

By: Senator(s) Hopson

To: Appropriations

SENATE BILL NO. 2772
(As Sent to Governor)

1 AN ACT TO DIRECT THE STATE FISCAL OFFICER TO MAKE TRANSFERS
2 OF CERTAIN FUNDS; TO AUTHORIZE THE DEPARTMENT OF FINANCE AND
3 ADMINISTRATION TO ESCALATE CERTAIN FUNDS DURING FISCAL YEAR 2020;
4 TO PROVIDE A STATEMENT OF LEGISLATIVE INTENT AND FINDINGS; TO
5 CREATE THE "MISSISSIPPI COVID-19 RELIEF PAYMENT FUND" AS A SPECIAL
6 FUND IN THE STATE TREASURY FOR THE PURPOSE OF PROVIDING FUNDS FOR
7 PAYMENTS TO CERTAIN TAXPAYERS UNDER THIS ACT; TO SPECIFY THAT ALL
8 MONIES SHALL BE DISBURSED FROM THIS SPECIAL FUND IN COMPLIANCE
9 WITH THE REQUIREMENTS OF THE CORONAVIRUS AID, RELIEF, AND ECONOMIC
10 SECURITY (CARES) ACT AND GUIDELINES FROM THE UNITED STATES
11 DEPARTMENT OF THE TREASURY REGARDING THE USE OF MONIES FROM THE
12 CORONAVIRUS RELIEF FUND; TO AUTHORIZE THE GOVERNOR TO TRANSFER
13 UNOBLIGATED MONIES IN THE FUND AS OF NOVEMBER 1, 2020, TO ANOTHER
14 STATE AGENCY FOR USE PURSUANT TO THE CARES ACT; TO PROVIDE THAT
15 THE DEPARTMENT OF REVENUE SHALL ESTABLISH A PROGRAM TO PROVIDE
16 DIRECT PAYMENTS TO TAXPAYERS WITH CERTAIN NORTH AMERICAN INDUSTRY
17 CLASSIFICATION SYSTEM CODES THAT WERE SUBJECT TO COVID-19 RELATED
18 STATE, MUNICIPAL AND/OR COUNTY REQUIRED BUSINESS CLOSURES; TO SET
19 THE DIRECT PAYMENT AMOUNT AT \$2,000.000 PER ELIGIBLE TAXPAYER; TO
20 PROVIDE THAT THE DEPARTMENT OF REVENUE MAY COORDINATE WITH VARIOUS
21 PROFESSIONAL LICENSING BOARDS AND OTHER REGULATORY ENTITIES FOR
22 THE PURPOSE OF DETERMINING TAXPAYERS ELIGIBLE FOR PAYMENTS UNDER
23 THIS ACT; TO PROVIDE THAT THE DEPARTMENT OF REVENUE SHALL COMPILE
24 A REPORT OF ELIGIBLE TAXPAYERS AND PROVIDE THE REPORT TO THE
25 DEPARTMENT OF FINANCE AND ADMINISTRATION, WHICH SHALL DISBURSE THE
26 PAYMENTS AUTHORIZED UNDER THIS ACT; TO DIRECT OTHER STATE OFFICES
27 AND AGENCIES TO ASSIST THE MDA IN CARRYING OUT ITS DUTIES UNDER
28 THIS ACT; TO CREATE THE "2020 COVID-19 MISSISSIPPI BUSINESS
29 ASSISTANCE ACT"; TO DEFINE TERMS; TO ESTABLISH THE "BACK TO
30 BUSINESS MISSISSIPPI GRANT PROGRAM," TO BE ADMINISTERED BY THE
31 MISSISSIPPI DEVELOPMENT AUTHORITY, FOR THE PURPOSE OF MAKING
32 GRANTS TO ELIGIBLE BUSINESSES TO REIMBURSE THEM FOR ELIGIBLE
33 EXPENSES; TO SPECIFY THE PRIORITY OF ELIGIBLE BUSINESSES AWARDED
34 GRANTS UNDER THE PROGRAM; TO DIRECT THE MISSISSIPPI DEVELOPMENT



