

By: Representative Criswell

To: Ways and Means

HOUSE BILL NO. 621

1 AN ACT TO CREATE THE TAX CREDIT SCHOLARSHIP ACT; TO PROVIDE
 2 THAT QUALIFYING STUDENTS SHALL BE ELIGIBLE TO USE A SCHOLARSHIP
 3 FROM CERTAIN SCHOLARSHIP ORGANIZATIONS TO COVER ELIGIBLE EDUCATION
 4 EXPENSES; TO PROVIDE FOR A TAX CREDIT NOT TO EXCEED 50% OF THE
 5 TAXPAYER'S TAX LIABILITY FOR CONTRIBUTIONS TO CERTAIN SCHOLARSHIP
 6 ORGANIZATIONS; TO STIPULATE THE REQUIREMENTS FOR NONPUBLIC SCHOOLS
 7 ACCEPTING STUDENTS FOR ENROLLMENT WHO RECEIVE SCHOLARSHIPS UNDER
 8 THE PROVISIONS OF THIS ACT; TO PRESCRIBE THE REQUIREMENTS FOR
 9 SCHOLARSHIP ORGANIZATIONS ADMINISTERING TAX CREDIT SCHOLARSHIPS;
 10 TO REQUIRE THE DEPARTMENT OF REVENUE TO PROVIDE AN ANNUAL
 11 LEGISLATIVE REPORT ON THE TAX CREDITS ALLOWED UNDER THIS ACT; TO
 12 ALLOW PARENTS TO REQUEST AN ASSESSMENT OF EDUCATIONAL PROGRESS OF
 13 STUDENTS ENROLLED; TO PRESCRIBE THE POWERS AND DUTIES OF THE
 14 DEPARTMENT OF REVENUE WITH REGARD TO THE ADMINISTRATION OF THIS
 15 ACT; TO PROVIDE THAT NONPUBLIC SCHOOLS WHICH ADMIT STUDENTS
 16 RECEIVING TAX CREDIT SCHOLARSHIPS ARE NOT AGENTS OF THE STATE OR
 17 FEDERAL GOVERNMENT; TO AMEND SECTION 27-7-15, MISSISSIPPI CODE OF
 18 1972, TO PROVIDE THAT AMOUNTS RECEIVED AS TAX CREDIT SCHOLARSHIPS
 19 TO PAY EDUCATION EXPENSES SHALL BE EXCLUDED FROM GROSS INCOME; AND
 20 FOR RELATED PURPOSES.

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

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

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

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



28 (i) At which the compulsory attendance
29 requirements of the relevant sections in the state law may be met;

30 (ii) That is accredited by a state or nationally
31 recognized accrediting entity; and

32 (iii) That does not discriminate based on the
33 grounds of race, color or national origin.

34 (b) "Owner or operator" means an owner, president,
35 officer, or director of an eligible nonprofit scholarship funding
36 organization or a person with equivalent decision-making authority
37 over an eligible nonprofit scholarship funding organization.

38 (c) "Parent" means the natural or adoptive parent or
39 legal guardian of a child, including a foster care parent.

40 (d) "Qualifying student" means a student who is a legal
41 resident of Mississippi:

42 (i) No younger than five (5) years of age and no
43 older than twenty (20) years of age;

44 (ii) Who lives in a household whose income does
45 not exceed the amount specified in Section 3 of this act; and

46 (iii) Who was not enrolled in a nonpublic school
47 during the school year prior to first receiving a Tax Credit
48 Scholarship under Sections 1 through 11 of this act.

49 (e) "Receipt" means a document that is issued by the
50 receiving school to the scholarship organization that makes
51 payment for education expenses on behalf of a qualifying student



52 which confirms and acknowledges receipt of donation, and that
53 contains, at a minimum:

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

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

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

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

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

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

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

69 (iv) Awards Tax Credit Scholarships to qualifying
70 students.

