

By: Senator(s) Fillingane, Dearing

To: Finance

SENATE BILL NO. 2858
(As Sent to Governor)

1 AN ACT TO CREATE THE TAXPAYER PAY RAISE ACT OF 2016; TO AMEND
2 SECTION 27-7-5, MISSISSIPPI CODE OF 1972, TO PHASE OUT, AFTER
3 CALENDAR YEAR 2023, INCOME TAXATION ON THE FIRST \$5,000.00 OF
4 TAXABLE INCOME; TO AMEND SECTION 27-7-18, MISSISSIPPI CODE OF
5 1972, TO PROVIDE THAT A PORTION OF THE FEDERAL SELF-EMPLOYMENT
6 TAXES ASSESSED AGAINST SELF-EMPLOYED INDIVIDUALS SHALL BE ALLOWED
7 AS AN ADJUSTMENT TO GROSS INCOME UNDER THE STATE INCOME TAX LAW;
8 TO AMEND SECTIONS 27-13-5 AND 27-13-7, MISSISSIPPI CODE OF 1972,
9 TO PHASE OUT THE CORPORATION FRANCHISE TAX EFFECTIVE JANUARY 1,
10 2028; TO REPEAL, EFFECTIVE JANUARY 1, 2028, SECTIONS 27-13-1
11 THROUGH 27-13-67, MISSISSIPPI CODE OF 1972, WHICH ARE THE
12 CORPORATION FRANCHISE TAX LAW; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** Section 27-7-5, Mississippi Code of 1972, is
15 amended as follows:

16 27-7-5. (1) There is hereby assessed and levied, to be
17 collected and paid as hereinafter provided, for the calendar year
18 1983 and fiscal years ending during the calendar year 1983 and all
19 taxable years thereafter, upon the entire net income of every
20 resident individual, corporation, association, trust or estate, in
21 excess of the credits provided, a tax at the following rates:



22 (a) (i) Through calendar year 2017, on the first Five
23 Thousand Dollars (\$5,000.00) of taxable income, or any part
24 thereof, * * * the rate * * * shall be three percent (3%);

25 (ii) For calendar year 2018, on the first One
26 Thousand Dollars (\$1,000.00) of taxable income there shall be no
27 tax levied, and on the next Four Thousand Dollars (\$4,000.00) of
28 taxable income, or any part thereof, the rate shall be three
29 percent (3%);

30 (iii) For calendar year 2019, on the first Two
31 Thousand Dollars (\$2,000.00) of taxable income there shall be no
32 tax levied, and on the next Three Thousand Dollars (\$3,000.00) of
33 taxable income, or any part thereof, the rate shall be three
34 percent (3%);

35 (iv) For calendar year 2020, on the first Three
36 Thousand Dollars (\$3,000.00) of taxable income there shall be no
37 tax levied, and on the next Two Thousand Dollars (\$2,000.00) of
38 taxable income, or any part thereof, the rate shall be three
39 percent (3%);

40 (v) For calendar year 2021, on the first Four
41 Thousand Dollars (\$4,000.00) of taxable income there shall be no
42 tax levied, and on the next One Thousand Dollars (\$1,000.00) of
43 taxable income, or any part thereof, the rate shall be three
44 percent (3%);



45 (vi) For calendar year 2022 and all taxable years
46 thereafter, there shall be no tax levied on the first Five
47 Thousand Dollars (\$5,000.00) of taxable income;

48 (b) On * * * taxable income in excess of Five Thousand
49 Dollars (\$5,000.00) up to and including Ten Thousand Dollars
50 (\$10,000.00), or any part thereof, * * * the rate * * * shall be
51 four percent (4%); and

52 (c) On all taxable income in excess of Ten Thousand
53 Dollars (\$10,000.00), * * * the rate * * * shall be five percent
54 (5%).

55 (2) An S corporation, as defined in Section 27-8-3(1)(g),
56 shall not be subject to the income tax imposed under this section.

