

**\*\*\*Adopted\*\*\***

**AMENDMENT No. 1 PROPOSED TO**

**Senate Bill NO. 2298**

**By Representative(s) Committee**

25           Amend by striking all after the enacting clause and inserting  
26 in lieu thereof the following:

27

28           SECTION 1. This article shall be known and may be cited as  
29 the "Mississippi Affordable College Savings Program."

30           SECTION 2. The following are the purposes of this article:

31           (a) To provide a program of savings trust agreements to  
32 apply distributions toward qualified higher education expenses at  
33 eligible educational institutions, as defined in Section 529 of  
34 the Internal Revenue Code, as amended, or other applicable federal  
35 law.

36           (b) To provide for the creation of a trust fund, as an  
37 instrumentality of the State of Mississippi, to assist qualified  
38 students in financing costs of attending institutions of higher  
39 education.

40           (c) To encourage timely financial planning for higher  
41 education by the creation of savings trust accounts.

42           (d) To provide a choice of programs to persons who  
43 determine that the overall educational needs of their families are  
44 best suited to a prepaid tuition contract under the Mississippi  
45 Prepaid Affordable College Tuition (MPACT) Program, a savings  
46 trust agreement under this article, or both.

47           (e) To provide a savings program for those persons who

48 wish to save to meet post secondary educational needs beyond the  
49 traditional baccalaureate curriculum.

50 SECTION 3. As used in this article, the following words and  
51 phrases have the meanings ascribed in this section unless the  
52 context clearly indicates otherwise:

53 (a) "MACS Program" means the Mississippi Affordable  
54 College Savings Program established under this article.

55 (b) "MACS Trust Fund" means a special fund in the State  
56 Treasury established under Section 6 of Senate Bill No. 2298, 2000  
57 Regular Session, and administered by the Treasury Department.

58 (c) "Account owner" means a resident or nonresident  
59 person, corporation, trust, charitable organization or other  
60 entity which contributes to or invests money in a savings trust  
61 account under the MACS Program on behalf of a beneficiary and  
62 which is listed as the owner of the savings trust account.

63 (d) "Beneficiary" means a resident or nonresident  
64 beneficiary of a savings trust agreement who meets the  
65 requirements of Section 529 of the Internal Revenue Code of 1986,  
66 as amended, or other applicable federal law, and any regulations  
67 established by the board.

68 (e) "Institution of higher education" means an eligible  
69 educational institution as defined in Section 529 of the Internal  
70 Revenue Code of 1986, as amended, or any other applicable federal  
71 law.

72 (f) "Tuition" means the quarter, semester or term  
73 charges and all required fees imposed by an institution of higher  
74 education as a condition of enrollment by all students.

75 (g) "Board" means the Board of Directors of the College  
76 Savings Plans of Mississippi Trust Funds established under Section  
77 37-155-7.

78 (h) "Payor" means a person, corporation, trust,  
79 charitable organization or other such entity which contributes  
80 money or makes a payment to either a savings trust account  
81 established pursuant to this article or a prepaid tuition account  
82 established under Sections 37-155-1 through 37-155-27 on behalf of

83 a beneficiary.

84 (i) "Savings trust account" means an account  
85 established by an account owner pursuant to this article on behalf  
86 of a beneficiary in order to apply distributions from the account  
87 toward qualified higher education expenses at eligible educational  
88 institutions, as defined in Section 529 of the Internal Revenue  
89 Code of 1986, as amended, or other applicable federal law.

90 (j) "Savings trust agreement" means the agreement  
91 entered into between the board and the account owner establishing  
92 a savings trust account.

93 (k) "Qualified higher education expense" means any  
94 higher education expense, as defined in Section 529 of the  
95 Internal Revenue Code of 1986, as amended, or other applicable  
96 federal law.

97 (l) "Qualified withdrawal" means a withdrawal by an  
98 account owner or beneficiary for qualified higher education  
99 expenses or as otherwise permitted under Section 529 of the  
100 Internal Revenue Code of 1986, as amended, without a penalty  
101 required under the Internal Revenue Code.

102 SECTION 4. In addition to those powers granted to the board  
103 by Section 37-155-1 through 37-155-27 and any other provisions of  
104 this article, the board shall have the powers necessary or  
105 convenient to carry out the purposes and provisions of this  
106 article, the purposes and objectives of the trust fund, and the  
107 powers delegated by any other law or executive order of this  
108 state, including, but not limited to, the following express  
109 powers:

110 (a) To adopt such rules and regulations as are  
111 necessary to implement this article, subject to applicable federal  
112 laws and regulations, including rules regarding transfers of funds  
113 between accounts established under prepaid tuition contracts and  
114 savings trust agreements;

115 (b) To impose reasonable requirements for residency for  
116 beneficiaries or account owners at the time of purchase of the  
117 savings trust agreement;

118           (c) To contract for necessary goods and services, to  
119 employ necessary personnel, and to engage the services of  
120 consultants and other qualified persons and entities for  
121 administrative and technical assistance in carrying out the  
122 responsibilities of the trust funds under terms and conditions of  
123 that the board deems reasonable, including contract terms for  
124 periods up to ten (10) years at which time a contract may be  
125 terminated, extended or renewed for a term determined by the  
126 board, not to exceed a term of ten (10) years at any one time;

127           (d) To solicit and accept gifts, including bequests or  
128 other testamentary gifts made by will, trust or other disposition  
129 grants, loans and other aids from any personal source or to  
130 participate in any other way in any federal, state or local  
131 governmental programs in carrying out the purposes of this  
132 article;

133           (e) To define the terms and conditions under which  
134 payments may be withdrawn or refunded from the trust fund  
135 established under this article to impose reasonable charges for a  
136 withdrawal or refund;