35 AUTHORITY TO DEVELOP REGULATIONS, PROCEDURES AND APPLICATION FORMS
36 TO GOVERN THE ADMINISTRATION OF THE PROGRAM; TO ALLOW THE
37 MISSISSIPPI DEVELOPMENT AUTHORITY TO RETAIN A PORTION OF GRANT
38 MONIES, NOT TO EXCEED \$900,000.00, TO COVER ITS EXPENSES IN
39 ADMINISTERING THE PROGRAM; TO PRESCRIBE THE REQUIREMENTS OF
40 APPLICATION FOR THE GRANT; TO SPECIFY THAT THE USE OF GRANT FUNDS
41 SHALL BE SUBJECT TO AUDIT, AND NONCOMPLIANCE WITH THE TERMS OF THE
42 GRANT SHALL REQUIRE REPAYMENT OF GRANT MONIES TO THE STATE; TO SET
43 CRITERIA FOR DETERMINING THE AMOUNTS OF THE PAYMENTS; TO REQUIRE
44 THAT AT LEAST \$40,000,000.00 IN GRANTS, EXCLUSIVE OF
45 ADMINISTRATIVE EXPENSES RETAINED BY THE MDA, BE AWARDED TO
46 MINORITY BUSINESS ENTERPRISES; TO SPECIFY THAT GRANTS AWARDED
47 SHALL NOT BE SUBJECT TO TAX, BUT ELIGIBLE EXPENSES FOR WHICH
48 GRANTS ARE RECEIVED MAY NOT BE ITEMIZED AS TAX DEDUCTIONS; TO
49 CREATE THE "BACK TO BUSINESS MISSISSIPPI GRANT FUND" IN THE STATE
50 TREASURY TO FINANCE THE PROGRAM; TO SPECIFY THAT ALL MONIES SHALL
51 BE DISBURSED FROM THIS SPECIAL FUND IN COMPLIANCE WITH THE
52 REQUIREMENTS OF THE CARES ACT AND GUIDELINES FROM THE UNITED
53 STATES DEPARTMENT OF THE TREASURY REGARDING THE USE OF MONIES FROM
54 THE CORONAVIRUS RELIEF FUND; TO AUTHORIZE THE GOVERNOR TO TRANSFER
55 UNOBLIGATED MONIES IN THE FUND AS OF NOVEMBER 1, 2020, TO ANOTHER
56 STATE AGENCY FOR USE PURSUANT TO THE CARES ACT; TO DIRECT OTHER
57 STATE OFFICES AND AGENCIES TO ASSIST THE MDA IN CARRYING OUT ITS
58 DUTIES UNDER THIS ACT; TO DIRECT THE MDA TO WORK WITH THE
59 DEPARTMENT OF REVENUE TO VERIFY APPLICANT TAX INFORMATION, AND
60 WITH THE DEPARTMENT OF HUMAN SERVICES TO PROMOTE APPLICATION BY
61 CHILDCARE ORGANIZATIONS; TO DIRECT THE SECRETARY OF STATE TO
62 NOTIFY ALL REGISTERED BUSINESSES OF THE AVAILABILITY OF GRANTS
63 UNDER THE PROGRAM; TO PROVIDE THAT FUNDS RECEIVED UNDER THE
64 PAYCHECK PROTECTION PROGRAM (PPP) SHALL NOT BE SUBJECT TO TAX, BUT
65 ELIGIBLE EXPENSES FOR WHICH PPP FUNDS ARE RECEIVED MAY NOT BE
66 ITEMIZED AS TAX DEDUCTIONS; TO PROVIDE THAT A DECLARATION OF ANY
67 PORTION OF THIS ACT AS INVALID SHALL NOT AFFECT THE REMAINING
68 PORTIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

70 **SECTION 1.** (1) Upon the effective date of this act, the
71 State Fiscal Officer shall transfer to the Capital Expense Fund
72 out of the Budget Contingency Fund (Fund Number
73 6117700000).....\$ 7,599,822.00.

74 (2) Upon the effective date of this act, the State Fiscal
75 Officer shall transfer to the Budget Contingency Fund out of the
76 DFA CARES ACT COVID-19 Fund (Fund Number



77 6820113000).....\$ 900,000,000.00.

78 (3) Upon the effective date of this act, the State Fiscal
79 Officer shall transfer to the Mississippi COVID-19 Relief Payment
80 Fund created by this act out of the DFA CARES ACT COVID-19 Fund
81 (Fund Number 6820113000)

82\$ 60,000,000.00.

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

86 (4) Upon the effective date of this act, the State Fiscal
87 Officer shall transfer to the Back to Business Mississippi Grant
88 Fund created by this act out of the DFA CARES ACT COVID-19 Fund
89 (Fund Number 6820113000)

90\$ 240,000,000.00.

