

By: Senator(s) Horhn

To: Finance

SENATE BILL NO. 2359

1 AN ACT TO CREATE THE FAMILY EMPOWERMENT INITIATIVE; TO
2 AUTHORIZE THE CREATION OF INDIVIDUAL DEVELOPMENT ACCOUNTS FOR
3 LOW-INCOME INDIVIDUALS THAT MAY BE UTILIZED BY THE ACCOUNT HOLDER
4 FOR CERTAIN PURPOSES; TO AUTHORIZE THE DEPARTMENT OF HUMAN
5 SERVICES TO CONTRACT WITH FIDUCIARY ORGANIZATIONS TO SERVE AS
6 INTERMEDIARIES BETWEEN INDIVIDUAL DEVELOPMENT ACCOUNT HOLDERS AND
7 FINANCIAL INSTITUTIONS HOLDING ACCOUNT FUNDS; TO PROVIDE THAT THE
8 GROSS HOUSEHOLD INCOME OF INDIVIDUAL RETIREMENT ACCOUNT HOLDERS
9 MAY NOT EXCEED 185% OF THE POVERTY LEVEL AND THE ACCOUNT HOLDER'S
10 NET WORTH MAY NOT EXCEED \$10,000.00; TO REQUIRE INDIVIDUALS
11 OPENING AN INDIVIDUAL DEVELOPMENT ACCOUNT TO ENTER INTO AN
12 AGREEMENT WITH A FIDUCIARY ORGANIZATION; TO PROVIDE THAT THE
13 FIDUCIARY ORGANIZATION SHALL PROVIDE MATCHING FUNDS FOR AMOUNT
14 CONTRIBUTED TO THE INDIVIDUAL DEVELOPMENT ACCOUNT BY THE
15 INDIVIDUAL DEVELOPMENT ACCOUNT HOLDER; TO LIMIT THE AMOUNT OF
16 MATCHING FUNDS THAT MAY BE PROVIDED FOR AN INDIVIDUAL DEVELOPMENT
17 ACCOUNT; TO PROVIDE THE PURPOSES FOR WHICH INDIVIDUAL DEVELOPMENT
18 ACCOUNTS MAY BE UTILIZED; TO PROVIDE CIVIL PENALTIES FOR THE
19 WITHDRAWAL OF INDIVIDUAL DEVELOPMENT ACCOUNT FUNDS FOR PURPOSES
20 OTHER THAN THOSE AUTHORIZED UNDER THIS ACT; TO REQUIRE FIDUCIARY
21 ORGANIZATIONS TO MAKE QUARTERLY REPORTS TO THE DEPARTMENT OF HUMAN
22 SERVICES CONTAINING CERTAIN INFORMATION; TO PROVIDE THAT FUNDS
23 DEPOSITED IN AN INDIVIDUAL DEVELOPMENT ACCOUNT SHALL NOT BE
24 COUNTED AS INCOME, ASSETS OR RESOURCES OF THE INDIVIDUAL IN
25 DETERMINING FINANCIAL ELIGIBILITY FOR ASSISTANCE OR SERVICES
26 PURSUANT TO ANY FEDERAL, FEDERALLY ASSISTED, STATE OR MUNICIPAL
27 PROGRAM BASED ON NEED; TO AUTHORIZE A CREDIT AGAINST STATE INCOME
28 TAX LIABILITY FOR TAXPAYERS WHO CONTRIBUTE MATCHING FUNDS TO A
29 FIDUCIARY ORGANIZATION; TO LIMIT THE AMOUNT OF SUCH CREDIT; TO
30 AMEND SECTION 27-7-15, MISSISSIPPI CODE OF 1972, TO EXCLUDE FROM
31 GROSS INCOME INTEREST OR DIVIDEND EARNED ON AN INDIVIDUAL
32 DEVELOPMENT ACCOUNT AND ANY MONEY WITHDRAWN FROM AN INDIVIDUAL
33 DEVELOPMENT ACCOUNT THAT IS USED FOR A QUALIFIED PURPOSE; AND FOR
34 RELATED PURPOSES.



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

36 **SECTION 1.** Sections 1 through 16 of this act shall be known
37 and may be cited as the "Family Empowerment Initiative."