57 (3) A like tax is hereby imposed to be assessed, collected
58 and paid annually, except as hereinafter provided, at the rate
59 specified in this section and as hereinafter provided, upon and
60 with respect to the entire net income, from all property owned or
61 sold, and from every business, trade or occupation carried on in
62 this state by individuals, corporations, partnerships, trusts or
63 estates, not residents of the State of Mississippi.

64 (4) In the case of taxpayers having a fiscal year beginning
65 in * * * a calendar year * * * with a rate in effect that is
66 different than the rate in effect for the next calendar year and
67 ending * * * in the next calendar year, the tax due for that
68 taxable year shall be determined by:



69 (a) Computing for the full fiscal year the amount of
70 tax that would be due under the rates in effect for the calendar
71 year * * * in which the fiscal year begins; and

72 (b) Computing for the full fiscal year the amount of
73 tax that would be due under the rates in effect for the calendar
74 year * * * in which the fiscal year ends; and

75 (c) Applying to the tax computed under paragraph (a)
76 the ratio which the number of months falling within the earlier
77 calendar year bears to the total number of months in the fiscal
78 year; and

79 (d) Applying to the tax computed under paragraph (b)
80 the ratio which the number of months falling within the later
81 calendar year bears to the total number of months within the
82 fiscal year; and

83 (e) Adding to the tax determined under paragraph (c)
84 the tax determined under paragraph (d) the sum of which shall be
85 the amount of tax due for the fiscal year.

86 **SECTION 2.** Section 27-7-18, Mississippi Code of 1972, is
87 amended as follows:

88 27-7-18. (1) Alimony payments. In the case of a person
89 described in Section 27-7-15(2)(e), there shall be allowed as a
90 deduction from gross income amounts paid as periodic payments to
91 the extent of such amounts as are includible in the gross income
92 of the spouse as provided in Section 27-7-15(2)(e), payment of
93 which is made within the person's taxable year.



94 (2) Unreimbursed moving expenses incurred after December 31,
95 1994, are deductible as an adjustment to gross income in
96 accordance with provisions of the United States Internal Revenue
97 Code, and rules, regulations and revenue procedures thereunder
98 relating to moving expenses, not in direct conflict with the
99 provisions of the Mississippi Income Tax Law.

100 (3) Amounts paid after December 31, 1998, by a self-employed
101 individual for insurance which constitute medical care for the
102 taxpayer, his spouse and dependents, are deductible as an
103 adjustment to gross income in accordance with provisions of the
104 United States Internal Revenue Code, and rules, regulations and
105 revenue procedures thereunder relating to such payments, not in
106 direct conflict with the provisions of the Mississippi Income Tax
107 Law.

108 (4) Contributions or payments to a Mississippi Affordable
109 College Savings (MACS) Program account are deductible from gross
110 income as provided in Section 37-155-113. Payments made under a
111 prepaid tuition contract entered into under the Mississippi
112 Prepaid Affordable College Tuition Program are deductible as
113 provided in Section 37-155-17.

114 (5) (a) Unreimbursed travel expenses, lodging expenses and
115 lost wages an individual incurred as a result of, and related to,
116 the donation, while living, of one or more of his or her organs
117 for human organ transplantation, are deductible from gross income.
118 The deduction from gross income authorized by this subsection may



119 be claimed for only once and may not exceed Ten Thousand Dollars
120 (\$10,000.00).

121 (b) As used in this subsection, "organ" means all or
122 part of a liver, pancreas, kidney, intestine, lung or bone marrow.

123 (6) In the case of a self-employed individual, there shall
124 be allowed as a deduction from gross income an amount equal to:

125 (a) Seventeen percent (17%) of the federal
126 self-employment taxes imposed on such individual for taxable years
127 ending in calendar year 2017;

128 (b) Thirty-four percent (34%) of the federal
129 self-employment taxes imposed on such individual for taxable years
130 ending in calendar year 2018; and

131 (c) Fifty percent (50%) of the federal self-employment
132 taxes imposed on such individual for taxable years ending in
133 calendar year 2019 and thereafter.