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

94 **SECTION 2.** During fiscal year 2020, the Department of
95 Finance and Administration shall have the authority to receive,
96 budget and escalate federal funds in the DFA CARES ACT COVID-19
97 Fund (Fund Number 6820113000) in an amount not to exceed Fifty
98 Million Dollars (\$50,000,000.00) for defraying expenses incurred
99 by any state agency, department or institution for the purposes
100 provided under the Coronavirus Relief Fund, Section 5001 of the



101 federal Coronavirus Aid, Relief, and Economic Security Act (P.L.
102 116-136).

103 **SECTION 3.** The Legislature intends to provide economic
104 support to eligible Mississippi businesses for costs incurred in
105 connection with the Coronavirus Disease 2019 (COVID-19), including
106 business interruption caused by forced closures or restricted
107 operations resulting from voluntary closures instituted to promote
108 social distancing measures, decreased customer demand, cleaning or
109 disinfection, and provision of personal protective equipment.
110 Eligible expenses shall not include any damage paid by business
111 interruption insurance or disallowed by Section 5001 of the
112 Coronavirus Aid, Relief, and Economic Security (CARES) Act or any
113 guidance or regulation issued by the United States Department of
114 the Treasury in conformity therewith.

115 In order to expedite payment to businesses in need of
116 economic support due to required or voluntary closures related to
117 COVID-19, while minimizing administrative costs and delays, the
118 Legislature finds that a direct payment of Two Thousand Dollars
119 (\$2,000.00) per business is a necessary expense, as provided for
120 in Section 4 of this act. The Legislature finds further that an
121 application process is warranted for the provision of additional
122 compensation, whereby eligible businesses not wishing to itemize
123 their expenses may receive, subject to approval, a base payment of
124 One Thousand Five Hundred Dollars (\$1,500.00) plus Five Hundred
125 Dollars (\$500.00) per full-time equivalent employee as a



126 reasonable estimate of their costs incurred, as provided for in
127 Sections 5 through 10 of this act.

128 **SECTION 4.** (1) As used in this section, the following words
129 and phrases shall have the meanings ascribed in this section
130 unless the context clearly indicates otherwise:

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

132 (b) "Department" means the Mississippi Department of
133 Revenue.

134 (c) "Eligible taxpayer" means a resident taxpayer, or a
135 taxpayer with a permanent place of business located in the state,
136 that:

137 (i) Was registered with the department before
138 March 1, 2020, had an Employer Identification Number or Social
139 Security Number before March 1, 2020, and/or had an active
140 department withholding account established before March 1, 2020,
141 which withholding account was not for the purposes of paying
142 household employees or as a home healthcare recipient;

143 (ii) Had a North American Industry Classification
144 System Code of 4421, 4422, 4481, 4482, 4483, 4511, 4512, 4531,
145 4532, 4533, 4539, 5121, 6116, 6244, 7111, 7112, 7131, 7139, 7225
146 or 8121, before March 1, 2020, and was engaged as an active
147 business in such activity before March 1, 2020;

148 (iii) Was subject to any COVID-19 related state,
149 municipal and/or county required business closure or voluntary
150 closure;



151 (iv) Filed Mississippi taxes for tax year 2018 or
152 2019, or, for an eligible business formed on or after January 1,
153 2020, intends to file Mississippi taxes for tax year 2020, unless
154 exempt under Section 27-7-29, Section 27-13-63 or other applicable
155 provision of law;

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

158 (vi) Is not a subsidiary of a business with more
159 than fifty (50) full-time equivalent employees, is not part of a
160 larger business enterprise with more than fifty (50) full-time
161 equivalent employees and is not owned by a business with more than
162 fifty (50) full-time equivalent employees.

163 (2) (a) There is hereby created in the State Treasury a
164 special fund to be designated as the "Mississippi COVID-19 Relief
165 Payment Fund," which shall consist of funds made available by the
166 Legislature in any manner and funds from any other source
167 designated for deposit into such fund. Unexpended amounts
168 remaining in the fund at the end of a fiscal year shall not lapse
169 into the State General Fund, and any investment earnings or
170 interest earned on amounts in the fund shall be deposited to the
171 credit of the fund. Monies in the fund shall be used for the
172 purpose of providing payments to eligible taxpayers as provided in
173 this section. Monies in the fund shall be administered and
174 disbursed by the Department of Finance and Administration in
175 compliance with the guidelines, guidance, rules, regulations



176 and/or other criteria, as may be amended from time to time, of the
177 United States Department of the Treasury regarding the use of
178 monies from the Coronavirus Relief Fund established by the
179 Coronavirus Aid, Relief, and Economic Security Act. If on
180 November 1, 2020, there are unobligated monies in the fund, the
181 Governor shall have the discretion to transfer monies to another
182 state agency to be used for eligible expenditures pursuant to the
183 Coronavirus Aid, Relief, and Economic Security (CARES) Act.