38 **SECTION 2.** The purpose of this act is to provide for the
39 establishment of individual development accounts and to authorize
40 the Mississippi Development Authority to contract with fiduciary
41 organizations to serve as intermediaries between individual
42 development account holders and financial institutions holding
43 account funds. The accounts are designed to:

44 (a) Provide low-wealth, unbanked and underbanked
45 Mississippians an opportunity to gain economic stability to become
46 self-sufficient and less reliant on public assistance;

47 (b) Encourage and mobilize savings;

48 (c) Assist in purchasing a home or paying the cost of
49 major repairs to an existing home, starting or expanding a
50 business, paying the cost of postsecondary education, paying the
51 cost-assistive technology for people with disabilities, and paying
52 the cost of an automobile purchase; and

53 (d) Strengthen families and build sustainable
54 communities within Mississippi.

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

56 (a) Of the top one hundred (100) most unbanked places
57 (city/town/census-designated place with more than two hundred
58 fifty (250) households), Mississippi is ranked No. 17. Jackson,
59 Mississippi, is ranked No. 4 in the Top Ten Unbanked Mid-Sized



60 Cities. Because many hard-working Mississippians face
61 insurmountable obstacles to accessing the financial mainstream,
62 they often turn to alternative, high-fee providers thereby forcing
63 them into a cycle of debt. By using such means, individuals are
64 hard-pressed to build savings and assets.

65 (b) Individual development accounts (IDAs) have been
66 used as a federal and state policy strategy for family economic
67 security. Federal and state policies to fund IDAs have helped
68 create accounts for numerous individuals and families across the
69 country.

70 (c) IDAs, just like a bank or credit union account, can
71 be the first step in saving, planning for the future, building
72 credit and climbing the economic ladder. It assists individuals
73 and families with modest means to save toward the purchase of a
74 lifelong asset, such as a home or education.

75 (d) The U.S. Census Bureau highlights just one (1)
76 aspect of household finances, namely the percentage of people with
77 insufficient income to cover their day-to-day expenses. It does
78 not count the number of families who have insufficient resources
79 (money in the bank or assets such as a home or a car, to meet
80 emergencies or longer-term needs). When these longer-term needs
81 are factored in, substantially more people in the United States
82 today face a future of limited hope for long-term financial
83 security. At a time of widening income disparities, these data
84 paint a stark picture of diminishing financial security for



85 millions of families. It is clear that the recession and its
86 aftermath have left unprecedented numbers of families barely able
87 to make ends meet.

88 **SECTION 4.** As used in Sections 1 through 16 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 no more
93 than fifteen percent (15%) of the contract.

94 (b) "Eligible educational institution" means the
95 following:

96 (i) An institution described in 20 USC Section
97 1088(a)(1) or 1141(a), as such sections are in effect on July 1,
98 2018.

99 (ii) An area vocational education school, as
100 defined in 20 USC Section 2471(4), subparagraph (C) or (D), as
101 such section is in effect on July 1, 2018; and

102 (iii) Any other accredited education or training
103 organization.

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



109 (d) "Federal poverty level" means the poverty income
110 guidelines published for a calendar year by the United States
111 Department of Human Services.

112 (e) "Fiduciary organization" means any nonprofit,
113 fund-raising organization that is exempt from taxation under
114 Section 501(c)(3) of the Internal Revenue Code, as amended, any
115 certified community development financial institution or any
116 credit union chartered under federal or state law.

117 (f) "Financial institution" means a federally insured
118 bank, trust company, savings bank, building and loan association,
119 savings and loan company or association, or credit union
120 authorized to do business in this state.

121 (g) "First-time homebuyer" means a person who has not
122 been named on a legally recorded homeownership title for a minimum
123 of thirty-six (36) months.

124 (h) "Individual development account" or "IDA" means an
125 account established for an eligible individual or family member as
126 part of a qualified individual development account program with
127 the following requirements:

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

130 (ii) The holder of the account is a qualified
131 financial institution;



132 (iii) The assets of the account may not be
133 commingled with other property except in a common trust fund or
134 common investment fund; and

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

138 (i) "MDA" means the Mississippi Development Authority.

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

144 (k) "Postsecondary educational expenses" means:

145 (i) Tuition and fees required for the enrollment
146 or attendance of an IDA account holder or an immediate family
147 member of the account holder who is a student at an eligible
148 educational institution; and

149 (ii) Fees, books, supplies and equipment
150 (including computer, software, etc.) required for courses of
151 instruction for an IDA account holder or an immediate family
152 member of the account holder who is a student at an eligible
153 educational institution.

154 (l) "Operating costs" includes, but is not limited to,
155 costs of training IDA participants in economic and financial
156 literacy and IDA uses, marketing participation, counseling



157 participants and conducting required verification and compliance
158 activities.

