

By: Senator(s) Jackson (11th), Thomas

To: Finance

SENATE BILL NO. 2824

1 AN ACT TO ESTABLISH AN INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAM
2 IN THE MISSISSIPPI DEVELOPMENT AUTHORITY; TO AUTHORIZE CERTAIN
3 PERSONS WITH LOW INCOMES TO ENTER INTO AGREEMENTS DEVELOPED WITH A
4 FIDUCIARY ORGANIZATION FOR THE ESTABLISHMENT OF AN INDIVIDUAL
5 DEVELOPMENT ACCOUNT; TO REQUIRE THE AGREEMENT TO PROVIDE FOR THE
6 AMOUNT OF SAVINGS DEPOSITS, MATCH FUND RATES, ASSET GOALS AND
7 FINANCIAL LITERACY EDUCATION CLASSES TO BE COMPLETED, ADDITIONAL
8 TRAINING SPECIFIC TO THE ASSET, AND FINANCIAL COUNSELING THE
9 INDIVIDUAL WILL ATTEND, AS WELL AS OTHER SERVICES DESIGNED TO
10 INCREASE THE FINANCIAL INDEPENDENCE OF THE PERSON; TO PROVIDE THAT
11 THE FUNDS IN THE ACCOUNT SHALL BE MATCHED UNDER CERTAIN
12 CIRCUMSTANCES; TO PROVIDE THAT MONEY MAY BE WITHDRAWN FROM THE
13 ACCOUNT FOR CERTAIN QUALIFIED PURPOSES; TO ALLOW MONEY TO BE
14 WITHDRAWN FROM THE ACCOUNT IN THE EVENT OF CERTAIN EMERGENCIES AND
15 PROVIDE FOR THE REIMBURSEMENT OF THE ACCOUNT IF MONEY IS WITHDRAWN
16 FOR EMERGENCIES; TO REMOVE A PERSON FROM THE PROGRAM IF MONEY IS
17 WITHDRAWN FOR OTHER PURPOSES; TO REQUIRE THE ACCOUNT HOLDER TO
18 FULFILL CERTAIN REQUIREMENTS BEFORE THE WITHDRAWAL OF MONEY FROM
19 THE ACCOUNT; TO PROVIDE THAT MONEY DEPOSITED IN THE ACCOUNT SHALL
20 NOT BE GROSS INCOME FOR INCOME TAX PURPOSES; TO PROVIDE THAT MONEY
21 WITHDRAWN FROM THE ACCOUNT FOR QUALIFIED PURPOSES SHALL NOT BE
22 CONSIDERED GROSS INCOME FOR INCOME TAX PURPOSES; TO PROVIDE FOR
23 THE SELECTION OF FIDUCIARY ORGANIZATIONS TO ADMINISTER THE
24 PROGRAM; TO PROVIDE FOR THE DUTIES OF FINANCIAL INSTITUTIONS
25 HOLDING INDIVIDUAL DEVELOPMENT ACCOUNTS; TO PROVIDE THAT AN
26 ACCOUNT OWNERS SAVINGS AND MATCHING FUNDS SHALL NOT AFFECT HIS OR
27 HER ELIGIBILITY FOR ANY MEANS-TESTED PUBLIC BENEFITS; TO AUTHORIZE
28 AN INCOME TAX CREDIT FOR DONATIONS MADE BY A CHARITABLE DONOR TO
29 THE INDIVIDUAL DEVELOPMENT ACCOUNT FUND OR ON BEHALF OF AN
30 INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAM OR OWNER IN THIS STATE; TO
31 AMEND SECTION 27-7-15, MISSISSIPPI CODE OF 1972, IN CONFORMITY
32 THERETO; AND FOR RELATED PURPOSES.

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

34 **SECTION 1.** As used in Sections 1 through 12 of this act:

35 (a) "Individual development account" means an account
36 established for an eligible individual or family member as part of
37 a qualified individual development account program by an agreement
38 with the following requirements:

39 (i) The sole owner of the account is the
40 individual or family member for whom the account was created.

41 (ii) The holder of the account is a qualified
42 financial institution.

43 (iii) The assets of the account will not be
44 comingled with other property except in a common trust fund or
45 common investment fund.

46 (iv) Any amount in the account will be paid out
47 only for the purpose of paying the qualified purposes of the
48 account owner, except if it meets the qualifications of an
49 emergency use.