184 (b) The department shall establish a program to provide
185 a payment of Two Thousand Dollars (\$2,000.00) to each eligible
186 taxpayer. The department may coordinate with various professional
187 licensing boards and other regulatory entities and agencies for
188 the purpose of identifying eligible taxpayers as defined herein
189 and compile a report of eligible taxpayers. The department shall
190 certify the report to the Department of Finance and
191 Administration, which shall disburse the payments authorized under
192 this section to eligible taxpayers.

193 (c) To effectuate the purposes of this act, any office,
194 division, board, bureau, committee, institution or agency of the
195 state, or any political subdivision thereof, shall, at the request
196 of the department, provide the employees, facilities, assistance,
197 information and data needed to enable the department to carry out
198 its duties.



199 **SECTION 5.** Sections 5 through 10 of this act shall be known
200 and may be cited as the "2020 COVID-19 Mississippi Business
201 Assistance Act."

202 **SECTION 6.** As used in Sections 5 through 10 of this act, the
203 following terms shall have the meanings ascribed unless the
204 context otherwise requires:

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

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

208 (c) "Eligible business" means a for-profit corporation,
209 a limited liability company, a partnership or a sole
210 proprietorship that:

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

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

214 (iii) Suffered an interruption of business;

215 (iv) Has a controlling interest owned by one or
216 more Mississippi residents, whether individual resident citizens
217 or Mississippi domestic business entities;

218 (v) Filed Mississippi taxes for tax year 2018 or
219 2019, or, for an eligible business formed on or after January 1,
220 2020, intends to file Mississippi taxes for tax year 2020, unless
221 exempt under Section 27-7-29, Section 27-13-63 or other applicable
222 provision of law;



223 (vi) Has customers or employees coming to its
224 physical premises, conducts business on customer premises, or has
225 an owner who is an active participant in the day-to-day operations
226 of the business;

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

229 (viii) Is not a subsidiary of a business with more
230 than fifty (50) full-time equivalent employees, is not part of a
231 larger business enterprise with more than fifty (50) full-time
232 equivalent employees and is not owned by a business with more than
233 fifty (50) full-time equivalent employees;

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

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

241 (d) "Interruption of business" means disruption of
242 regular business operations resulting from required or voluntary
243 closure related to COVID-19.

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

246 (f) "Eligible expense" means a cost incurred by an
247 eligible business for public health measures or due to



248 interruption of business. Eligible expenses due to interruption
249 of business may consist only of mortgage interest, rent, payroll
250 and utilities, or other COVID-19-related expenses allowed by law,
251 each for no more than a two-month period. Eligible expenses shall
252 not include lost profits. No cost will be considered an eligible
253 expense if found to be ineligible under the guidelines, guidance,
254 rules, regulations and/or other criteria, as may be amended from
255 time to time, of the United States Department of the Treasury
256 regarding the use of monies from the Coronavirus Relief Fund
257 established by the CARES Act.

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

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

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

264 (j) "Minority business enterprise" means a socially and
265 economically disadvantaged small business concern performing a
266 commercially useful function which is owned and controlled by one
267 or more minorities or minority business enterprises certified by
268 the Mississippi Development Authority, at least fifty percent
269 (50%) of whom are resident citizens of the State of Mississippi.
270 Except as otherwise provided, for purposes of this act, the term
271 "socially and economically disadvantaged small business concern"
272 shall have the meaning ascribed to such term under the Small



273 Business Act, 15 USC Section 637(a), or women, and the term "owned
274 and controlled" means a business in which one or more minorities
275 or minority business enterprises certified by the Mississippi
276 Development Authority own sixty percent (60%) or, in the case of a
277 corporation, sixty percent (60%) of the voting stock, and control
278 sixty percent (60%) of the management and daily business
279 operations of the business.

280 **SECTION 7.** (1) The Legislature facilitates access by
281 Mississippi small businesses to federal relief and recovery funds
282 related to COVID-19. Accordingly, the Back to Business
283 Mississippi Grant Program is established, to be administered by
284 the MDA, for the purpose of making grants to eligible businesses
285 to reimburse them for eligible expenses as defined in Sections 5
286 through 10 of this act.