159 (m) "Qualified purposes" means any of the purposes for
160 which the account owner's accumulated savings and matching funds
161 may be used as described in Section 7 of this act.

162 **SECTION 5.** (1) An individual who is a resident of this
163 state may submit an application to open an individual development
164 account to a fiduciary organization approved by the Mississippi
165 Development Authority. The fiduciary organization shall approve
166 the application only if:

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

171 (b) Individual household net worth at the time the IDA
172 account is opened does not exceed Ten Thousand Dollars
173 (\$10,000.00) disregarding the primary dwelling and one (1) motor
174 vehicle owned by the household.

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

177 (3) The IDA agreement shall provide for the amount of the
178 savings deposits, the match fund rate, the asset goal, the
179 financial literacy classes to be completed, any additional
180 training specific to the asset, the financial counseling the
181 individual will attend and any other services designed to increase



182 the independence of the person through the achievement of the
183 account's approved purpose.

184 (4) Before becoming eligible to receive matching funds to
185 pay for qualified purposes, individual development account owners
186 shall complete a financial literacy education course offered by a
187 qualified financial institution, a qualified fiduciary
188 organization, or a governmental entity in accordance with federal
189 guidelines.

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

193 (6) Each fiduciary organization shall provide written
194 notification to each of its eligible IDA account holders of the
195 amount of matching funds provided by the fiduciary to which each
196 such IDA account holder is entitled. Such notification shall be
197 made at such intervals as the fiduciary organization deems
198 appropriate, but shall be required to be made at least once each
199 calendar year. The amount of the matching funds for each IDA
200 account holder shall be Three Dollars (\$3.00) for each One Dollar
201 (\$1.00) contributed to the IDA by the IDA account holder during
202 the preceding calendar year. The amount of such matching funds
203 shall not exceed Two Thousand Dollars (\$2,000.00) per IDA account
204 holder or Four Thousand Dollars (\$4,000.00) per household.

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



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

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

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

221 **SECTION 6.** (1) Deposits to individual development accounts
222 made by the account owner shall come from earned income,
223 including, but not limited to, wages, earned income tax credit
224 returns, child support payments, supplemental security income
225 (SSI), disability benefits, community service under Temporary
226 Assistance For Needy Families (TANF), AmeriCorps stipends, VISTA
227 stipends, and job training programs. Matching funds shall only be
228 used for qualified purposes.

229 (2) Eligible individuals shall certify that their deposits
230 do not exceed their income. The maximum amount of deposits made



231 by an account owner may not exceed Two Thousand Dollars
232 (\$2,000.00).

233 (3) If an IDA account holder has gross household income from
234 all sources for a calendar year which exceeds one hundred
235 eighty-five percent (185%) of the federal poverty level, the IDA
236 account holder shall not be eligible to receive funds pursuant to
237 the provisions of Sections 1 through 16 of this act in the
238 following year.

239 (4) In the event of an IDA account holder's death, the
240 account may be transferred to the ownership of a contingent
241 beneficiary or beneficiaries. An account holder shall name a
242 contingent beneficiary or beneficiaries at the time the account is
243 established and may change such beneficiary or beneficiaries at
244 any time. If the named beneficiary or beneficiaries are deceased
245 or cannot otherwise accept the transfer, the monies shall be
246 transferred to the fiduciary organization to redistribute as
247 matching funds.

248 **SECTION 7.** (1) Individual development accounts shall be
249 used for any of the following qualified purposes:

250 (a) Paying the expenses of securing postsecondary
251 education, including, but not limited to, community college
252 courses, courses at a four-year college or university or
253 post-college graduate courses for the account owner or any member
254 of the account owner's family that are paid directly to an
255 eligible educational institution;



256 (b) Paying the expenses of securing of postsecondary
257 occupational training, including, but not limited to, vocational
258 or trade school training for the account owner or any training
259 authorized under the Workforce Investment Act through the
260 Mississippi Department of Employment Security; however, such
261 payments must be made directly to the provider of such training;

262 (c) Payments for a principal residence for an account
263 owner who is a first-time homebuyer, or the costs of major repairs
264 or improvements to the principal residence of an account holder;
265 however, such payments must be paid directly to the persons to
266 whom the amounts are due;

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

271 (e) Payments for the purchase of an automobile
272 necessary to transport the account owner or a family member to a
273 place of employment or education, or payments for costs of repair
274 of such an automobile; however, payments must be paid directly to
275 a licensed automobile dealer or repair shop and this purpose
276 cannot be the sole purpose of the IDA;

277 (f) Purchase assistive technology for people with
278 disabilities, including, but not limited to, screen readers for
279 computers, assistive listening devices, accessible hand control



280 for automobiles and motorized wheelchairs; however, payments must
281 be paid directly to the assistive technology provider;

282 (g) Qualified emergency withdrawals as provided in
283 subsection (2) of this section; and

284 (h) Any other activity based on a plan approved by MDA.