71 (h) "Education expenses" means expenses incurred on
72 behalf of a qualifying student, including, but not limited to,
73 school supplies, textbooks, fees, tuition for attending a
74 nonpublic school, uniforms, educational software, tutoring
75 services, online learning services and similar educational



76 expenses. Education expenses shall not include fees or expenses
77 related to athletic programs or transportation expenses.

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

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

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

97 (2) Any tax credit claimed under this section but not used
98 in any taxable year may be carried forward for five (5)
99 consecutive years from the close of the tax year in which the
100 credits were earned.



101 (3) A tax credit may not be claimed without a Tax Credit
102 Scholarship receipt from a scholarship organization.

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

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

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

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

114 **SECTION 5.** A nonpublic school, excepting any home school,
115 that accepts students pursuant to Sections 1 through 11 of this
116 act shall:

117 (a) Comply with state and federal antidiscrimination
118 laws;

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

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

124 (d) Annually make available to parents and supporting
125 scholarship organizations an assessment of educational progress of



126 scholarship recipients in order to ensure that schools provide
127 academic accountability to parents of enrolled students and
128 supporting scholarship organizations (this provision shall not be
129 construed to require any particular means or method of assessing
130 educational progress on the part of education service providers
131 except as provided in this section);

132 (e) Accept eligible students on the basis of the
133 admissions criteria of the school within the school's capacity to
134 accept additional students;

135 (f) Be accredited by a state or nationally recognized
136 accrediting entity.

137 **SECTION 6.** A scholarship organization shall:

138 (a) Provide Tax Credit Scholarships, from eligible
139 contributions, to qualifying students to defray education
140 expenses;

141 (b) Not have an owner or operator who also owns or
142 operates a nonpublic school that participates in the Tax Credit
143 Scholarship program;

144 (c) Not have an owner or operator who in the last seven
145 (7) years has filed for personal bankruptcy or corporate
146 bankruptcy in a corporation of which he or she owned more than
147 twenty percent (20%);

148 (d) Not restrict or reserve scholarships for use at a
149 single nonpublic school or provide Tax Credit Scholarships to a
150 child of an owner or operator of a nonpublic school;



151 (e) Verify the eligibility through transcripts and
152 attendance records of a qualifying student who applies for a Tax
153 Credit Scholarship, after receiving written permission from the
154 parent or parents of the student to obtain information necessary
155 to verify eligibility;

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

160 (g) Expend net eligible contributions remaining after
161 reasonable and necessary administrative expenses are expended as
162 provided in this paragraph. On or before the end of the calendar
163 year following the calendar year in which a scholarship
164 organization receives revenues from donations and obligates them
165 for the awarding of scholarships, the scholarship organization
166 shall designate the obligated revenues for specific student
167 recipients. No more than ten percent (10%) of these net eligible
168 contributions remaining after administrative expenses during the
169 state fiscal year in which such contributions are collected may be
170 carried forward to the following calendar year. Any amounts
171 carried forward must be expended for annual or partial-year
172 scholarships in the following calendar year. Net eligible
173 contributions remaining on December 13 of each year that are in
174 excess of the ten percent (10%) that must be carried forward must



175 be transferred to the State Treasury for deposit in the General
176 Revenue Fund;

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

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

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

196 **SECTION 7.** The Department of Revenue shall:

197 (a) Develop, and annually verify and update, by March
198 15, a list of eligible nonprofit scholarship funding organizations
199 that meet the requirements of Section 6 of this act. The



200 department shall post this list on the department's Internet
201 website and update the list at least quarterly;

202 (b) Establish a process by which individuals may notify
203 the Department of Revenue of any violation by a parent or
204 nonpublic school of state laws relating to program participation.
205 The Secretary of State shall conduct an inquiry of any written
206 complaint of a violation of Sections 1 through 11 of this act, or
207 make a referral to the appropriate agency for an investigation, if
208 the complaint is signed by the complainant and is legally
209 sufficient. A complaint is legally sufficient if it provides
210 facts that show that a violation of this section or any rule
211 adopted by the Department of Revenue or Secretary of State is
212 likely to have occurred. In order to determine legal sufficiency,
213 the Secretary of State may require supporting information or
214 documentation from the complainant; and

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

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

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



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

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

230 (d) The number of scholarship organizations;

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

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

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

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

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

247 (b) The results of the tests shall be provided to the
248 parents of each student tested.