50 (b) "Eligible individual or family member" means one
51 whose household income is equal to or less than eighty percent
52 (80%) of the median household income for the area or less than two
53 hundred percent (200%) of the federal poverty guidelines,
54 whichever is greater.

55 (c) "Fiduciary organization" means any nonprofit,
56 fund-raising organization that is exempt from taxation under
57 Section 501(c)(3) of the Internal Revenue Code, as amended, any
58 community development financial institution certified by the
59 Community Development Financial Institution Fund, any credit union
60 chartered under federal or state law, or any Indian tribe as
61 defined in Section 4(12) of the Native American Housing Assistance
62 and Self-Determination Act of 1996 (25 USC 4103(12)), and includes
63 any tribal subsidiary, subdivision or other wholly-owned tribal
64 entity.

65 (d) "Financial institution" means a bank, trust
66 company, savings bank, building and loan association, savings and
67 loan company or association, or credit union authorized to do
68 business in this state.

69 (e) "Parallel account" means a separate, parallel
70 account for all matching funds and earnings dedicated to
71 individual development account owners, the sole holder of which is
72 a qualified financial institution, a qualified fiduciary
73 organization or an Indian tribe.

74 (f) "Authority" means the Mississippi Development
75 Authority.

76 (g) "Qualified purposes" refers to using the account
77 owner's accumulated savings and matching funds for any of the
78 following uses:

79 (i) Securing postsecondary education, including,
80 but not limited to, community college courses, courses at a
81 four-year college or university, 529 College Plans, or
82 post-college, graduate courses for the account owner or any member
83 of the account owner's family;

84 (ii) Securing postsecondary occupational training,
85 including, but not limited to, vocational or trade school training
86 for the account owner or any member of the account owner's family;

87 (iii) Purchasing a home for the first time;

88 (iv) Costs for major repairs or improvement to a
89 primary residence;

90 (v) Business capitalization;

91 (vi) Purchasing of an automobile necessary to
92 transport account owner or family member to place of employment or
93 education;

94 (vii) Assistive technology;

95 (viii) Retirement IRAs;

96 (ix) Enrollment of the account owner's child in
97 day care to enable the account owner to participate in job
98 training, any work-related activity, or educational program; or

99 (x) Other activity based on a plan approved by the
100 authority.

101 (h) "Emergency" includes making payments for necessary
102 medical expenses to avoid eviction of the account owner from the
103 account owner's residence and for necessary living expenses
104 following a loss of income.

105 (i) "Charitable donor" means a person, business or
106 corporation who contributes to the individual development account
107 fund managed by the authority for the purposes of individual
108 development account programs in this state.

109 **SECTION 2.** A person who is determined eligible to become an
110 individual development account owner may enter into an agreement
111 developed with a fiduciary organization for the establishment of
112 an individual development account. The agreement must provide for
113 the amount of savings deposits, the match fund rate, the asset
114 goal, and the financial literacy education classes to be
115 completed, additional training specific to the asset, and
116 financial counseling the individual will attend, as well as other
117 services designed to increase the independence of the person
118 through achievement of the account's approved purpose.

119 **SECTION 3.** Once the account owner has saved for a minimum of
120 six (6) months, has reached his or her savings goal and has
121 fulfilled all financial literacy education components, then and
122 only then will the appropriate matching funds be transferred from
123 the parallel account directly to the vendor or service provider.

124 **SECTION 4.** (1) If an emergency occurs, an account owner may
125 withdraw all or part of the account owner's deposits to an
126 individual development account with the approval of the fiduciary
127 organization.

128 (2) The account owner must reimburse his or her individual
129 development account for the amount withdrawn under this section
130 within twelve (12) months after the date of the withdrawal.
131 Failure of an account owner to make a timely reimbursement to the
132 account is grounds for removing the account owner from the
133 individual development account program. Until the reimbursement
134 has been made in full, an account owner may not withdraw any
135 matching funds or accrued interest on matching funds from the
136 account.

137 (3) If an account owner withdraws money from an individual
138 development account for other than a qualified purpose, the
139 fiduciary organization may remove the account owner from the
140 program.