134 **SECTION 3.** Section 27-13-5, Mississippi Code of 1972, is
135 amended as follows:

136 27-13-5. (1) (a) **Franchise tax levy.** Except as otherwise
137 provided in subsections (3), (4), (5) and (7) of this section,
138 there is hereby imposed, to be paid and collected as hereinafter
139 provided, a franchise or excise tax upon every corporation,
140 association or joint-stock company or partnership treated as a
141 corporation under the income tax laws or regulations, organized or
142 created for pecuniary gain, having privileges not possessed by
143 individuals, and having authorized capital stock now existing in



144 this state, or hereafter organized, created or established, under
145 and by virtue of the laws of the State of Mississippi, equal to:

146 (i) For tax years beginning before January 1,
147 2018, Two Dollars and Fifty Cents (\$2.50) for each One Thousand
148 Dollars (\$1,000.00), or fraction thereof, of the value of the
149 capital used, invested or employed in the exercise of any power,
150 privilege or right enjoyed by such organization within this state,
151 except as hereinafter provided.

152 (ii) For tax years beginning on or after January
153 1, 2018, but before January 1, 2019, Two Dollars and Fifty Cents
154 (\$2.50) for each One Thousand Dollars (\$1,000.00), or fraction
155 thereof, in excess of One Hundred Thousand Dollars (\$100,000.00),
156 of the value of the capital used, invested or employed in the
157 exercise of any power, privilege or right enjoyed by such
158 organization within this state, except as hereinafter provided.

159 (iii) For tax years beginning on or after January
160 1, 2019, but before January 1, 2020, Two Dollars and Twenty-five
161 Cents (\$2.25) for each One Thousand Dollars (\$1,000.00), or
162 fraction thereof, in excess of One Hundred Thousand Dollars
163 (\$100,000.00), of the value of the capital used, invested or
164 employed in the exercise of any power, privilege or right enjoyed
165 by such organization within this state, except as hereinafter
166 provided.

167 (iv) For tax years beginning on or after January
168 1, 2020, but before January 1, 2021, Two Dollars (\$2.00) for each



169 One Thousand Dollars (\$1,000.00), or fraction thereof, in excess
170 of One Hundred Thousand Dollars (\$100,000.00), of the value of the
171 capital used, invested or employed in the exercise of any power,
172 privilege or right enjoyed by such organization within this state,
173 except as hereinafter provided.

174 (v) For tax years beginning on or after January 1,
175 2021, but before January 1, 2022, One Dollar and Seventy-five
176 Cents (\$1.75) for each One Thousand Dollars (\$1,000.00), or
177 fraction thereof, in excess of One Hundred Thousand Dollars
178 (\$100,000.00), of the value of the capital used, invested or
179 employed in the exercise of any power, privilege or right enjoyed
180 by such organization within this state, except as hereinafter
181 provided.

182 (vi) For tax years beginning on or after January
183 1, 2022, but before January 1, 2023, One Dollar and Fifty Cents
184 (\$1.50) for each One Thousand Dollars (\$1,000.00), or fraction
185 thereof, in excess of One Hundred Thousand Dollars (\$100,000.00),
186 of the value of the capital used, invested or employed in the
187 exercise of any power, privilege or right enjoyed by such
188 organization within this state, except as hereinafter provided.

189 (vii) For tax years beginning on or after January
190 1, 2023, but before January 1, 2024, One Dollar and Twenty-five
191 Cents (\$1.25) for each One Thousand Dollars (\$1,000.00), or
192 fraction thereof, in excess of One Hundred Thousand Dollars
193 (\$100,000.00), of the value of the capital used, invested or



194 employed in the exercise of any power, privilege or right enjoyed
195 by such organization within this state, except as hereinafter
196 provided.

197 (viii) For tax years beginning on or after January
198 1, 2024, but before January 1, 2025, One Dollar (\$1.00) for each
199 One Thousand Dollars (\$1,000.00), or fraction thereof, in excess
200 of One Hundred Thousand Dollars (\$100,000.00), of the value of the
201 capital used, invested or employed in the exercise of any power,
202 privilege or right enjoyed by such organization within this state,
203 except as hereinafter provided.

