

By: Senator(s) Hopson

To: Appropriations

SENATE BILL NO. 3053
(As Passed the Senate)

1 AN ACT TO AMEND SENATE BILL NO. 2772, 2020 REGULAR SESSION,
2 TO INCLUDE FISCAL YEAR 2021 ALONG WITH FISCAL YEAR 2020 AS THE
3 TIME PERIOD IN WHICH THE DEPARTMENT OF FINANCE AND ADMINISTRATION
4 SHALL HAVE THE AUTHORITY TO RECEIVE, BUDGET AND ESCALATE CERTAIN
5 FEDERAL FUNDS IN THE DFA CARES ACT COVID-19 FUND FOR DEFRAYING
6 EXPENSES INCURRED BY ANY STATE AGENCY, DEPARTMENT OR INSTITUTION
7 FOR THE PURPOSES PROVIDED UNDER THE CORONAVIRUS RELIEF FUND,
8 SECTION 5001 OF THE FEDERAL CARES ACT; TO CLARIFY LEGISLATIVE
9 FINDINGS REGARDING THE PURPOSE OF THE \$2,000.00 DIRECT PAYMENT TO
10 BUSINESSES FOR INITIAL COMPLIANCE WITH THE GOVERNOR'S STATE OF
11 EMERGENCY COVID-19 PROCLAMATION ISSUED ON MARCH 14, 2020; TO ADD
12 CERTAIN NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM CODES TO THE
13 DEFINITION OF AN ELIGIBLE TAXPAYER FOR THE \$2,000.00 DIRECT
14 PAYMENT FROM THE MISSISSIPPI COVID-19 RELIEF PAYMENT FUND; TO
15 PROVIDE THAT THE MISSISSIPPI DEVELOPMENT AUTHORITY SHALL NOT
16 CONSIDER APPLICATIONS FILED AFTER SEPTEMBER 15, 2020, FOR THE BACK
17 TO BUSINESS MISSISSIPPI GRANT PROGRAM; TO INCREASE THE BASE
18 PAYMENT TO AN ELIGIBLE BUSINESS UNDER THE BACK TO BUSINESS
19 MISSISSIPPI GRANT PROGRAM FROM \$1,500.00 TO \$3,500.00; TO REMOVE
20 THE PROVISION REQUIRING THAT THE TOTAL PAYMENT UNDER THE BACK TO
21 BUSINESS MISSISSIPPI GRANT PROGRAM SHALL BE REDUCED FOR PAYCHECK
22 PROTECTION PROGRAM FUNDS, ECONOMIC INJURY DISASTER LOAN EMERGENCY
23 ADVANCE FUNDS, AND BUSINESS INTERRUPTION INSURANCE PROCEEDS
24 RECEIVED BY THE ELIGIBLE BUSINESS; TO SPECIFY THAT THE AMOUNT OF A
25 PAYMENT UNDER THE BACK TO BUSINESS MISSISSIPPI GRANT PROGRAM SHALL
26 NOT BE REDUCED BY \$2,000.00 FOR ANY DIRECT PAYMENT RECEIVED FROM
27 THE DEPARTMENT OF REVENUE; AND FOR RELATED PURPOSES.

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

29 **SECTION 1.** Senate Bill No. 2772, 2020 Regular Session, is
30 amended as follows:



31 Section 1. (1) Upon the effective date of this act, the
32 State Fiscal Officer shall transfer to the Capital Expense Fund
33 out of the Budget Contingency Fund (Fund Number
34 6117700000).....\$ 7,599,822.00.

35 (2) Upon the effective date of this act, the State Fiscal
36 Officer shall transfer to the Budget Contingency Fund out of the
37 DFA CARES ACT COVID-19 Fund (Fund Number
38 6820113000).....\$ 900,000,000.00.

39 (3) Upon the effective date of this act, the State Fiscal
40 Officer shall transfer to the Mississippi COVID-19 Relief Payment
41 Fund created by this act out of the DFA CARES ACT COVID-19 Fund
42 (Fund Number 6820113000).....\$ 60,000,000.00.

43 The Mississippi Department of Finance and Administration
44 shall have the authority to receive, budget and escalate these
45 federal funds for providing grants under Section 4 of this act.