141 **SECTION 5.** Before becoming eligible to draw down matching
142 funds to pay for qualified purposes, individual development
143 account owners must complete a financial literacy education course
144 offered by a qualified financial institution, a qualified
145 fiduciary organization, an Indian tribe or a government entity.

146 **SECTION 6.** (1) Deposits to individual development accounts
147 made by the account owner must come from earned income, including,
148 but not limited to, child support payments, Supplemental Security
149 Income (SSI), disability benefits, community service under TANF,
150 AmeriCorps stipends and job training program stipends.

151 (2) Eligible individuals must be able to certify, if
152 necessary, that their deposits do not exceed their earned income.
153 Therefore, a cap on annual deposits made by the account owner is
154 set at Two Thousand Dollars (\$2,000.00).

155 **SECTION 7.** Money deposited into individual development
156 accounts shall not be included in gross income for income tax
157 purposes. Any amount withdrawn from a parallel account (matching
158 funds) shall not be includable in an eligible individual's gross
159 income. Money withdrawn from individual development accounts
160 shall only be included in gross income if used for a purpose other
161 than a qualified purpose.

162 **SECTION 8.** The authority may select fiduciary organizations
163 through competitive processes. In making the selections, the
164 authority may consider factors, including, but not limited to:

165 (a) The ability of the fiduciary organization to
166 implement and administer the individual development account
167 program, including the ability to verify account owner
168 eligibility, certify that matching funds are used only for
169 qualified purposes and exercise general fiscal accountability;

170 (b) The capacity of the fiduciary organization to
171 provide or raise matching funds for the deposits of account
172 owners;

173 (c) The capacity of the fiduciary organization to
174 provide financial counseling, financial literacy education and
175 training specific to the assets the account owners will be
176 purchasing, and other related services to account owners;

177 (d) The links the fiduciary organization has to other
178 activities and programs designed to increase the independence of
179 this state's low-income households and individuals through
180 education and training, homeownership, small business
181 capitalization, and other asset building programs; and

182 (e) The feasibility of the fiduciary organization's
183 program design, including match rates and savings goals, to lead
184 to asset purchase.

185 **SECTION 9.** (1) Subject to authority rules, a fiduciary
186 organization has sole authority over, and responsibility for, the
187 administration of individual development accounts. The
188 responsibility of the fiduciary organization extends to all
189 aspects of the account program, including marketing to eligible
190 individuals and families, soliciting matching funds, counseling
191 account owners, providing financial literacy education and
192 conducting required verification and compliance activities. The
193 fiduciary organization may establish program provisions as the
194 organization believes necessary to ensure account owner compliance
195 with Sections 1 through 12 of this act. Notwithstanding any
196 provisions of Sections 1 through 12 of this act to the contrary, a
197 fiduciary organization may establish income limitations for
198 account owners that are lower than the income limitations
199 otherwise established by Sections 1 through 12 of this act.

200 (2) A fiduciary organization may act in partnership with
201 other entities, including businesses, government agencies,
202 nonprofit organizations, community development corporations,
203 community action programs, housing authorities and congregations,
204 to assist in the fulfillment of fiduciary organization
205 responsibilities under Sections 1 through 12 of this act.

206 (3) A fiduciary organization may use a reasonable portion of
207 money allocated to the individual development account program for
208 administration, operation and research and evaluation purposes,
209 including, but not limited to, the purchase of data collection
210 software such as Management Information System for Individual
211 Development Accounts (MIS-IDA).

212 (4) A fiduciary organization selected to administer money
213 directed by the state for individual development account purposes
214 or receiving tax deductible contributions shall provide the
215 authority with an annual report based on regularly collected data
216 of the fiduciary organization's individual development account
217 program activity. The report shall be filed not later than ninety
218 (90) days after the end of the fiscal year of the fiduciary
219 organization. The report shall include, but is not limited to:

- 220 (a) The number of individual development accounts
221 administered by the fiduciary organization;
- 222 (b) The amount of deposits and matching funds for each
223 account;
- 224 (c) The asset purchase goal of each account;
- 225 (d) The number of withdrawals made; and
- 226 (e) Any other information the authority may require for
227 the purpose of making a return on investment analysis.

228 (5) The authority shall make all reasonable and necessary
229 rules to ensure the fiduciary organization's compliance with
230 Sections 1 through 12 of this act.