204 (ix) For tax years beginning on or after January
205 1, 2025, but before January 1, 2026, Seventy-five Cents (75¢) for
206 each One Thousand Dollars (\$1,000.00), or fraction thereof, in
207 excess of One Hundred Thousand Dollars (\$100,000.00), of the value
208 of the capital used, invested or employed in the exercise of any
209 power, privilege or right enjoyed by such organization within this
210 state, except as hereinafter provided.

211 (x) For tax years beginning on or after January 1,
212 2026, but before January 1, 2027, Fifty Cents (50¢) for each One
213 Thousand Dollars (\$1,000.00), or fraction thereof, in excess of
214 One Hundred Thousand Dollars (\$100,000.00), of the value of the
215 capital used, invested or employed in the exercise of any power,
216 privilege or right enjoyed by such organization within this state,
217 except as hereinafter provided.



218 (xi) For tax years beginning on or after January
219 1, 2027, but before January 1, 2028, Twenty-five Cents (25¢) for
220 each One Thousand Dollars (\$1,000.00), or fraction thereof, in
221 excess of One Hundred Thousand Dollars (\$100,000.00), of the value
222 of the capital used, invested or employed in the exercise of any
223 power, privilege or right enjoyed by such organization within this
224 state, except as hereinafter provided.

225 (b) In no case shall the franchise tax due for the
226 accounting period be less than Twenty-five Dollars (\$25.00).

227 (c) It is the purpose of this section to require the
228 payment to the State of Mississippi of this tax for the right
229 granted by the laws of this state to exist as such organization,
230 and to enjoy, under the protection of the laws of this state, the
231 powers, rights, privileges and immunities derived from the state
232 by the form of such existence.

233 (2) **Annual report of domestic corporations.** Each domestic
234 corporation shall file an annual report as required by the
235 provisions of Section 79-4-16.22.

236 (3) A corporation that has negotiated a fee-in-lieu as
237 defined in Section 57-75-5 shall not be subject to the tax levied
238 by this section on such project; provided, however, that the
239 fee-in-lieu payment shall be otherwise treated in the same manner
240 as the payment of franchise taxes.

241 (4) An approved business enterprise as defined in the Growth
242 and Prosperity Act shall not be subject to the tax levied by this



243 section on the value of capital used, invested or employed by the
244 approved business enterprise in a growth and prosperity county or
245 supervisors district as provided in the Growth and Prosperity Act.

246 (5) A business enterprise operating a project as defined in
247 Section 57-64-33, in a county that is a member of a regional
248 economic development alliance created under the Regional Economic
249 Development Act shall not be subject to the tax levied by this
250 section on the value of capital used, invested or employed by the
251 business enterprise in such a county as provided in Section
252 57-64-33.

253 (6) The tax levied by this chapter and paid by a business
254 enterprise located in a redevelopment project area under Sections
255 57-91-1 through 57-91-11 shall be deposited into the Redevelopment
256 Project Incentive Fund created in Section 57-91-9.

257 (7) A business enterprise as defined in Section 57-113-1
258 that is exempt from certain state taxes under Section 57-113-5
259 shall not be subject to the tax levied by this section on the
260 value of capital used, invested or employed by the business
261 enterprise.

262 **SECTION 4.** Section 27-13-7, Mississippi Code of 1972, is
263 amended as follows:

264 27-13-7. (1) (a) **Franchise tax levy.** Except as otherwise
265 provided in subsections (3), (4), (5) and (7) of this section,
266 there is hereby imposed, levied and assessed upon every
267 corporation, association or joint-stock company, or partnership



268 treated as a corporation under the income tax laws or regulations
269 as hereinbefore defined, organized and existing under and by
270 virtue of the laws of some other state, territory or country, or
271 organized and existing without any specific statutory authority,
272 now or hereafter doing business or exercising any power, privilege
273 or right within this state, as hereinbefore defined, a franchise
274 or excise tax equal to:

275 (i) For tax years beginning before January 1,
276 2018, Two Dollars and Fifty Cents (\$2.50) of each One Thousand
277 Dollars (\$1,000.00), or fraction thereof, of the value of capital
278 used, invested or employed within this state, except as
279 hereinafter provided.

