

By: Representatives Moore, Bomgar, Brown,
Formby, Johnson (87th), Touchstone, Currie

To: Revenue and Expenditure
General Bills

HOUSE BILL NO. 1080

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
 4 EDUCATIONAL EXPENSES; TO PROVIDE FOR A TAX CREDIT NOT TO EXCEED
 5 50% OF THE TAXPAYERS TAX LIABILITY FOR CONTRIBUTIONS TO CERTAIN
 6 SCHOLARSHIP ORGANIZATIONS; TO STIPULATE THE REQUIREMENTS FOR
 7 NONPUBLIC SCHOOLS ACCEPTING STUDENTS FOR ENROLLMENT WHO RECEIVE
 8 SCHOLARSHIPS UNDER THE PROVISIONS OF THIS ACT; TO PRESCRIBE THE
 9 REQUIREMENTS FOR SCHOLARSHIP ORGANIZATIONS ADMINISTERING TAX
 10 CREDIT SCHOLARSHIPS; TO REQUIRE THE DEPARTMENT OF REVENUE TO
 11 PROVIDE AN ANNUAL LEGISLATIVE REPORT ON THE TAX CREDITS ALLOWED
 12 UNDER THIS ACT; TO ALLOW PARENTS TO REQUEST AN ASSESSMENT OF
 13 EDUCATIONAL PROGRESS OF STUDENTS ENROLLED; TO PRESCRIBE THE POWERS
 14 AND DUTIES OF THE DEPARTMENT OF REVENUE WITH REGARD TO THE
 15 ADMINISTRATION OF THIS ACT; TO PROVIDE THAT NONPUBLIC SCHOOLS
 16 WHICH ADMIT STUDENTS RECEIVING TAX CREDIT SCHOLARSHIPS ARE NOT
 17 AGENTS OF THE STATE OR FEDERAL GOVERNMENT; TO AMEND SECTION
 18 27-7-15, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT AMOUNTS
 19 RECEIVED AS TAX CREDIT SCHOLARSHIPS TO PAY EDUCATIONAL EXPENSES
 20 SHALL BE EXCLUDED FROM GROSS INCOME; AND 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 were not enrolled in a nonpublic school
47 during the school year prior to first receiving a tax credit
48 scholarship under 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 educational 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 educational 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 this act shall:

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

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

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

123 (d) Annually make available to parents and supporting
124 scholarship organizations an assessment of educational progress of
125 scholarship recipients in order to ensure that schools provide



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

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

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

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

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

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

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

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



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

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

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



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

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

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

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

195 **SECTION 7.** The Mississippi Department of Revenue shall:

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



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

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

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

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

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



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

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

229 (d) The number of scholarship organizations;

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

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

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

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

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

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



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

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

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

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

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

268 27-7-15. (1) For the purposes of this article, except as
269 otherwise provided, the term "gross income" means and includes the
270 income of a taxpayer derived from salaries, wages, fees or
271 compensation for service, of whatever kind and in whatever form
272 paid, including income from governmental agencies and subdivisions



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

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

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

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

294 (i) Prior to January 1, 2001, federal rules,
295 regulations and revenue procedures shall be followed with respect
296 to installment sales except they shall be applied and administered
297 as if H.R. 3594, the Installment Tax Correction Act of 2000 of the



298 106th Congress, had not been enacted. This provision will
299 generally affect taxpayers, reporting on the accrual method of
300 accounting, entering into installment note agreements on or after
301 December 17, 1999. Any gain or profit resulting from the casual
302 sale of property will be recognized in the year of sale.

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



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

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

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



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

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

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

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

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

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



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

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

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

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

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



396 state shall determine Mississippi income on the same basis as
397 provided for foreign corporations under the provisions of this
398 article.

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

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

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

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



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

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

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

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



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

452 (o) The proceeds received from federal and state
453 forestry incentive programs.

