

By: Representatives Stribling, Denny

To: Ways and Means

## HOUSE BILL NO. 1664

1 AN ACT TO AMEND SECTION 27-7-15, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT PREMIUMS PAID BY AN INDIVIDUAL FOR HEALTH INSURANCE  
3 THAT IS OFFERED THROUGH THE INDIVIDUAL'S EMPLOYER SHALL BE  
4 EXCLUDED FROM GROSS INCOME FOR STATE INCOME TAX PURPOSES; TO AMEND  
5 SECTION 27-7-18, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT  
6 PREMIUMS PAID BY AN INDIVIDUAL FOR HEALTH INSURANCE THAT IS NOT  
7 OFFERED BY OR THROUGH THE INDIVIDUAL'S EMPLOYER SHALL BE AN  
8 ADJUSTMENT TO GROSS INCOME FOR STATE INCOME TAX PURPOSES; AND FOR  
9 RELATED PURPOSES.

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

11 SECTION 1. Section 27-7-15, Mississippi Code of 1972, is  
12 amended as follows:

13 27-7-15. (1) For the purposes of this article, except as  
14 otherwise provided, the term "gross income" means and includes the  
15 income of a taxpayer derived from salaries, wages, fees or  
16 compensation for service, of whatever kind and in whatever form  
17 paid, including income from governmental agencies and subdivisions  
18 thereof; or from professions, vocations, trades, businesses,  
19 commerce or sales, or renting or dealing in property, or  
20 reacquired property; also from annuities, interest, rents,  
21 dividends, securities, insurance premiums, reinsurance premiums,  
22 considerations for supplemental insurance contracts, or the  
23 transaction of any business carried on for gain or profit, or  
24 gains, or profits, and income derived from any source whatever and  
25 in whatever form paid. The amount of all such items of income  
26 shall be included in the gross income for the taxable year in  
27 which received by the taxpayer. The amount by which an eligible  
28 employee's salary is reduced pursuant to a salary reduction  
29 agreement authorized under Section 25-17-5 shall be excluded from  
30 the term "gross income" within the meaning of this article.

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

34           (a) Dealers in property. Federal rules, regulations  
35 and revenue procedures shall be followed with respect to  
36 installment sales.

37           (b) Casual sales of property. Federal rules,  
38 regulations and revenue procedures shall be followed with respect  
39 to installment sales.

40           (i) The term "installment sale" means a  
41 disposition of property where at least one (1) payment is to be  
42 received after the close of the taxable year in which the  
43 disposition occurs.

44           (ii) The term "installment method" means a method  
45 under which the income recognized for any taxable year from the  
46 disposition is that proportion of the payments received in that  
47 year which the gross profit (realized or to be realized when  
48 payment is completed) bears to the total contract price.

49           (c) Reserves of insurance companies. In the case of  
50 insurance companies, any amounts in excess of the legally required  
51 reserves shall be included as gross income.

52           (d) Affiliated companies or persons. As regards sales,  
53 exchanges or payments for services from one to another of  
54 affiliated companies or persons or under other circumstances where  
55 the relation between the buyer and seller is such that gross  
56 proceeds from the sale or the value of the exchange or the payment  
57 for services are not indicative of the true value of the subject  
58 matter of the sale, exchange or payment for services, the  
59 commissioner shall prescribe uniform and equitable rules for  
60 determining the true value of the gross income, gross sales,  
61 exchanges or payment for services, or require consolidated returns  
62 of affiliates.

63           (e) Alimony and separate maintenance payments. The  
64 federal rules, regulations and revenue procedures in determining

65 the deductibility and taxability of alimony payments shall be  
66 followed in this state.

67 (f) Reimbursement for expenses of moving. There shall  
68 be included in gross income (as compensation for services) any  
69 amount received or accrued, directly or indirectly, by an  
70 individual as a payment for or reimbursement of expenses of moving  
71 from one residence to another residence which is attributable to  
72 employment or self-employment.

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

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

78 (a) The proceeds of life insurance policies and  
79 contracts paid upon the death of the insured. However, the income  
80 from the proceeds of such policies or contracts shall be included  
81 in the gross income.

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

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

89 (d) Interest upon the obligations of the United States  
90 or its possessions, or securities issued under the provisions of  
91 the Federal Farm Loan Act of July 17, 1916, or bonds issued by the  
92 War Finance Corporation, or obligations of the State of  
93 Mississippi or political subdivisions thereof.