249 (2) At its discretion, a receiving school may administer the
250 state assessment tests instead of nationally recognized
251 norm-referenced tests.

252 **SECTION 10.** The provisions of Sections 1 through 11 of this
253 act regarding nonpublic schools and their relation to student
254 scholarship organizations apply only to nonpublic schools that
255 choose to accept eligible students that are awarded Tax Credit
256 Scholarships.

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

263 (2) Except as provided by Sections 1 through 11 of this act,
264 the Department of Education, Department of Revenue or any other
265 state agency may not regulate the educational program of a
266 receiving nonpublic school that accepts eligible students that are
267 awarded Tax Credit Scholarships under Sections 1 through 11 of
268 this act.

269 **SECTION 12.** Section 27-7-15, Mississippi Code of 1972, is
270 amended as follows:

271 27-7-15. (1) For the purposes of this article, except as
272 otherwise provided, the term "gross income" means and includes the
273 income of a taxpayer derived from salaries, wages, fees or



274 compensation for service, of whatever kind and in whatever form
275 paid, including income from governmental agencies and subdivisions
276 thereof; or from professions, vocations, trades, businesses,
277 commerce or sales, or renting or dealing in property, or
278 reacquired property; also from annuities, interest, rents,
279 dividends, securities, insurance premiums, reinsurance premiums,
280 considerations for supplemental insurance contracts, or the
281 transaction of any business carried on for gain or profit, or
282 gains, or profits, and income derived from any source whatever and
283 in whatever form paid. The amount of all such items of income
284 shall be included in the gross income for the taxable year in
285 which received by the taxpayer. The amount by which an eligible
286 employee's salary is reduced pursuant to a salary reduction
287 agreement authorized under Section 25-17-5 shall be excluded from
288 the term "gross income" within the meaning of this article.

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

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

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

297 (i) Prior to January 1, 2001, federal rules,
298 regulations and revenue procedures shall be followed with respect



299 to installment sales except they shall be applied and administered
300 as if H.R. 3594, the Installment Tax Correction Act of 2000 of the
301 106th Congress, had not been enacted. This provision will
302 generally affect taxpayers, reporting on the accrual method of
303 accounting, entering into installment note agreements on or after
304 December 17, 1999. Any gain or profit resulting from the casual
305 sale of property will be recognized in the year of sale.

306 (ii) From and after January 1, 2001, federal
307 rules, regulations and revenue procedures shall be followed with
308 respect to installment sales except as provided in this
309 subparagraph (ii). Gain or profit from the casual sale of
310 property shall be recognized in the year of sale. When a taxpayer
311 recognizes gain on the casual sale of property in which the gain
312 is deferred for federal income tax purposes, a taxpayer may elect
313 to defer the payment of tax resulting from the gain as allowed and
314 to the extent provided under regulations prescribed by the
315 commissioner. If the payment of the tax is made on a deferred
316 basis, the tax shall be computed based on the applicable rate for
317 the income reported in the year the payment is made. Except as
318 otherwise provided in subparagraph (iii) of this paragraph (b),
319 deferring the payment of the tax shall not affect the liability
320 for the tax. If at any time the installment note is sold,
321 contributed, transferred or disposed of in any manner and for any
322 purpose by the original note holder, or the original note holder
323 is merged, liquidated, dissolved or withdrawn from this state,



324 then all deferred tax payments under this section shall
325 immediately become due and payable.

326 (iii) If the selling price of the property is
327 reduced by any alteration in the terms of an installment note,
328 including default by the purchaser, the gain to be recognized is
329 recomputed based on the adjusted selling price in the same manner
330 as for federal income tax purposes. The tax on this amount, less
331 the previously paid tax on the recognized gain, is payable over
332 the period of the remaining installments. If the tax on the
333 previously recognized gain has been paid in full to this state,
334 the return on which the payment was made may be amended for this
335 purpose only. The statute of limitations in Section 27-7-49 shall
336 not bar an amended return for this purpose.