231 (6) Financial institutions holding individual development
232 accounts shall at a minimum:

- 233 (a) Keep the account in the name of the account owner;
- 234 (b) Permit deposits to be made in the account;
- 235 (c) Require the account to earn a market rate of
236 interest;
- 237 (d) Maintain the individual development accounts as
238 fee-free; and

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

242 **SECTION 10.** (1) An account owner's savings and matching
243 funds shall not affect his or her eligibility for any means-tested
244 public benefits, including, but not limited to, Medicaid, State
245 Children's Health Insurance Programs, TANF, Food Stamps,
246 Supplemental Security Income, or government-subsidized foster care
247 and adoption payments, child care or housing payments. In
248 addition, savings of up to Ten Thousand Dollars (\$10,000.00) in an
249 individual development account shall be disregarded in determining
250 eligibility for federal or state programs based on need.

251 (2) Funds deposited in individual development accounts shall
252 not be counted as income, assets or resources of the account owner
253 for the purpose of determining financial eligibility for
254 assistance or service pursuant to any federal, federally-assisted,
255 state or municipal program based on need.

256 **SECTION 11.** (1) There shall be allowed to each charitable
257 donor, who has had an application for a tax credit approved in
258 accordance with this section, a credit with respect to the income
259 taxes imposed by Chapter 7, Title 27, Mississippi Code of 1972, in
260 an amount equal to fifty percent (50%) of the total monetary
261 contribution paid during such income tax year by a charitable
262 donor to the individual development account fund managed by the
263 authority or on behalf of an individual development account
264 program or owner in this state; however, in no event may:

265 (a) The aggregate amount of credit claimed by all
266 charitable donors in this state pursuant to this section exceed
267 Four Million Dollars (\$4,000,000.00) in any state fiscal year; or

268 (b) The charitable donor be able to designate an
269 individual development account owner with whom the charitable
270 donor shares a financial interest or familial relationship.

271 (2) Application for the tax credit created in this section
272 shall be made by the charitable donor to the authority in
273 accordance with rules adopted by the authority and subject to any
274 other limitation set forth in this section. When claiming a tax
275 credit pursuant to this section, a charitable donor shall include
276 proof that its application has been granted in accordance with
277 this section.

278 (3) If the amount of the tax credit allowed under this
279 section exceeds the amount of the income tax otherwise due on the
280 income of the charitable donor, the amount of the tax credit not
281 used may be carried forward to apply to the charitable donor's
282 subsequent years' tax liability. No tax credit shall be allowed
283 the charitable donor against prior years' tax liability, nor shall
284 it be refundable to the charitable donor.

285 (4) The tax credits authorized by this section are
286 transferable should a charitable donor decide to sell its tax
287 credits.

288 (5) The State Tax Commission, in consultation with the
289 authority and the fiduciary organizations, shall promulgate any
290 rules and regulations necessary to implement and administer this
291 section.

292 **SECTION 12.** (1) A fiduciary organization selected under
293 Section 8 of this act shall qualify as the recipient of donations
294 made by charitable donors that qualify the donor for a tax credit
295 under Section 11 of this act as long as the fiduciary organization
296 holds the matching funds it receives in a parallel account.

297 (2) If Assets for Independence Act (AFIA) funds, or other
298 similar funds requiring a match by the grant recipient, are
299 available to be matched using individual development account fund
300 money, the amount necessary for the match may be placed in a
301 reserve account that meets the requirements to draw down the AFIA
302 or other funds.

303 (3) If certain funds are earmarked for a certain purpose,
304 including, but not limited to, Community Development Block Grant
305 (CDBG) funds, the authority shall create new accounts to keep
306 these funds separate from the general individual development
307 account fund pool.

308 (3) If an account owner is removed from the Individual
309 Development Account program under Section 4(3) of this act, all
310 matching funds accrued and the interest on matching funds shall
311 revert to the fiduciary organization.