94 (e) The amounts received through accident or health  
95 insurance as compensation for personal injuries or sickness, plus  
96 the amount of any damages received for such injuries or such  
97 sickness or injuries, or through the War Risk Insurance Act, or  
98 any law for the benefit or relief of injured or disabled members

99 of the military or naval forces of the United States.

100 (f) Income received by any religious denomination or by  
101 any institution or trust for moral or mental improvements,  
102 religious, Bible, tract, charitable, benevolent, fraternal,  
103 missionary, hospital, infirmary, educational, scientific,  
104 literary, library, patriotic, historical or cemetery purposes or  
105 for two (2) or more of such purposes, if such income be used  
106 exclusively for carrying out one or more of such purposes.

107 (g) Income received by a domestic corporation which is  
108 "taxable in another state" as this term is defined in this  
109 article, derived from business activity conducted outside this  
110 state. Domestic corporations taxable both within and without the  
111 state shall determine Mississippi income on the same basis as  
112 provided for foreign corporations under the provisions of this  
113 article.

114 (h) In case of insurance companies, there shall be  
115 excluded from gross income such portion of actual premiums  
116 received from an individual policyholder as is paid back or  
117 credited to or treated as an abatement of premiums of such  
118 policyholder within the taxable year.

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

123 (j) Amounts paid by the United States to a person as  
124 added compensation for hazardous duty pay as a member of the Armed  
125 Forces of the United States in a combat zone designated by  
126 Executive Order of the President of the United States.

127 (k) Amounts received as retirement allowances,  
128 pensions, annuities or optional retirement allowances paid under  
129 the federal Social Security Act, the Railroad Retirement Act, the  
130 Federal Civil Service Retirement Act, or any other retirement  
131 system of the United States Government, retirement allowances paid  
132 under the Mississippi Public Employees' Retirement System,

133 Mississippi Highway Safety Patrol Retirement System or any other  
134 retirement system of the State of Mississippi or any political  
135 subdivision thereof. The exemption allowed under this paragraph  
136 (k) shall be available to the spouse or other beneficiary at the  
137 death of the primary retiree.

138 (l) Amounts received as retirement allowances,  
139 pensions, annuities or optional retirement allowances paid by any  
140 public or governmental retirement system not designated in  
141 subsection (k) or any private retirement system or plan of which  
142 the recipient was a member at any time during the period of his  
143 employment. Amounts received as a distribution under a Roth  
144 individual retirement account shall be treated in the same manner  
145 as provided under the Internal Revenue Code of 1986, as amended.  
146 The exemption allowed under this paragraph (l) shall be available  
147 to the spouse or other beneficiary at the death of the primary  
148 retiree.

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

154 (n) Compensation received for active service as a  
155 member below the grade of commissioned officer and so much of the  
156 compensation as does not exceed the aggregate sum of Five Hundred  
157 Dollars (\$500.00) per month received for active service as a  
158 commissioned officer in the Armed Forces of the United States for  
159 any month during any part of which such members of the Armed  
160 Forces (i) served in a combat zone as designated by Executive  
161 Order of the President of the United States; or (ii) was  
162 hospitalized as a result of wounds, disease or injury incurred  
163 while serving in such combat zone.

164 (o) The proceeds received from federal and state  
165 forestry incentives programs.

166 (p) The amount representing the difference between the

167 increase of gross income derived from sales for export outside the  
168 United States as compared to the preceding tax year wherein gross  
169 income from export sales was highest, and the net increase in  
170 expenses attributable to such increased exports. In the absence  
171 of direct accounting the ratio of net profits to total sales may  
172 be applied to the increase in export sales. This item (p) shall  
173 only apply to businesses located in this state engaging in the  
174 international export of Mississippi goods and services. Such  
175 goods or services shall have at least fifty percent (50%) of value  
176 added at a location in Mississippi.

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

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

187 (s) Amounts paid by the Mississippi Soil and Water  
188 Conservation Commission from the Mississippi Soil and Water  
189 Cost-Share Program for the installation of water quality best  
190 management practices.

191 (t) Amounts paid by an individual as premiums for  
192 health insurance covering the individual and any dependents of the  
193 individual that is offered by or through the individual's  
194 employer, if those amounts are not already excluded from gross  
195 income because they are covered under a cafeteria plan as defined  
196 in Section 125 of the Internal Revenue Code and regulations  
197 adopted under that section.