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

340 (d) **Affiliated companies or persons.** As regards sales,
341 exchanges or payments for services from one to another of
342 affiliated companies or persons or under other circumstances where
343 the relation between the buyer and seller is such that gross
344 proceeds from the sale or the value of the exchange or the payment
345 for services are not indicative of the true value of the subject
346 matter of the sale, exchange or payment for services, the
347 commissioner shall prescribe uniform and equitable rules for
348 determining the true value of the gross income, gross sales,



349 exchanges or payment for services, or require consolidated returns
350 of affiliates.

351 (e) **Alimony and separate maintenance payments.** The
352 federal rules, regulations and revenue procedures in determining
353 the deductibility and taxability of alimony payments shall be
354 followed in this state.

355 (f) **Reimbursement for expenses of moving.** There shall
356 be included in gross income (as compensation for services) any
357 amount received or accrued, directly or indirectly, by an
358 individual as a payment for or reimbursement of expenses of moving
359 from one (1) residence to another residence which is attributable
360 to employment or self-employment.

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

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

366 (a) The proceeds of life insurance policies and
367 contracts paid upon the death of the insured. However, the income
368 from the proceeds of such policies or contracts shall be included
369 in the gross income.

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



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

377 (d) Interest upon the obligations of the United States
378 or its possessions, or securities issued under the provisions of
379 the Federal Farm Loan Act of 1916, or bonds issued by the War
380 Finance Corporation, or obligations of the State of Mississippi or
381 political subdivisions thereof.

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

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

395 (g) Income received by a domestic corporation which is
396 "taxable in another state" as this term is defined in this
397 article, derived from business activity conducted outside this
398 state. Domestic corporations taxable both within and without the



399 state shall determine Mississippi income on the same basis as
400 provided for foreign corporations under the provisions of this
401 article.

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

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

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

415 (k) Amounts received as retirement allowances,
416 pensions, annuities or optional retirement allowances paid under
417 the federal Social Security Act, the Railroad Retirement Act, the
418 Federal Civil Service Retirement Act, or any other retirement
419 system of the United States government, retirement allowances paid
420 under the Mississippi Public Employees' Retirement System,
421 Mississippi Highway Safety Patrol Retirement System or any other
422 retirement system of the State of Mississippi or any political
423 subdivision thereof. The exemption allowed under this paragraph



424 (k) shall be available to the spouse or other beneficiary at the
425 death of the primary retiree.

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

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

442 (n) Compensation received for active service as a
443 member below the grade of commissioned officer and so much of the
444 compensation as does not exceed the maximum enlisted amount
445 received for active service as a commissioned officer in the Armed
446 Forces of the United States for any month during any part of which
447 such members of the Armed Forces (i) served in a combat zone as
448 designated by Executive Order of the President of the United



449 States or a qualified hazardous duty area as defined by federal
450 law, or both; or (ii) was hospitalized as a result of wounds,
451 disease or injury incurred while serving in such combat zone. For
452 the purposes of this paragraph (n), the term "maximum enlisted
453 amount" means and has the same definition as that term has in 26
454 USCS 112.

455 (o) The proceeds received from federal and state
456 forestry incentive programs.

457 (p) The amount representing the difference between the
458 increase of gross income derived from sales for export outside the
459 United States as compared to the preceding tax year wherein gross
460 income from export sales was highest, and the net increase in
461 expenses attributable to such increased exports. In the absence
462 of direct accounting, the ratio of net profits to total sales may
463 be applied to the increase in export sales. This paragraph (p)
464 shall only apply to businesses located in this state engaging in
465 the international export of Mississippi goods and services. Such
466 goods or services shall have at least fifty percent (50%) of value
467 added at a location in Mississippi.

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

471 (r) The amount deposited in a medical savings account,
472 and any interest accrued thereon, that is a part of a medical
473 savings account program as specified in the Medical Savings



474 Account Act under Sections 71-9-1 through 71-9-9; provided,
475 however, that any amount withdrawn from such account for purposes
476 other than paying eligible medical expense or to procure health
477 coverage shall be included in gross income.