46 (4) Upon the effective date of this act, the State Fiscal
47 Officer shall transfer to the Back to Business Mississippi Grant
48 Fund created by this act out of the DFA CARES ACT COVID-19 Fund
49 (Fund Number 6820113000).....\$ 240,000,000.00.

50 The Mississippi Development Authority shall have the
51 authority to receive, budget and escalate these federal funds for
52 providing grants under Sections 5 through 10 of this act.

53 Section 2. During fiscal years 2020 and 2021, the Department
54 of Finance and Administration shall have the authority to receive,
55 budget and escalate federal funds in the DFA CARES ACT COVID-19



56 Fund (Fund Number 6820113000) in an amount not to exceed Fifty
57 Million Dollars (\$50,000,000.00) for defraying expenses incurred
58 by any state agency, department or institution for the purposes
59 provided under the Coronavirus Relief Fund, Section 5001 of the
60 federal Coronavirus Aid, Relief, and Economic Security Act (P.L.
61 116-136).

62 Section 3. The Legislature intends to provide economic
63 support to eligible Mississippi businesses for costs incurred in
64 connection with the Coronavirus Disease 2019 (COVID-19), including
65 business interruption caused by forced closures or restricted
66 operations resulting from voluntary closures instituted to promote
67 social distancing measures, decreased customer demand, cleaning or
68 disinfection, and provision of personal protective equipment.
69 Eligible expenses shall not include any damage paid by business
70 interruption insurance or disallowed by Section 5001 of the
71 Coronavirus Aid, Relief, and Economic Security (CARES) Act or any
72 guidance or regulation issued by the United States Department of
73 the Treasury in conformity therewith.

74 In order to expedite payment to businesses in need of
75 economic support due to required or voluntary closures related to
76 COVID-19, while minimizing administrative costs and delays, the
77 Legislature finds that a direct payment of Two Thousand Dollars
78 (\$2,000.00) per business is a necessary * * * cost, as provided
79 for in Section 4 of this act. This payment is specifically to
80 compensate these businesses for an initial compliance with the



81 Governor's State of Emergency COVID-19 Proclamation issued on
82 March 14, 2020. As such, this payment is not related to and is
83 separate and distinct from any eligible expense that is
84 reimbursable from the Back to Business Program. The Legislature
85 finds further that an application process is warranted for the
86 provision of additional compensation, whereby eligible businesses
87 not wishing to itemize their expenses may receive, subject to
88 approval, a base payment of * * * Three Thousand Five Hundred
89 Dollars (\$3,500.00) plus Five Hundred Dollars (\$500.00) per
90 full-time equivalent employee as a reasonable estimate of their
91 costs incurred, as provided for in Sections 5 through 10 of this
92 act.

93 Section 4. (1) As used in this section, the following words
94 and phrases shall have the meanings ascribed in this section
95 unless the context clearly indicates otherwise:

96 (a) "COVID-19" means the Coronavirus Disease 2019.

97 (b) "Department" means the Mississippi Department of
98 Revenue.

99 (c) "Eligible taxpayer" means a resident taxpayer, or a
100 taxpayer with a permanent place of business located in the state,
101 that:

102 (i) Was registered with the department before
103 March 1, 2020, had an Employer Identification Number or Social
104 Security Number before March 1, 2020, and/or had an active
105 department withholding account established before March 1, 2020,



106 which withholding account was not for the purposes of paying
107 household employees or as a home healthcare recipient;

108 (ii) Had a North American Industry Classification
109 System Code of 311811, 4421, 4422, 4481, 4482, 4483, 4511, 4512,
110 4531, 4532, 4533, 4539, 487210, 5121, 6116, 6244, 7111, 7112,
111 7113, 7131, 7139, 7223, 7224, 7225 or 8121, before March 1, 2020,
112 and was engaged as an active business in such activity before
113 March 1, 2020;

114 (iii) Was subject to any COVID-19-related state,
115 municipal and/or county required business closure or voluntary
116 closure;

117 (iv) Filed Mississippi taxes for tax year 2018 or
118 2019, or, for an eligible business formed on or after January 1,
119 2020, intends to file Mississippi taxes for tax year 2020, unless
120 exempt under Section 27-7-29, Section 27-13-63 or other applicable
121 provision of law;

122 (v) Had no more than fifty (50) full-time
123 equivalent employees as of March 1, 2020; and

124 (vi) Is not a subsidiary of a business with more
125 than fifty (50) full-time equivalent employees, is not part of a
126 larger business enterprise with more than fifty (50) full-time
127 equivalent employees and is not owned by a business with more than
128 fifty (50) full-time equivalent employees.