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

199 (a) Members of the Armed Forces. Gross income does not  
200 include compensation received for active service as a member of

201 the Armed Forces of the United States for any month during any  
202 part of which such member is in a missing status, as defined in  
203 paragraph (d) of this subsection, during the Vietnam Conflict as a  
204 result of such conflict.

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

209 (c) Period of conflict. For the purpose of this  
210 subsection, the Vietnam Conflict began February 28, 1961, and ends  
211 on the date designated by the President by Executive Order as the  
212 date of the termination of combatant activities in Vietnam. For  
213 the purpose of this subsection, an individual is in a missing  
214 status as a result of the Vietnam Conflict if immediately before  
215 such status began he was performing service in Vietnam or was  
216 performing service in Southeast Asia in direct support of military  
217 operations in Vietnam. "Southeast Asia" as used in this paragraph  
218 is defined to include Cambodia, Laos, Thailand and waters adjacent  
219 thereto.

220 (d) "Missing status" means the status of an employee or  
221 member of the Armed Forces who is in active service and is  
222 officially carried or determined to be absent in a status of (i)  
223 missing; (ii) missing in action; (iii) interned in a foreign  
224 country; (iv) captured, beleaguered or besieged by a hostile  
225 force; or (v) detained in a foreign country against his will; but  
226 does not include the status of an employee or member of the Armed  
227 Forces for a period during which he is officially determined to be  
228 absent from his post of duty without authority.

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

232 (f) "Employee" means one who is a citizen or national  
233 of the United States or an alien admitted to the United States for  
234 permanent residence and is a resident of the State of Mississippi

235 and is employed in or under a federal executive agency or  
236 department of the Armed Forces.

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

241 (h) If refund or credit of any overpayment of tax for  
242 any taxable year resulting from the application of subsection (5)  
243 of this section is prevented by the operation of any law or rule  
244 of law, such refund or credit of such overpayment of tax may,  
245 nevertheless, be made or allowed if claim therefor is filed with  
246 the State Tax Commission within three (3) years after the date of  
247 the enactment of this subsection.

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

250 (6) A shareholder of an S corporation, as defined in Section  
251 27-8-3(1)(g), shall take into account the income, loss, deduction  
252 or credit of the S corporation only to the extent provided in  
253 Section 27-8-7(2).

254 SECTION 2. Section 27-7-18, Mississippi Code of 1972, is  
255 amended as follows:

256 27-7-18. (1) Alimony payments. In the case of a person  
257 described in Section 27-7-15(2)(e), there shall be allowed as a  
258 deduction from gross income amounts paid as periodic payments to  
259 the extent of such amounts as are includible in the gross income  
260 of the spouse as provided in Section 27-7-15(2)(e), payment of  
261 which is made within the person's taxable year.

262 (2) Unreimbursed moving expenses incurred after December 31,  
263 1994, are deductible as an adjustment to gross income in  
264 accordance with provisions of the United State Internal Revenue  
265 Code, and rules, regulations and revenue procedures thereunder  
266 relating to moving expenses, not in direct conflict with the  
267 provisions of the Mississippi Income Tax Law.

268 (3) Health insurance premiums. Amounts paid by an

269 individual as premiums for health insurance covering the  
270 individual and any dependents of the individual that is not  
271 offered by or through the individual's employer are deductible as  
272 an adjustment to gross income.

273 SECTION 3. Nothing in this act shall affect or defeat any  
274 claim, assessment, appeal, suit, right or cause of action for  
275 taxes due or accrued under the income tax laws of the State of  
276 Mississippi before the date on which this act becomes effective,  
277 whether such claims, assessments, appeals, suits or actions have  
278 been begun before the date on which this act becomes effective or  
279 are begun thereafter; and the provisions of the income tax laws  
280 are expressly continued in full force, effect and operation for  
281 the purpose of the assessment, collection and enrollment of liens  
282 for any taxes due or accrued and the execution of any warrant  
283 under such laws before the date on which this act becomes  
284 effective, and for the imposition of any penalties, forfeitures or  
285 claims for failure to comply with those laws.

286 SECTION 4. This act shall take effect and be in force from  
287 and after January 1, 1999.