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

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

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



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

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

479 (t) Dividends received by a holding corporation, as
480 defined in Section 27-13-1, from a subsidiary corporation, as
481 defined in Section 27-13-1.

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

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

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



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

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

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

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

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



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

523 (cc) Amounts received as a "qualified Hurricane Katrina
524 distribution" as defined in the United States Internal Revenue
525 Code, as amended.

526 (dd) Amounts received by an individual which may be
527 excluded from income as foreign earned income for federal income
528 tax purposes.

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

534 (i) "Qualified individual" means any individual
535 whose household income does not exceed one hundred twenty percent
536 (120%) of the area median gross income (as defined by the United
537 States Department of Housing and Urban Development), adjusted for
538 household size, for the area in which the housing is located.

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

- 543 1. Homeownership education or counseling;
544 2. The development of affordable housing; or



545 3. The development or administration of
546 employer-assisted housing programs.

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

553 (iv) "Qualified housing expenses" means:

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

558 2. With respect to homeownership assistance,
559 an amount not to exceed the lesser of Ten Thousand Dollars
560 (\$10,000.00) or six percent (6%) of the purchase price of the
561 employee's principal residence that is paid for the purpose of
562 assisting employees with down payments, payment of closing costs,
563 reduced interest mortgages, mortgage guarantee programs, mortgage
564 forgiveness programs, equity contribution programs, or
565 contributions to home buyer education and/or homeownership
566 counseling of eligible employees.

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



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

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

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

584 (ii) Amounts received as a Tax Credit Scholarship under
585 Sections 1 through 11 of this act to pay educational expenses as
586 defined in Section 2 of this act.

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

588 (a) **Members of the Armed Forces.** Gross income does not
589 include compensation received for active service as a member of
590 the Armed Forces of the United States for any month during any
591 part of which such member is in a missing status, as defined in
592 paragraph (d) of this subsection, during the Vietnam Conflict as a
593 result of such conflict.



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

598 (c) **Period of conflict.** For the purpose of this
599 subsection, the Vietnam Conflict began February 28, 1961, and ends
600 on the date designated by the President by Executive Order as the
601 date of the termination of combatant activities in Vietnam. For
602 the purpose of this subsection, an individual is in a missing
603 status as a result of the Vietnam Conflict if immediately before
604 such status began he was performing service in Vietnam or was
605 performing service in Southeast Asia in direct support of military
606 operations in Vietnam. "Southeast Asia," as used in this
607 paragraph, is defined to include Cambodia, Laos, Thailand and
608 waters adjacent thereto.

609 (d) "Missing status" means the status of an employee or
610 member of the Armed Forces who is in active service and is
611 officially carried or determined to be absent in a status of (i)
612 missing; (ii) missing in action; (iii) interned in a foreign
613 country; (iv) captured, beleaguered or besieged by a hostile
614 force; or (v) detained in a foreign country against his will; but
615 does not include the status of an employee or member of the Armed
616 Forces for a period during which he is officially determined to be
617 absent from his post of duty without authority.



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

621 (f) "Employee" means one who is a citizen or national
622 of the United States or an alien admitted to the United States for
623 permanent residence and is a resident of the State of Mississippi
624 and is employed in or under a federal executive agency or
625 department of the Armed Forces.

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

630 (h) If refund or credit of any overpayment of tax for
631 any taxable year resulting from the application of this subsection
632 (5) * * * is prevented by the operation of any law or rule of law,
633 such refund or credit of such overpayment of tax may,
634 nevertheless, be made or allowed if claim therefor is filed with
635 the Department of Revenue within three (3) years after the date of
636 the enactment of this subsection.

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

639 (6) A shareholder of an S corporation, as defined in Section
640 27-8-3(1)(g), shall take into account the income, loss, deduction
641 or credit of the S corporation only to the extent provided in
642 Section 27-8-7(2).



643 **SECTION 13.** This act shall take effect and be in force from
644 and after January 1, 2016.