129 (2) (a) There is hereby created in the State Treasury a
130 special fund to be designated as the "Mississippi COVID-19 Relief



131 Payment Fund," which shall consist of funds made available by the
132 Legislature in any manner and funds from any other source
133 designated for deposit into such fund. Unexpended amounts
134 remaining in the fund at the end of a fiscal year shall not lapse
135 into the State General Fund, and any investment earnings or
136 interest earned on amounts in the fund shall be deposited to the
137 credit of the fund. Monies in the fund shall be used for the
138 purpose of providing payments to eligible taxpayers as provided in
139 this section. Monies in the fund shall be administered and
140 disbursed by the Department of Finance and Administration in
141 compliance with the guidelines, guidance, rules, regulations
142 and/or other criteria, as may be amended from time to time, of the
143 United States Department of the Treasury regarding the use of
144 monies from the Coronavirus Relief Fund established by the
145 Coronavirus Aid, Relief, and Economic Security Act. If on
146 November 1, 2020, there are unobligated monies in the fund, the
147 Governor shall have the discretion to transfer monies to another
148 state agency to be used for eligible expenditures pursuant to the
149 Coronavirus Aid, Relief, and Economic Security (CARES) Act.

150 (b) The department shall establish a program to provide
151 a payment of Two Thousand Dollars (\$2,000.00) to each eligible
152 taxpayer. The department may coordinate with various professional
153 licensing boards and other regulatory entities and agencies for
154 the purpose of identifying eligible taxpayers as defined herein
155 and compile a report of eligible taxpayers. The department shall



156 certify the report to the Department of Finance and
157 Administration, which shall disburse the payments authorized under
158 this section to eligible taxpayers.

159 (c) To effectuate the purposes of this act, any office,
160 division, board, bureau, committee, institution or agency of the
161 state, or any political subdivision thereof, shall, at the request
162 of the department, provide the employees, facilities, assistance,
163 information and data needed to enable the department to carry out
164 its duties.

165 Section 5. Sections 5 through 10 of this act shall be known
166 and may be cited as the "2020 COVID-19 Mississippi Business
167 Assistance Act."

168 Section 6. As used in Sections 5 through 10 of this act, the
169 following terms shall have the meanings ascribed unless the
170 context otherwise requires:

171 (a) "COVID-19" means the Coronavirus Disease 2019.

172 (b) "CARES Act" means the Coronavirus Aid, Relief, and
173 Economic Security Act.

174 (c) "Eligible business" means a for-profit corporation,
175 a limited liability company, a partnership or a sole
176 proprietorship that:

177 (i) Was domestic as of March 1, 2020;

178 (ii) Is in good standing with the Secretary of
179 State, if applicable;

180 (iii) Suffered an interruption of business;



181 (iv) Has a controlling interest owned by one or
182 more Mississippi residents, whether individual resident citizens
183 or Mississippi domestic business entities;

184 (v) Filed Mississippi taxes for tax year 2018 or
185 2019, or, for an eligible business formed on or after January 1,
186 2020, intends to file Mississippi taxes for tax year 2020, unless
187 exempt under Section 27-7-29, Section 27-13-63 or other applicable
188 provision of law;

189 (vi) Has customers or employees coming to its
190 physical premises, conducts business on customer premises, or has
191 an owner who is an active participant in the day-to-day operations
192 of the business;

193 (vii) Had no more than fifty (50) full-time
194 equivalent employees as of March 1, 2020;

195 (viii) Is not a subsidiary of a business with more
196 than fifty (50) full-time equivalent employees, is not part of a
197 larger business enterprise with more than fifty (50) full-time
198 equivalent employees and is not owned by a business with more than
199 fifty (50) full-time equivalent employees;

200 (ix) Does not exist for the purpose of advancing
201 partisan political activities, does not directly lobby federal or
202 state officials as provided in Sections 5-8-1 through 5-8-23, and
203 has not employed or otherwise worked with a lobbyist as defined in
204 Section 5-8-3 in any way at any point during 2020; and



205 (x) Does not derive income from passive
206 investments without active participation in business operations.