287 (2) From the date of the beginning of the period for
288 applications for grants under this section, the MDA shall for the
289 first twenty-one (21) days of the application period only consider
290 and review applications from eligible businesses that (i) did not
291 receive a United States Small Business Administration-Guaranty
292 Paycheck Protection Program loan and/or a United States Small
293 Business Administration Economic Injury Disaster Loan Emergency
294 Advance, (ii) did not receive and has not been awarded
295 reimbursement under any other federal program for the expenses
296 that will be reimbursed by a grant under this section and (iii)
297 did not receive compensation from an insurance company for the



298 interruption of business. After the completion of such
299 twenty-one-day period, the MDA shall consider and review
300 applications from any eligible businesses.

301 (3) The MDA shall develop regulations, procedures and
302 application forms to govern the administration of the program.
303 The MDA may enter into a personal services contract, subject to
304 approval by the Public Procurement Review Board, for the
305 administrative services of the program. The contract shall be let
306 and awarded after receiving at least two (2) bids for time and
307 expense not to exceed Nine Hundred Thousand Dollars (\$900,000.00).
308 The MDA may retain up to Nine Hundred Thousand Dollars
309 (\$900,000.00) of monies available under Sections 5 through 10 of
310 this act to pay reasonable expenses incurred in the administration
311 of the program.

312 **SECTION 8.** (1) Any eligible business desiring to
313 participate in the program shall make application for a grant to
314 the MDA in a form satisfactory to the MDA. The application shall
315 include verified documentation, signed under penalty of perjury.

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

320 (3) The use of grants shall be subject to audit by the
321 United States Department of the Treasury's Office of Inspector
322 General and the Mississippi Office of the State Auditor. A



323 business found to be fully or partially noncompliant with grant
324 requirements shall return to the state all or a portion of the
325 grant monies received. Applicants shall confirm their
326 understanding of these terms.

327 (4) The program shall be subject to the following terms and
328 conditions:

329 (a) The base payment to an eligible business shall be
330 One Thousand Five Hundred Dollars (\$1,500.00). An eligible
331 business may choose to receive additional compensation by either
332 claiming Five Hundred Dollars (\$500.00) per full-time equivalent
333 employee employed by the eligible business as of March 1, 2020, or
334 itemizing eligible expenses on the application form. The total
335 payment shall be reduced by the amount of any Paycheck Protection
336 Program (PPP) funds, Economic Injury Disaster Loan (EIDL)
337 Emergency Advance funds up to a maximum of Ten Thousand Dollars
338 (\$10,000.00), and business interruption insurance proceeds
339 received by the eligible taxpayer; provided, however, that the
340 total payment shall not be reduced by more than half. In no event
341 shall the total payment to an eligible business under this section
342 exceed Twenty-five Thousand Dollars (\$25,000.00).

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



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

350 **SECTION 9.** There is created a special fund in the State
351 Treasury, to be known as the "Back to Business Mississippi Grant
352 Fund," from which the grants authorized by this act shall be
353 disbursed by the MDA. All monies shall be disbursed from the fund
354 in compliance with the guidelines, guidance, rules, regulations
355 and/or other criteria, as may be amended from time to time, of the
356 United States Department of the Treasury regarding the use of
357 monies from the Coronavirus Relief Fund established by the CARES
358 Act. If on November 1, 2020, there are unobligated monies in the
359 fund, the Governor shall have the discretion to transfer monies to
360 another state agency to be used for eligible expenditures pursuant
361 to the CARES Act.

362 **SECTION 10.** To effectuate the purposes of Sections 5 through
363 10 of this act, any office, division, board, bureau, committee,
364 institution or agency of the state, or any political subdivision
365 thereof, shall, at the request of the MDA, provide the employees,
366 facilities, assistance, information and data needed to enable the
367 MDA to carry out its duties. The MDA shall, at a minimum, work
368 with the Department of Revenue to verify applicant tax
369 information, and with the Department of Human Services to promote
370 application by childcare organizations.



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

374 **SECTION 11.** Funds received under the Paycheck Protection
375 Program (PPP) shall not be subject to tax; however, eligible
376 expenses for which PPP funds are received may not be itemized as
377 tax deductions.

378 **SECTION 12.** If any section, paragraph, sentence, clause,
379 phrase or any part of this act is declared to be in conflict with
380 federal law, or if for any reason is declared to be invalid or of
381 no effect, the remaining sections, paragraphs, sentences, clauses,
382 phrases or parts thereof shall be in no manner affected thereby
383 but shall remain in full force and effect.

384 **SECTION 13.** This act shall take effect and be in force from
385 and after its passage.