285 (2) If an emergency occurs, an account owner may withdraw
286 all or part of the account owner's deposits to an individual
287 development account with the approval of the fiduciary
288 organization. The account owner shall reimburse his or her
289 individual development account for the amount withdrawn under this
290 section within twelve (12) months after the date of the
291 withdrawal. Failure of the account owner to make a timely
292 reimbursement to the account will remove the account owner from
293 the program. Until the reimbursement has been made in full, an
294 account owner may not withdraw any matching funds or accrued
295 interest on matching funds from the account.

296 (3) If an account owner withdraws money from an individual
297 development account for any purpose other than a qualified
298 purpose, the fiduciary organization shall remove the account owner
299 from the program.

300 **SECTION 8.** (1) If the fiduciary organization receives
301 evidence that any money withdrawn from an IDA account is withdrawn
302 under false pretenses or is used for purposes other than for the
303 approved purposes indicated at the time of the withdrawal, the
304 fiduciary organization shall make arrangements with the financial



305 institution to impose a penalty for the loss of matching funds and
306 may, at its discretion, close the account. All penalties
307 collected by fiduciary organizations shall remain with the
308 fiduciary organization to distribute as matching funds to other
309 eligible individuals.

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

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

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

325 (a) Ability to implement and administer the individual
326 development account program, including the ability to verify
327 account owner eligibility, certify that matching funds are used
328 only for qualified purposes, and exercise general fiscal
329 accountability;



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

332 (c) Ability to provide safe and secure investments for
333 individual accounts;

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

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

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

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

350 (h) Operating costs.

351 **SECTION 10.** (1) For each contract entered into pursuant to
352 the provisions of this section, the contract shall begin no later
353 than October 1 of each year. The fiduciary organization shall use
354 not less than seventy percent (70%) for matching funds. The



355 fiduciary organization shall use not more than fifteen percent
356 (15%) for operating cost and not more than fifteen percent (15%)
357 for administrative costs.

358 (2) Responsibilities of a fiduciary organization shall
359 include, but not be limited to, marketing participation,
360 soliciting matching contributions, counseling project
361 participants, conducting basic economic and financial literacy
362 training and IDA use training for project participants and
363 conducting required verification and compliance activities.
364 Neither a fiduciary organization nor an employee of, or person
365 associated with, a fiduciary organization, shall receive anything
366 of value, other than compensation for services, for any act
367 performed in connection with the establishment of an IDA or in
368 furtherance of the provisions of Sections 1 through 16 of this
369 act.

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



379 organization believes necessary to ensure account owner compliance
380 with Sections 1 through 16 of this act.

381 (4) A fiduciary organization may act in partnership with
382 other entities, including businesses, government agencies,
383 corporations, nonprofit organizations, community action programs,
384 community development corporations, housing authorities and
385 faith-based entities, to assist in the fulfillment of its
386 responsibilities under Sections 1 through 16 of this act.

387 (5) A fiduciary organization may use a reasonable portion of
388 money allocated by the Legislature to the individual development
389 account program for administration, operation and research, and
390 evaluation purposes. A fiduciary organization may not expend more
391 than fifteen percent (15%) of allocated funds for those purposes.
392 Research can be conducted in partnership with a university or
393 state-funding organization.

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

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



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

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

407 (d) The number of withdrawals made.

408 (e) Any other information the MDA may require for the
409 purpose of determining whether the Family Empowerment Initiative
410 program is achieving the purposes for which it was established.

411 (7) Each fiduciary organization shall provide quarterly to
412 the MDA the following information:

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

415 (b) The amounts deposited in the IDA;

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

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

420 (e) The balances remaining in the IDAs;

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

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



428 (8) The MDA shall make all reasonable and necessary rules to
429 ensure the fiduciary organization's compliance with Sections 1
430 through 16 of this act.

431 **SECTION 11.** The MDA shall prepare a written report annually
432 regarding the implementation of the Family Empowerment Initiative
433 and shall make recommendations for improving the program. The
434 report shall be filed with the Secretary of the Senate and the
435 Clerk of the House of Representative on or before August 1 of each
436 year.