207 (d) "Interruption of business" means disruption of
208 regular business operations resulting from required or voluntary
209 closure related to COVID-19.

210 (e) "Public health measure" means any action reasonably
211 taken to prevent the spread of COVID-19 in the workplace.

212 (f) "Eligible expense" means a cost incurred by an
213 eligible business for public health measures or due to
214 interruption of business. Eligible expenses due to interruption
215 of business may consist only of mortgage interest, rent, payroll
216 and utilities, or other COVID-19-related expenses allowed by law,
217 each for no more than a two-month period. Eligible expenses shall
218 not include lost profits. No cost will be considered an eligible
219 expense if found to be ineligible under the guidelines, guidance,
220 rules, regulations and/or other criteria, as may be amended from
221 time to time, of the United States Department of the Treasury
222 regarding the use of monies from the Coronavirus Relief Fund
223 established by the CARES Act.

224 (g) "MDA" means the Mississippi Development Authority.

225 (h) "Grant" means an award by the MDA to an eligible
226 business to cover eligible expenses in accordance with Sections 5
227 through 10 of this act.

228 (i) "Program" means the Back to Business Mississippi
229 Grant Program established in Sections 5 through 10 of this act.



230 (j) "Minority business enterprise" means a socially and
231 economically disadvantaged small business concern performing a
232 commercially useful function which is owned and controlled by one
233 or more minorities or minority business enterprises certified by
234 the Mississippi Development Authority, at least fifty percent
235 (50%) of whom are resident citizens of the State of Mississippi.
236 Except as otherwise provided, for purposes of this act, the term
237 "socially and economically disadvantaged small business concern"
238 shall have the meaning ascribed to such term under the Small
239 Business Act, 15 USC Section 637(a), or women, and the term "owned
240 and controlled" means a business in which one or more minorities
241 or minority business enterprises certified by the Mississippi
242 Development Authority own sixty percent (60%) or, in the case of a
243 corporation, sixty percent (60%) of the voting stock, and control
244 sixty percent (60%) of the management and daily business
245 operations of the business.

246 Section 7. (1) The Legislature facilitates access by
247 Mississippi small businesses to federal relief and recovery funds
248 related to COVID-19. Accordingly, the Back to Business
249 Mississippi Grant Program is established, to be administered by
250 the MDA, for the purpose of making grants to eligible businesses
251 to reimburse them for eligible expenses as defined in Sections 5
252 through 10 of this act.

253 (2) From the date of the beginning of the period for
254 applications for grants under this section, the MDA shall for the



255 first twenty-one (21) days of the application period only consider
256 and review applications from eligible businesses that (i) did not
257 receive a United States Small Business Administration-Guaranty
258 Paycheck Protection Program loan and/or a United States Small
259 Business Administration Economic Injury Disaster Loan Emergency
260 Advance, (ii) did not receive and has not been awarded
261 reimbursement under any other federal program for the expenses
262 that will be reimbursed by a grant under this section and (iii)
263 did not receive compensation from an insurance company for the
264 interruption of business. After the completion of such
265 twenty-one-day period, the MDA shall consider and review
266 applications from any eligible businesses. The MDA shall not
267 consider applications filed after September 15, 2020.

268 (3) The MDA shall develop regulations, procedures and
269 application forms to govern the administration of the program.
270 The MDA may enter into a personal services contract, subject to
271 approval by the Public Procurement Review Board, for the
272 administrative services of the program. The contract shall be let
273 and awarded after receiving at least two (2) bids for time and
274 expense not to exceed Nine Hundred Thousand Dollars (\$900,000.00).
275 The MDA may retain up to Nine Hundred Thousand Dollars
276 (\$900,000.00) of monies available under Sections 5 through 10 of
277 this act to pay reasonable expenses incurred in the administration
278 of the program.