280 (ii) For tax years beginning on or after January
281 1, 2018, but before January 1, 2019, Two Dollars and Fifty Cents
282 (\$2.50) for each One Thousand Dollars (\$1,000.00), or fraction
283 thereof, in excess of One Hundred Thousand Dollars (\$100,000.00),
284 of the value of the capital used, invested or employed in the
285 exercise of any power, privilege or right enjoyed by such
286 organization within this state, except as hereinafter provided.

287 (iii) For tax years beginning on or after January
288 1, 2019, but before January 1, 2020, Two Dollars and Twenty-five
289 Cents (\$2.25) for each One Thousand Dollars (\$1,000.00), or
290 fraction thereof, in excess of One Hundred Thousand Dollars
291 (\$100,000.00), of the value of the capital used, invested or
292 employed in the exercise of any power, privilege or right enjoyed



293 by such organization within this state, except as hereinafter
294 provided.

295 (iv) For tax years beginning on or after January
296 1, 2020, but before January 1, 2021, Two Dollars (\$2.00) for each
297 One Thousand Dollars (\$1,000.00), or fraction thereof, in excess
298 of One Hundred Thousand Dollars (\$100,000.00), of the value of the
299 capital used, invested or employed in the exercise of any power,
300 privilege or right enjoyed by such organization within this state,
301 except as hereinafter provided.

302 (v) For tax years beginning on or after January 1,
303 2021, but before January 1, 2022, One Dollar and Seventy-five
304 Cents (\$1.75) for each One Thousand Dollars (\$1,000.00), or
305 fraction thereof, in excess of One Hundred Thousand Dollars
306 (\$100,000.00), of the value of the capital used, invested or
307 employed in the exercise of any power, privilege or right enjoyed
308 by such organization within this state, except as hereinafter
309 provided.

310 (vi) For tax years beginning on or after January
311 1, 2022, but before January 1, 2023, One Dollar and Fifty Cents
312 (\$1.50) for each One Thousand Dollars (\$1,000.00), or fraction
313 thereof, in excess of One Hundred Thousand Dollars (\$100,000.00),
314 of the value of the capital used, invested or employed in the
315 exercise of any power, privilege or right enjoyed by such
316 organization within this state, except as hereinafter provided.



317 (vii) For tax years beginning on or after January
318 1, 2023, but before January 1, 2024, One Dollar and Twenty-five
319 Cents (\$1.25) for each One Thousand Dollars (\$1,000.00), or
320 fraction thereof, in excess of One Hundred Thousand Dollars
321 (\$100,000.00), of the value of the capital used, invested or
322 employed in the exercise of any power, privilege or right enjoyed
323 by such organization within this state, except as hereinafter
324 provided.

325 (viii) For tax years beginning on or after January
326 1, 2024, but before January 1, 2025, One Dollar (\$1.00) for each
327 One Thousand Dollars (\$1,000.00), or fraction thereof, in excess
328 of One Hundred Thousand Dollars (\$100,000.00), of the value of the
329 capital used, invested or employed in the exercise of any power,
330 privilege or right enjoyed by such organization within this state,
331 except as hereinafter provided.

332 (ix) For tax years beginning on or after January
333 1, 2025, but before January 1, 2026, Seventy-five Cents (75¢) for
334 each One Thousand Dollars (\$1,000.00), or fraction thereof, in
335 excess of One Hundred Thousand Dollars (\$100,000.00), of the value
336 of the capital used, invested or employed in the exercise of any
337 power, privilege or right enjoyed by such organization within this
338 state, except as hereinafter provided.

339 (x) For tax years beginning on or after January 1,
340 2026, but before January 1, 2027, Fifty Cents (50¢) for each One
341 Thousand Dollars (\$1,000.00), or fraction thereof, in excess of



342 One Hundred Thousand Dollars (\$100,000.00), of the value of the
343 capital used, invested or employed in the exercise of any power,
344 privilege or right enjoyed by such organization within this state,
345 except as hereinafter provided.