478 (s) Amounts paid by the Mississippi Soil and Water
479 Conservation Commission from the Mississippi Soil and Water
480 Cost-Share Program for the installation of water quality best
481 management practices.

482 (t) Dividends received by a holding corporation, as
483 defined in Section 27-13-1, from a subsidiary corporation, as
484 defined in Section 27-13-1.

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

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

494 (w) Income resulting from transactions with a related
495 member where the related member subject to tax under this chapter
496 was required to, and did in fact, add back the expense of such
497 transactions as required by Section 27-7-17(2). Under no
498 circumstances may the exclusion from income exceed the deduction



499 add-back of the related member, nor shall the exclusion apply to
500 any income otherwise excluded under this chapter.

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

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

508 (z) Interest, dividends, gains or income of any kind on
509 any account in a qualified tuition program and amounts received as
510 distributions under a qualified tuition program shall be treated
511 in the same manner as provided under the United States Internal
512 Revenue Code, as amended. For the purposes of this paragraph (z),
513 the term "qualified tuition program" means and has the same
514 definition as that term has in 26 USCS 529.

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



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

526 (cc) Amounts received as a "qualified Hurricane Katrina
527 distribution" as defined in the United States Internal Revenue
528 Code, as amended.

529 (dd) Amounts received by an individual which may be
530 excluded from income as foreign earned income for federal income
531 tax purposes.

532 (ee) Amounts received by a qualified individual,
533 directly or indirectly, from an employer or nonprofit housing
534 organization that are qualified housing expenses associated with
535 an employer-assisted housing program. For purposes of this
536 paragraph (ee):

537 (i) "Qualified individual" means any individual
538 whose household income does not exceed one hundred twenty percent
539 (120%) of the area median gross income (as defined by the United
540 States Department of Housing and Urban Development), adjusted for
541 household size, for the area in which the housing is located.

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

- 546 1. Homeownership education or counseling;
547 2. The development of affordable housing; or



548 3. The development or administration of
549 employer-assisted housing programs.

550 (iii) "Employer-assisted housing program" means a
551 separate written plan of any employer (including, without
552 limitation, tax-exempt organizations and public employers) for the
553 exclusive benefit of the employer's employees to pay qualified
554 housing expenses to assist the employer's employees in securing
555 affordable housing.

556 (iv) "Qualified housing expenses" means:

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

561 2. With respect to homeownership assistance,
562 an amount not to exceed the lesser of Ten Thousand Dollars
563 (\$10,000.00) or six percent (6%) of the purchase price of the
564 employee's principal residence that is paid for the purpose of
565 assisting employees with down payments, payment of closing costs,
566 reduced interest mortgages, mortgage guarantee programs, mortgage
567 forgiveness programs, equity contribution programs, or
568 contributions to homebuyer education and/or homeownership
569 counseling of eligible employees.

570 (ff) For the 2010 taxable year and any taxable year
571 thereafter, amounts converted in accordance with the United States
572 Internal Revenue Code, as amended, from a traditional Individual



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

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

579 (hh) The amount deposited in a catastrophe savings
580 account established under Sections 27-7-1001 through 27-7-1007,
581 interest income earned on the catastrophe savings account, and
582 distributions from the catastrophe savings account; however, any
583 amount withdrawn from a catastrophe savings account for purposes
584 other than paying qualified catastrophe expenses shall be included
585 in gross income, except as otherwise provided by Sections
586 27-7-1001 through 27-7-1007.

587 (ii) Interest, dividends, gains or income of any kind
588 on any account in the Mississippi Achieving a Better Life
589 Experience (ABLE) Trust Fund, as established in Chapter 28, Title
590 43, to the extent that such amounts remain on deposit in the ABLE
591 Trust Fund or are withdrawn pursuant to a qualified withdrawal, as
592 defined in Section 43-28-11.