312 **SECTION 13.** Section 27-7-15, Mississippi Code of 1972, is
313 amended as follows:

314 27-7-15. (1) For the purposes of this article, except as
315 otherwise provided, the term "gross income" means and includes the
316 income of a taxpayer derived from salaries, wages, fees or
317 compensation for service, of whatever kind and in whatever form
318 paid, including income from governmental agencies and subdivisions
319 thereof; or from professions, vocations, trades, businesses,
320 commerce or sales, or renting or dealing in property, or
321 reacquired property; also from annuities, interest, rents,
322 dividends, securities, insurance premiums, reinsurance premiums,
323 considerations for supplemental insurance contracts, or the
324 transaction of any business carried on for gain or profit, or
325 gains, or profits, and income derived from any source whatever and
326 in whatever form paid. The amount of all such items of income
327 shall be included in the gross income for the taxable year in
328 which received by the taxpayer. The amount by which an eligible
329 employee's salary is reduced pursuant to a salary reduction
330 agreement authorized under Section 25-17-5 shall be excluded from
331 the term "gross income" within the meaning of this article.

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

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

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

340 (i) Prior to January 1, 2001, federal rules,
341 regulations and revenue procedures shall be followed with respect
342 to installment sales except they shall be applied and administered
343 as if H.R. 3594, the Installment Tax Correction Act of 2000 of the
344 106th Congress, had not been enacted. This provision will
345 generally affect taxpayers, reporting on the accrual method of
346 accounting, entering into installment note agreements on or after
347 December 17, 1999. Any gain or profit resulting from the casual
348 sale of property will be recognized in the year of sale.

349 (ii) From and after January 1, 2001, federal
350 rules, regulations and revenue procedures shall be followed with
351 respect to installment sales except as provided in this
352 subparagraph (ii). Gain or profit from the casual sale of
353 property shall be recognized in the year of sale. When a taxpayer
354 recognizes gain on the casual sale of property in which the gain
355 is deferred for federal income tax purposes, a taxpayer may elect
356 to defer the payment of tax resulting from the gain as allowed and
357 to the extent provided under regulations prescribed by the
358 commissioner. If the payment of the tax is made on a deferred
359 basis, the tax shall be computed based on the applicable rate for
360 the income reported in the year the payment is made. Except as
361 otherwise provided in subparagraph (iii) of this paragraph (b),
362 deferring the payment of the tax shall not affect the liability
363 for the tax. If at any time the installment note is sold,
364 contributed, transferred or disposed of in any manner and for any
365 purpose by the original note holder, or the original note holder
366 is merged, liquidated, dissolved or withdrawn from this state,

367 then all deferred tax payments under this section shall
368 immediately become due and payable.

369 (iii) If the selling price of the property is
370 reduced by any alteration in the terms of an installment note,
371 including default by the purchaser, the gain to be recognized is
372 recomputed based on the adjusted selling price in the same manner
373 as for federal income tax purposes. The tax on this amount, less
374 the previously paid tax on the recognized gain, is payable over
375 the period of the remaining installments. If the tax on the
376 previously recognized gain has been paid in full to this state,
377 the return on which the payment was made may be amended for this
378 purpose only. The statute of limitations in Section 27-7-49 shall
379 not bar an amended return for this purpose.

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

383 (d) **Affiliated companies or persons.** As regards sales,
384 exchanges or payments for services from one to another of
385 affiliated companies or persons or under other circumstances where
386 the relation between the buyer and seller is such that gross
387 proceeds from the sale or the value of the exchange or the payment
388 for services are not indicative of the true value of the subject
389 matter of the sale, exchange or payment for services, the
390 commissioner shall prescribe uniform and equitable rules for
391 determining the true value of the gross income, gross sales,
392 exchanges or payment for services, or require consolidated returns
393 of affiliates.

394 (e) **Alimony and separate maintenance payments.** The
395 federal rules, regulations and revenue procedures in determining
396 the deductibility and taxability of alimony payments shall be
397 followed in this state.

398 (f) **Reimbursement for expenses of moving.** There shall
399 be included in gross income (as compensation for services) any

400 amount received or accrued, directly or indirectly, by an
401 individual as a payment for or reimbursement of expenses of moving
402 from one residence to another residence which is attributable to
403 employment or self-employment.

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

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

409 (a) The proceeds of life insurance policies and
410 contracts paid upon the death of the insured. However, the income
411 from the proceeds of such policies or contracts shall be included
412 in the gross income.

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

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

420 (d) Interest upon the obligations of the United States
421 or its possessions, or securities issued under the provisions of
422 the Federal Farm Loan Act of July 17, 1916, or bonds issued by the
423 War Finance Corporation, or obligations of the State of
424 Mississippi or political subdivisions thereof.