346 (xi) For tax years beginning on or after January
347 1, 2027, but before January 1, 2028, Twenty-five Cents (25¢) for
348 each One Thousand Dollars (\$1,000.00), or fraction thereof, in
349 excess of One Hundred Thousand Dollars (\$100,000.00), of the value
350 of the capital used, invested or employed in the exercise of any
351 power, privilege or right enjoyed by such organization within this
352 state, except as hereinafter provided.

353 (b) In no case shall the franchise tax due for the
354 accounting period be less than Twenty-five Dollars (\$25.00).

355 (c) It is the purpose of this section to require the
356 payment of a tax by all organizations not organized under the laws
357 of this state, measured by the amount of capital or its
358 equivalent, for which such organization receives the benefit and
359 protection of the government and laws of the state.

360 (2) **Annual report of foreign corporations.** Each foreign
361 corporation authorized to transact business in this state shall
362 file an annual report as required by the provisions of Section
363 79-4-16.22.

364 (3) A corporation that has negotiated a fee-in-lieu as
365 defined in Section 57-75-5 shall not be subject to the tax levied
366 by this section on such project; provided, however, that the



367 fee-in-lieu payment shall be otherwise treated in the same manner
368 as the payment of franchise taxes.

369 (4) An approved business enterprise as defined in the Growth
370 and Prosperity Act shall not be subject to the tax levied by this
371 section on the value of capital used, invested or employed by the
372 approved business enterprise in a growth and prosperity county or
373 supervisors district as provided in the Growth and Prosperity Act.

374 (5) A business enterprise operating a project as defined in
375 Section 57-64-33, in a county that is a member of a regional
376 economic development alliance created under the Regional Economic
377 Development Act shall not be subject to the tax levied by this
378 section on the value of capital used, invested or employed by the
379 business enterprise in such a county as provided in Section
380 57-64-33.

381 (6) The tax levied by this chapter and paid by a business
382 enterprise located in a redevelopment project area under Sections
383 57-91-1 through 57-91-11 shall be deposited into the Redevelopment
384 Project Incentive Fund created in Section 57-91-9.

385 (7) A business enterprise as defined in Section 57-113-1
386 that is exempt from certain state taxes under Section 57-113-5
387 shall not be subject to the tax levied by this section on the
388 value of capital used, invested or employed by the business
389 enterprise.

390 **SECTION 5.** Sections 27-13-1, 27-13-3, 27-13-5, 27-13-7,
391 27-13-8, 27-13-9, 27-13-11, 27-13-13, 27-13-15, 27-13-17,



392 27-13-19, 27-13-21, 27-13-23, 27-13-25, 27-13-27, 27-13-29,
393 27-13-31, 27-13-33, 27-13-35, 27-13-37, 27-13-39, 27-13-41,
394 27-13-47, 27-13-49, 27-13-51, 27-13-53, 27-13-55, 27-13-57,
395 27-13-59, 27-13-61, 27-13-63, 27-13-65 and 27-13-67, Mississippi
396 Code of 1972, which are the corporation franchise tax law, are
397 repealed from and after January 1, 2028.

398 **SECTION 6.** This act shall be known and may be cited as the
399 "Taxpayer Pay Raise Act of 2016."

400 **SECTION 7.** Nothing in this act shall affect or defeat any
401 claim, assessment, appeal, suit, right or cause of action for
402 taxes due or accrued under the income tax law or corporation
403 franchise tax law before the date on which this act becomes
404 effective, whether such claims, assessments, appeals, suits or
405 actions have been begun before the date on which this act becomes
406 effective or are begun thereafter; and the provisions of the
407 income tax laws and corporation franchise tax laws are expressly
408 continued in full force, effect and operation for the purpose of
409 the assessment, collection and enrollment of liens for any taxes
410 due or accrued and the execution of any warrant under such laws
411 before the date on which this act becomes effective, and for the
412 imposition of any penalties, forfeitures or claims for failure to
413 comply with such laws.

414 **SECTION 8.** This act shall take effect and be in force from
415 and after January 1, 2016.