593 (jj) Subject to the limitations provided under Section
594 27-7-1103, amounts deposited into a first-time homebuyer savings
595 account and any interest or other income earned attributable to an
596 account and monies or funds withdrawn or distributed from an
597 account for the payment of eligible costs by or on behalf of a



598 qualified beneficiary; however, any monies or funds withdrawn or
599 distributed from a first-time homebuyer savings account for any
600 purpose other than the payment of eligible costs by or on behalf
601 of a qualified beneficiary shall be included in gross income. For
602 the purpose of this paragraph (jj), the terms "first-time
603 homebuyer savings account," "eligible costs" and "qualified
604 beneficiary" mean and have the same definitions as such terms have
605 in Section 27-7-1101.

606 (kk) Amounts paid by an agricultural disaster program
607 as compensation to an agricultural producer, cattle farmer or
608 cattle rancher who has suffered a loss as the result of a disaster
609 or emergency, including, but not limited to, the following United
610 States Department of Agriculture programs:

- 611 (i) Livestock Forage Disaster Program;
612 (ii) Livestock Indemnity Program;
613 (iii) Emergency Assistance for Livestock, Honey
614 Bees and Farm-raised Fish Program;
615 (iv) Emergency Conservation Program;
616 (v) Noninsured Crop Disaster Assistance Program;
617 (vi) Pasture, Rangeland, Forage Pilot Insurance
618 Program;
619 (vii) Annual Forage Pilot Program;
620 (viii) Livestock Risk Protection Insurance
621 Program; and
622 (ix) Livestock Gross Margin Insurance Plan.



623 (11) Amounts received as a Tax Credit Scholarship under
624 Sections 1 through 11 of this act to pay education expenses as
625 defined in Section 2 of this act.

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

627 (a) **Members of the Armed Forces.** Gross income does not
628 include compensation received for active service as a member of
629 the Armed Forces of the United States for any month during any
630 part of which such member is in a missing status, as defined in
631 paragraph (d) of this subsection, during the Vietnam Conflict as a
632 result of such conflict.

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

637 (c) **Period of conflict.** For the purpose of this
638 subsection, the Vietnam Conflict began February 28, 1961, and ends
639 on the date designated by the President by Executive Order as the
640 date of the termination of combatant activities in Vietnam. For
641 the purpose of this subsection, an individual is in a missing
642 status as a result of the Vietnam Conflict if immediately before
643 such status began he was performing service in Vietnam or was
644 performing service in Southeast Asia in direct support of military
645 operations in Vietnam. "Southeast Asia," as used in this
646 paragraph, is defined to include Cambodia, Laos, Thailand and
647 waters adjacent thereto.



648 (d) "Missing status" means the status of an employee or
649 member of the Armed Forces who is in active service and is
650 officially carried or determined to be absent in a status of (i)
651 missing; (ii) missing in action; (iii) interned in a foreign
652 country; (iv) captured, beleaguered or besieged by a hostile
653 force; or (v) detained in a foreign country against his will; but
654 does not include the status of an employee or member of the Armed
655 Forces for a period during which he is officially determined to be
656 absent from his post of duty without authority.

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

660 (f) "Employee" means one who is a citizen or national
661 of the United States or an alien admitted to the United States for
662 permanent residence and is a resident of the State of Mississippi
663 and is employed in or under a federal executive agency or
664 department of the Armed Forces.

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

669 (h) If refund or credit of any overpayment of tax for
670 any taxable year resulting from the application of this subsection
671 (5) is prevented by the operation of any law or rule of law, such
672 refund or credit of such overpayment of tax may, nevertheless, be



673 made or allowed if claim therefor is filed with the Department of
674 Revenue within three (3) years after the date of the enactment of
675 this subsection.

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

678 (6) A shareholder of an S corporation, as defined in Section
679 27-8-3(1)(g), shall take into account the income, loss, deduction
680 or credit of the S corporation only to the extent provided in
681 Section 27-8-7(2).

682 **SECTION 13.** This act shall take effect and be in force from
683 and after January 1, 2020.