279 Section 8. (1) Any eligible business desiring to
280 participate in the program shall make application for a grant to
281 the MDA in a form satisfactory to the MDA. The application shall
282 include verified documentation, signed under penalty of perjury.

283 (2) The MDA shall use the funds provided by Sections 5
284 through 10 of this act to make grants to eligible businesses
285 pursuant to applications submitted under subsection (1) of this
286 section, to cover their eligible expenses.

287 (3) The use of grants shall be subject to audit by the
288 United States Department of the Treasury's Office of Inspector
289 General and the Mississippi Office of the State Auditor. A
290 business found to be fully or partially noncompliant with grant
291 requirements shall return to the state all or a portion of the
292 grant monies received. Applicants shall confirm their
293 understanding of these terms.

294 (4) The program shall be subject to the following terms and
295 conditions:

296 (a) The base payment to an eligible business shall
297 be * * * Three Thousand Five Hundred Dollars (\$3,500.00). An
298 eligible business may choose to receive additional compensation by
299 either claiming Five Hundred Dollars (\$500.00) per full-time
300 equivalent employee employed by the eligible business as of March
301 1, 2020, or itemizing eligible expenses on the application
302 form. * * * The amount of a payment under this section shall not
303 be reduced by Two Thousand Dollars (\$2,000.00) for any direct



304 payment received under Section 4 of this act. In no event shall
305 the total payment to an eligible business under this section
306 exceed Twenty-five Thousand Dollars (\$25,000.00).

307 (b) At least Forty Million Dollars (\$40,000,000.00) in
308 grants, exclusive of administrative expenses retained by the MDA,
309 shall be awarded to minority business enterprises for the first
310 sixty (60) days of the application period.

311 (c) Grants awarded shall be protected from creditors
312 and shall not be subject to tax; however, eligible expenses for
313 which grants are received may not be itemized as tax deductions.

314 Section 9. There is created a special fund in the State
315 Treasury, to be known as the "Back to Business Mississippi Grant
316 Fund," from which the grants authorized by this act shall be
317 disbursed by the MDA. All monies shall be disbursed from the fund
318 in compliance with the guidelines, guidance, rules, regulations
319 and/or other criteria, as may be amended from time to time, of the
320 United States Department of the Treasury regarding the use of
321 monies from the Coronavirus Relief Fund established by the CARES
322 Act. If on November 1, 2020, there are unobligated monies in the
323 fund, the Governor shall have the discretion to transfer monies to
324 another state agency to be used for eligible expenditures pursuant
325 to the CARES Act.

326 Section 10. To effectuate the purposes of Sections 5 through
327 10 of this act, any office, division, board, bureau, committee,
328 institution or agency of the state, or any political subdivision



329 thereof, shall, at the request of the MDA, provide the employees,
330 facilities, assistance, information and data needed to enable the
331 MDA to carry out its duties. The MDA shall, at a minimum, work
332 with the Department of Revenue to verify applicant tax
333 information, and with the Department of Human Services to promote
334 application by childcare organizations.

335 As soon as possible after the effective date of this act, the
336 Secretary of State shall notify all registered businesses of the
337 availability of grants under the program.

338 Section 11. Funds received under the Paycheck Protection
339 Program (PPP) shall not be subject to tax; however, eligible
340 expenses for which PPP funds are received may not be itemized as
341 tax deductions.

342 Section 12. If any section, paragraph, sentence, clause,
343 phrase or any part of this act is declared to be in conflict with
344 federal law, or if for any reason is declared to be invalid or of
345 no effect, the remaining sections, paragraphs, sentences, clauses,
346 phrases or parts thereof shall be in no manner affected thereby
347 but shall remain in full force and effect.

348 Section 13. This act shall take effect and be in force from
349 and after its passage.

350 **SECTION 2.** All changes made in this act to Senate Bill No.
351 2772, 2020 Regular Session, shall be retroactive to May 20, 2020.

352 **SECTION 3.** This act shall take effect and be in force from
353 and after its passage.