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

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

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

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

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

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

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



452 **SECTION 14.** (1) An account owner's savings and matching
453 funds shall not affect his or her eligibility for any means tested
454 public benefits, including, but not limited to, Medicaid, state
455 Children's Health Insurance Program (CHIP), Temporary Assistance
456 to Needy Families (TANF), Supplemental Nutrition Assistance
457 Program, Supplemental Security Income (SSI), government subsidized
458 foster care and adoption payments and child care or housing
459 payments.

460 (2) Except as otherwise provided in this section, funds
461 deposited in individual development accounts shall not be counted
462 as income, assets or resources of the account owner for the
463 purpose of determining financial eligibility for assistance or
464 service pursuant to any federal, federally assisted, state, or
465 municipal program based on need.

466 (3) Except as otherwise provided in this section, money
467 deposited into individual development accounts shall not be
468 included in gross income for income tax purposes. Any amount
469 withdrawn from a parallel account shall not be included in an
470 eligible individual's gross income for income tax purposes.

471 (4) Money withdrawn from an individual development account
472 shall not be included in gross income unless it is not used for a
473 qualified purpose.

474 **SECTION 15.** The MDA shall not be obligated to fund
475 individual development parallel accounts or be obligated to enter
476 into contracts with fiduciary organizations unless the Legislature



477 appropriates funding for the establishment of a Family Empowerment
478 Initiative program, nor shall the MDA be obligated to spend funds
479 on a Family Empowerment Initiative program above the amount
480 appropriated by the Legislature for the program.

481 SECTION 16. (1) There shall be allowed a credit against the
482 income tax liability imposed by Chapter 7, Title 27, Mississippi
483 Code of 1972, to a taxpayer who contributes to a fiduciary
484 organization created under Sections 1 through 16 of this act in an
485 amount equal to fifty percent (50%) of the amount of matching
486 funds contributed to a fiduciary organization during the calendar
487 year.

488 (2) The amount of the credit that may be used by a taxpayer
489 for a taxable year shall not exceed the lesser of Twenty-five
490 Thousand Dollars (\$25,000.00) or the amount of income tax
491 otherwise due. Any unused portion of the credit may be carried
492 forward for three (3) consecutive years from the close of the tax
493 year in which the credit was earned.

494 (3) To claim the credit authorized by this section, a
495 taxpayer must notify the fiduciary organization that the taxpayer
496 intends to make a contribution and the amount of the contribution.
497 The fiduciary organization shall then notify the Department of
498 Revenue and request a certification from the department certifying
499 the amount of the tax credit to which the taxpayer is entitled if
500 the contribution is made. The fiduciary organization shall



501 deliver the certification to the taxpayer upon receipt of the
502 contribution.

503 (4) A taxpayer shall file the certificate with the
504 taxpayer's income tax return for the first year in which the
505 taxpayer claims the tax credit authorized by this section.

506 (5) The total amount of tax credits certified under this
507 section shall not exceed One Hundred Thousand Dollars
508 (\$100,000.00) per calendar year.

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

511 **SECTION 17.** Section 27-7-15, Mississippi Code of 1972, is
512 amended as follows:

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



526 shall be included in the gross income for the taxable year in
527 which received by the taxpayer. The amount by which an eligible
528 employee's salary is reduced pursuant to a salary reduction
529 agreement authorized under Section 25-17-5 shall be excluded from
530 the term "gross income" within the meaning of this article.

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

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

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

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

548 (ii) From and after January 1, 2001, federal
549 rules, regulations and revenue procedures shall be followed with
550 respect to installment sales except as provided in this



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

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



576 the return on which the payment was made may be amended for this
577 purpose only. The statute of limitations in Section 27-7-49 shall
578 not bar an amended return for this purpose.

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

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

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

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



601 from one (1) residence to another residence which is attributable
602 to employment or self-employment.

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

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

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

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

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

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

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



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

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

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

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

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



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

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

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

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



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

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

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

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

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



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

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

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

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



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

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

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

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

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

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



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

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

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

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

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



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

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

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

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

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

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



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

798 (iv) "Qualified housing expenses" means:

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

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

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

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



821 (hh) The amount deposited in a catastrophe savings
822 account established under Sections 27-7-1001 through 27-7-1007,
823 interest income earned on the catastrophe savings account, and
824 distributions from the catastrophe savings account; however, any
825 amount withdrawn from a catastrophe savings account for purposes
826 other than paying qualified catastrophe expenses shall be included
827 in gross income, except as otherwise provided by Sections
828 27-7-1001 through 27-7-1007.