425 (e) The amounts received through accident or health
426 insurance as compensation for personal injuries or sickness, plus
427 the amount of any damages received for such injuries or such
428 sickness or injuries, or through the War Risk Insurance Act, or
429 any law for the benefit or relief of injured or disabled members
430 of the military or naval forces of the United States.

431 (f) Income received by any religious denomination or by
432 any institution or trust for moral or mental improvements,

433 religious, Bible, tract, charitable, benevolent, fraternal,
434 missionary, hospital, infirmary, educational, scientific,
435 literary, library, patriotic, historical or cemetery purposes or
436 for two (2) or more of such purposes, if such income be used
437 exclusively for carrying out one or more of such purposes.

438 (g) Income received by a domestic corporation which is
439 "taxable in another state" as this term is defined in this
440 article, derived from business activity conducted outside this
441 state. Domestic corporations taxable both within and without the
442 state shall determine Mississippi income on the same basis as
443 provided for foreign corporations under the provisions of this
444 article.

445 (h) In case of insurance companies, there shall be
446 excluded from gross income such portion of actual premiums
447 received from an individual policyholder as is paid back or
448 credited to or treated as an abatement of premiums of such
449 policyholder within the taxable year.

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

454 (j) Amounts paid by the United States to a person as
455 added compensation for hazardous duty pay as a member of the Armed
456 Forces of the United States in a combat zone designated by
457 Executive Order of the President of the United States.

458 (k) Amounts received as retirement allowances,
459 pensions, annuities or optional retirement allowances paid under
460 the federal Social Security Act, the Railroad Retirement Act, the
461 Federal Civil Service Retirement Act, or any other retirement
462 system of the United States government, retirement allowances paid
463 under the Mississippi Public Employees' Retirement System,
464 Mississippi Highway Safety Patrol Retirement System or any other
465 retirement system of the State of Mississippi or any political

466 subdivision thereof. The exemption allowed under this paragraph
467 (k) shall be available to the spouse or other beneficiary at the
468 death of the primary retiree.

469 (l) Amounts received as retirement allowances,
470 pensions, annuities or optional retirement allowances paid by any
471 public or governmental retirement system not designated in
472 paragraph (k) or any private retirement system or plan of which
473 the recipient was a member at any time during the period of his
474 employment. Amounts received as a distribution under a Roth
475 Individual Retirement Account shall be treated in the same manner
476 as provided under the Internal Revenue Code of 1986, as amended.
477 The exemption allowed under this paragraph (l) shall be available
478 to the spouse or other beneficiary at the death of the primary
479 retiree.

480 (m) Compensation not to exceed the aggregate sum of
481 Five Thousand Dollars (\$5,000.00) for any taxable year received by
482 a member of the National Guard or Reserve Forces of the United
483 States as payment for inactive duty training, active duty training
484 and state active duty.

485 (n) Compensation received for active service as a
486 member below the grade of commissioned officer and so much of the
487 compensation as does not exceed the maximum enlisted amount
488 received for active service as a commissioned officer in the Armed
489 Forces of the United States for any month during any part of which
490 such members of the Armed Forces (i) served in a combat zone as
491 designated by Executive Order of the President of the United
492 States or a qualified hazardous duty area as defined by federal
493 law, or both; or (ii) was hospitalized as a result of wounds,
494 disease or injury incurred while serving in such combat zone. For
495 the purposes of this paragraph (n), the term "maximum enlisted
496 amount" means and has the same definition as that term has in 26
497 USCS 112.

498 (o) The proceeds received from federal and state
499 forestry incentives programs.

500 (p) The amount representing the difference between the
501 increase of gross income derived from sales for export outside the
502 United States as compared to the preceding tax year wherein gross
503 income from export sales was highest, and the net increase in
504 expenses attributable to such increased exports. In the absence
505 of direct accounting the ratio of net profits to total sales may
506 be applied to the increase in export sales. This paragraph (p)
507 shall only apply to businesses located in this state engaging in
508 the international export of Mississippi goods and services. Such
509 goods or services shall have at least fifty percent (50%) of value
510 added at a location in Mississippi.

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

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

521 (s) Amounts paid by the Mississippi Soil and Water
522 Conservation Commission from the Mississippi Soil and Water
523 Cost-Share Program for the installation of water quality best
524 management practices.

