicable rate for
452 the income reported in the year the payment is made. Except as
453 otherwise provided in subparagraph (iii) of this paragraph (b),
454 deferring the payment of the tax shall not affect the liability
455 for the tax. If at any time the installment note is sold,
456 contributed, transferred or disposed of in any manner and for any
457 purpose by the original note holder, or the original note holder
458 is merged, liquidated, dissolved or withdrawn from this state,
459 then all deferred tax payments under this section shall
460 immediately become due and payable.

461 (iii) If the selling price of the property is
462 reduced by any alteration in the terms of an installment note,
463 including default by the purchaser, the gain to be recognized is
464 recomputed based on the adjusted selling price in the same manner
465 as for federal income tax purposes. The tax on this amount, less
466 the previously paid tax on the recognized gain, is payable over
467 the period of the remaining installments. If the tax on the
468 previously recognized gain has been paid in full to this state,
469 the return on which the payment was made may be amended for this
470 purpose only. The statute of limitations in Section 27-7-49 shall
471 not bar an amended return for this purpose.



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

475 (d) **Affiliated companies or persons.** As regards sales,
476 exchanges or payments for services from one to another of
477 affiliated companies or persons or under other circumstances where
478 the relation between the buyer and seller is such that gross
479 proceeds from the sale or the value of the exchange or the payment
480 for services are not indicative of the true value of the subject
481 matter of the sale, exchange or payment for services, the
482 commissioner shall prescribe uniform and equitable rules for
483 determining the true value of the gross income, gross sales,
484 exchanges or payment for services, or require consolidated returns
485 of affiliates.

486 (e) **Alimony and separate maintenance payments.** The
487 federal rules, regulations and revenue procedures in determining
488 the deductibility and taxability of alimony payments shall be
489 followed in this state.

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



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

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

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

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

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

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

517 (e) The amounts received through accident or health
518 insurance as compensation for personal injuries or sickness, plus
519 the amount of any damages received for such injuries or such
520 sickness or injuries, or through the War Risk Insurance Act, or



521 any law for the benefit or relief of injured or disabled members
522 of the military or naval forces of the United States.

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

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

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

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



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

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

561 (l) Amounts received as retirement allowances,
562 pensions, annuities or optional retirement allowances paid by any
563 public or governmental retirement system not designated in
564 paragraph (k) or any private retirement system or plan of which
565 the recipient was a member at any time during the period of his
566 employment. Amounts received as a distribution under a Roth
567 Individual Retirement Account shall be treated in the same manner
568 as provided under the Internal Revenue Code of 1986, as amended.
569 The exemption allowed under this paragraph (l) shall be available



570 to the spouse or other beneficiary at the death of the primary
571 retiree.

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

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

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

592 (p) The amount representing the difference between the
593 increase of gross income derived from sales for export outside the
594 United States as compared to the preceding tax year wherein gross



595 income from export sales was highest, and the net increase in
596 expenses attributable to such increased exports. In the absence
597 of direct accounting, the ratio of net profits to total sales may
598 be applied to the increase in export sales. This paragraph (p)
599 shall only apply to businesses located in this state engaging in
600 the international export of Mississippi goods and services. Such
601 goods or services shall have at least fifty percent (50%) of value
602 added at a location in Mississippi.

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

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

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

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



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

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

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

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

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

643 (z) Interest, dividends, gains or income of any kind on
644 any account in a qualified tuition program and amounts received as



645 distributions under a qualified tuition program shall be treated
646 in the same manner as provided under the United States Internal
647 Revenue Code, as amended. For the purposes of this paragraph (z),
648 the term "qualified tuition program" means and has the same
649 definition as that term has in 26 USCS 529.

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

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

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

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

667 (ee) Amounts received by a qualified individual,
668 directly or indirectly, from an employer or nonprofit housing
669 organization that are qualified housing expenses associated with



670 an employer-assisted housing program. For purposes of this
671 paragraph (ee):

672 (i) "Qualified individual" means any individual
673 whose household income does not exceed one hundred twenty percent
674 (120%) of the area median gross income (as defined by the United
675 States Department of Housing and Urban Development), adjusted for
676 household size, for the area in which the housing is located.

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

681 1. Homeownership education or counseling;
682 2. The development of affordable housing; or
683 3. The development or administration of
684 employer-assisted housing programs.

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

691 (iv) "Qualified housing expenses" means:

692 1. With respect to rental assistance, an
693 amount not to exceed Two Thousand Dollars (\$2,000.00) paid for the



694 purpose of assisting employees with security deposits and rental
695 subsidies; and

696 2. With respect to homeownership assistance,
697 an amount not to exceed the lesser of Ten Thousand Dollars
698 (\$10,000.00) or six percent (6%) of the purchase price of the
699 employee's principal residence that is paid for the purpose of
700 assisting employees with down payments, payment of closing costs,
701 reduced interest mortgages, mortgage guarantee programs, mortgage
702 forgiveness programs, equity contribution programs, or
703 contributions to home buyer education and/or homeownership
704 counseling of eligible employees.

705 (ff) For the 2010 taxable year and any taxable year
706 thereafter, amounts converted in accordance with the United States
707 Internal Revenue Code, as amended, from a traditional Individual
708 Retirement Account to a Roth Individual Retirement Account. The
709 exemption allowed under this paragraph (ff) shall be available to
710 the spouse or other beneficiary at the death of the primary
711 retiree.

712 (gg) Amounts received for the performance of disaster
713 or emergency-related work as defined in Section 27-113-5.

714 (hh) The amount deposited in a catastrophe savings
715 account established under Sections 27-7-1001 through 27-7-1007,
716 interest income earned on the catastrophe savings account, and
717 distributions from the catastrophe savings account; however, any
718 amount withdrawn from a catastrophe savings account for purposes



719 other than paying qualified catastrophe expenses shall be included
720 in gross income, except as otherwise provided by Sections
721 27-7-1001 through 27-7-1007.

722 (ii) Interest or dividends earned on an Individual
723 Development Account as defined in Section 4 of this act.

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

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

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

735 (c) **Period of conflict.** For the purpose of this
736 subsection, the Vietnam Conflict began February 28, 1961, and ends
737 on the date designated by the President by Executive Order as the
738 date of the termination of combatant activities in Vietnam. For
739 the purpose of this subsection, an individual is in a missing
740 status as a result of the Vietnam Conflict if immediately before
741 such status began he was performing service in Vietnam or was
742 performing service in Southeast Asia in direct support of military
743 operations in Vietnam. "Southeast Asia," as used in this



744 paragraph, is defined to include Cambodia, Laos, Thailand and
745 waters adjacent thereto.

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

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

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

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

767 (h) If refund or credit of any overpayment of tax for
768 any taxable year resulting from the application of this subsection



769 (5) * * * is prevented by the operation of any law or rule of law,
770 such refund or credit of such overpayment of tax may,
771 nevertheless, be made or allowed if claim therefor is filed with
772 the Department of Revenue within three (3) years after the date of
773 the enactment of this subsection.

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

776 (6) A shareholder of an S corporation, as defined in Section
777 27-8-3(1)(g), shall take into account the income, loss, deduction
778 or credit of the S corporation only to the extent provided in
779 Section 27-8-7(2).

780 **SECTION 15.** This act shall take effect and be in force from
781 and after July 1, 2016.