829 (ii) Interest, dividends, gains or income of any kind
830 on any account in the Mississippi Achieving a Better Life
831 Experience (ABLE) Trust Fund, as established in Chapter 28, Title
832 43, to the extent that such amounts remain on deposit in the ABLE
833 Trust Fund or are withdrawn pursuant to a qualified withdrawal, as
834 defined in Section 43-28-11.

835 (jj) Subject to the limitations provided under Section
836 27-7-1103, amounts deposited into a first-time homebuyer savings
837 account and any interest or other income earned attributable to an
838 account and monies or funds withdrawn or distributed from an
839 account for the payment of eligible costs by or on behalf of a
840 qualified beneficiary; however, any monies or funds withdrawn or
841 distributed from a first-time homebuyer savings account for any
842 purpose other than the payment of eligible costs by or on behalf
843 of a qualified beneficiary shall be included in gross income. For
844 the purpose of this paragraph (jj), the terms "first-time
845 homebuyer savings account," "eligible costs" and "qualified



846 beneficiary" mean and have the same definitions as such terms have
847 in Section 27-7-1101.

848 (kk) Amounts paid by an agricultural disaster program
849 as compensation to an agricultural producer, cattle farmer or
850 cattle rancher who has suffered a loss as the result of a disaster
851 or emergency, including, but not limited to, the following United
852 States Department of Agriculture programs:

853 (i) Livestock Forage Disaster Program;

854 (ii) Livestock Indemnity Program;

855 (iii) Emergency Assistance for Livestock, Honey
856 Bees and Farm-raised Fish Program;

857 (iv) Emergency Conservation Program;

858 (v) Noninsured Crop Disaster Assistance Program;

859 (vi) Pasture, Rangeland, Forage Pilot Insurance
860 Program;

861 (vii) Annual Forage Pilot Program;

862 (viii) Livestock Risk Protection Insurance

863 Program; and

864 (ix) Livestock Gross Margin Insurance Plan.

865 (ll) Interest or dividends earned on individual
866 development accounts established under Sections 1 through 16 of
867 this act and any money withdrawn from an individual development
868 account and used for a qualified purpose as defined in Section 4
869 of this act.

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



871 (a) **Members of the Armed Forces.** Gross income does not
872 include compensation received for active service as a member of
873 the Armed Forces of the United States for any month during any
874 part of which such member is in a missing status, as defined in
875 paragraph (d) of this subsection, during the Vietnam Conflict as a
876 result of such conflict.

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

881 (c) **Period of conflict.** For the purpose of this
882 subsection, the Vietnam Conflict began February 28, 1961, and ends
883 on the date designated by the President by Executive Order as the
884 date of the termination of combatant activities in Vietnam. For
885 the purpose of this subsection, an individual is in a missing
886 status as a result of the Vietnam Conflict if immediately before
887 such status began he was performing service in Vietnam or was
888 performing service in Southeast Asia in direct support of military
889 operations in Vietnam. "Southeast Asia," as used in this
890 paragraph, is defined to include Cambodia, Laos, Thailand and
891 waters adjacent thereto.

892 (d) "Missing status" means the status of an employee or
893 member of the Armed Forces who is in active service and is
894 officially carried or determined to be absent in a status of (i)
895 missing; (ii) missing in action; (iii) interned in a foreign



896 country; (iv) captured, beleaguered or besieged by a hostile
897 force; or (v) detained in a foreign country against his will; but
898 does not include the status of an employee or member of the Armed
899 Forces for a period during which he is officially determined to be
900 absent from his post of duty without authority.

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

904 (f) "Employee" means one who is a citizen or national
905 of the United States or an alien admitted to the United States for
906 permanent residence and is a resident of the State of Mississippi
907 and is employed in or under a federal executive agency or
908 department of the Armed Forces.

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

913 (h) If refund or credit of any overpayment of tax for
914 any taxable year resulting from the application of this subsection
915 (5) is prevented by the operation of any law or rule of law, such
916 refund or credit of such overpayment of tax may, nevertheless, be
917 made or allowed if claim therefor is filed with the Department of
918 Revenue within three (3) years after the date of the enactment of
919 this subsection.



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

922 (6) A shareholder of an S corporation, as defined in Section
923 27-8-3(1)(g), shall take into account the income, loss, deduction
924 or credit of the S corporation only to the extent provided in
925 Section 27-8-7(2).

926 **SECTION 18.** This act shall take effect and be in force from
927 and after July 1, 2019.