525 (t) Dividends received by a holding corporation, as
526 defined in Section 27-13-1, from a subsidiary corporation, as
527 defined in Section 27-13-1.

528 (u) Interest, dividends, gains or income of any kind on
529 any account in the Mississippi Affordable College Savings Trust
530 Fund, as established in Sections 37-155-101 through 37-155-125, to

531 the extent that such amounts remain on deposit in the MACS Trust
532 Fund or are withdrawn pursuant to a qualified withdrawal, as
533 defined in Section 37-155-105.

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

537 (w) Income resulting from transactions with a related
538 member where the related member subject to tax under this chapter
539 was required to, and did in fact, add back the expense of such
540 transactions as required by Section 27-7-17(2). Under no
541 circumstances may the exclusion from income exceed the deduction
542 add-back of the related member, nor shall the exclusion apply to
543 any income otherwise excluded under this chapter.

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

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

551 (z) Interest, dividends, gains or income of any kind on
552 any account in a qualified tuition program and amounts received as
553 distributions under a qualified tuition program shall be treated
554 in the same manner as provided under the United States Internal
555 Revenue Code, as amended. For the purposes of this paragraph (z),
556 the term "qualified tuition program" means and has the same
557 definition as that term has in 26 USCS 529.

558 (aa) The amount deposited in a health savings account,
559 and any interest accrued thereon, that is a part of a health
560 savings account program as specified in the Health Savings
561 Accounts Act created in Sections 83-62-1 through 83-62-9; however,
562 any amount withdrawn from such account for purposes other than
563 paying qualified medical expenses or to procure health coverage

564 shall be included in gross income, except as otherwise provided by
565 Sections 83-62-7 and 83-62-9.

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

569 (cc) Amounts received as a "qualified Hurricane Katrina
570 distribution" as defined in the United States Internal Revenue
571 Code, as amended.

572 (dd) Amounts deposited into or withdrawn from
573 individual development accounts as provided in Section 7 of Senate
574 Bill No. 2824, 2006 Regular Session.

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

576 (a) **Members of the Armed Forces.** Gross income does not
577 include compensation received for active service as a member of
578 the Armed Forces of the United States for any month during any
579 part of which such member is in a missing status, as defined in
580 paragraph (d) of this subsection, during the Vietnam Conflict as a
581 result of such conflict.

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

586 (c) **Period of conflict.** For the purpose of this
587 subsection, the Vietnam Conflict began February 28, 1961, and ends
588 on the date designated by the President by Executive Order as the
589 date of the termination of combatant activities in Vietnam. For
590 the purpose of this subsection, an individual is in a missing
591 status as a result of the Vietnam Conflict if immediately before
592 such status began he was performing service in Vietnam or was
593 performing service in Southeast Asia in direct support of military
594 operations in Vietnam. "Southeast Asia," as used in this
595 paragraph, is defined to include Cambodia, Laos, Thailand and
596 waters adjacent thereto.

597 (d) "Missing status" means the status of an employee or
598 member of the Armed Forces who is in active service and is
599 officially carried or determined to be absent in a status of (i)
600 missing; (ii) missing in action; (iii) interned in a foreign
601 country; (iv) captured, beleaguered or besieged by a hostile
602 force; or (v) detained in a foreign country against his will; but
603 does not include the status of an employee or member of the Armed
604 Forces for a period during which he is officially determined to be
605 absent from his post of duty without authority.

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

609 (f) "Employee" means one who is a citizen or national
610 of the United States or an alien admitted to the United States for
611 permanent residence and is a resident of the State of Mississippi
612 and is employed in or under a federal executive agency or
613 authority of the Armed Forces.

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

618 (h) If refund or credit of any overpayment of tax for
619 any taxable year resulting from the application of subsection (5)
620 of this section is prevented by the operation of any law or rule
621 of law, such refund or credit of such overpayment of tax may,
622 nevertheless, be made or allowed if claim therefor is filed with
623 the State Tax Commission within three (3) years after the date of
624 the enactment of this subsection.

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

627 (6) A shareholder of an S corporation, as defined in Section
628 27-8-3(1)(g), shall take into account the income, loss, deduction

629 or credit of the S corporation only to the extent provided in
630 Section 27-8-7(2).

631 **SECTION 14.** This act shall take effect and be in force from
632 and after July 1, 2006.