137           (f) To impose reasonable time limits on the use of  
138 savings trust account distributions provided by the MACS Program;

139           (g) To regulate the receipt of contributions or  
140 payments to the MACS Trust Fund;

141           (h) To segregate contributions and payments to the MACS  
142 Trust Fund into various accounts and funds;

143           (i) To require and collect administrative fees and  
144 charges in connection with any transaction and to impose  
145 reasonable penalties for withdrawal of funds for nonqualified  
146 higher educational expenses or for entering into a savings trust  
147 agreement on a fraudulent basis;

148           (j) To procure insurance against any loss in connection  
149 with the property, assets and activities of the MACS Trust Fund or  
150 the board;

151           (k) To require that account owners of savings trust  
152 agreements or purchasers of Mississippi Prepaid Affordable College

153 Tuition (MPACT) contracts under Sections 37-155-1 through  
154 37-155-27 verify, under oath, any requests for contract  
155 conversions, substitutions, transfers, cancellations, refund  
156 requests or contract changes of any nature;

157 (l) To solicit proposals and to contract for the  
158 marketing of the MACS Program, provided that: (i) any materials  
159 produced by a marketing contractor for the purpose of marketing  
160 the program must be approved by the board before being made  
161 available to the public; and (ii) neither the state nor the board  
162 shall be liable for misrepresentation of the program by a  
163 marketing contractor;

164 (m) To delegate responsibility for administration of  
165 the comprehensive investment plan to a contractor or contractors  
166 or a consultant or consultants that the board determines is  
167 qualified;

168 (n) To make all necessary and appropriate arrangements  
169 with colleges and universities or other entities in order to  
170 fulfill its obligations under savings trust agreements;

171 (o) To establish other policies, procedures and  
172 criteria necessary to implement and administer this article; and

173 (p) To authorize the Treasury Department or the State  
174 Treasurer, or both, to carry out any or all of the powers and  
175 duties enumerated in this section for efficient and effective  
176 administration of the MACS Program and MACS Trust Fund.

177 SECTION 5. (1) The board shall make savings trust  
178 agreements available to the public, under which account owners or  
179 other payors may made contributions on behalf of qualified  
180 beneficiaries. Contributions and investment earnings on the  
181 contributions may be used for any qualified higher educational  
182 expenses of a designated beneficiary. The state does not  
183 guarantee that such contributions, together with the investment  
184 return on such contributions, if any, will be adequate to pay for  
185 qualified education expenses in full.

186 (2) Each savings trust agreement made pursuant to this  
187 article shall include the following terms and provisions:

188           (a) The maximum and minimum contribution allowed on  
189 behalf of each beneficiary for the payment of qualified higher  
190 education expenses at eligible institutions, both as defined in  
191 Section 529 of the Internal Revenue Code of 1986, as amended, or  
192 other applicable federal law;

193           (b) Provisions for withdrawals, refunds, transfers and  
194 any penalties;

195           (c) The name, address and date of birth of the  
196 beneficiary on whose behalf the savings trust account is opened;

197           (d) Terms and conditions for a substitution of the  
198 beneficiary originally named;

199           (e) Terms and conditions for termination of the  
200 account, including any refunds, withdrawals or transfers, and  
201 applicable penalties, and the name of the person or persons  
202 entitled to terminate the account;

203           (f) The time period during which the beneficiary must  
204 use benefits from the savings trust account;

205           (g) All other rights and obligations of the account  
206 owner and the MACS Trust Fund; and

207           (h) Any other terms and conditions that the board deems  
208 necessary or appropriate, including those necessary to conform the  
209 savings trust account with the requirements of Section 529 of the  
210 Internal Revenue Code of 1986, as amended, or other applicable  
211 federal law or regulations.

212       SECTION 6. (1) There is created a Mississippi Affordable  
213 College Savings Trust Fund as an instrumentality of the state to  
214 be administered by the Treasury Department. The MACS Trust Fund  
215 shall consist of state appropriations, monies acquired from other  
216 governmental or private sources and money remitted in accordance  
217 with savings trust agreements and shall receive and hold all  
218 payments, contributions and deposits intended for it as well as  
219 gifts, bequests, endowments or federal, state or local grants and  
220 any other public or private source of funds and all earnings on  
221 the fund until disbursed as provided under this section. The  
222 amounts on deposit on the trust fund shall not constitute property

223 of the state. Amounts on deposit in the trust fund may not be  
224 commingled with state funds, and the state may have no claim to or  
225 interest in such funds. Savings trust agreements or any other  
226 contract entered into by or on behalf of the trust do not  
227 constitute a debt or obligation of the state, and no account owner  
228 is entitled to any amounts except for those amounts on deposit in  
229 or accrued to their account.

230 The MACS Trust Fund shall continue in existence as long as it  
231 holds any funds belonging to an account owner or otherwise has any  
232 obligations to any person or entity until its existence is  
233 terminated by the Legislature and remaining assets on deposit in  
234 the fund are returned to account owners or transferred to the  
235 state in accordance with unclaimed property laws.

236 (2) There are created the following three (3) separate  
237 accounts within the MACS Trust Fund: (a) the administrative  
238 account; (b) the endowment account; and (c) the program account.

239 The administrative account shall accept, deposit and disburse  
240 funds for the purpose of administering and marketing the program.

241 The endowment account shall receive and deposit accounts received  
242 in connection with the sales of interests in the MACS Trust Fund  
243 other than amounts for the administrative account and other than  
244 amounts received pursuant to a savings trust agreement. Amounts  
245 on deposit in the endowment account may be applied as specified by  
246 the board for any purpose related to the program or to otherwise  
247 assist Mississippi residents to attain a postsecondary education.

248 The program account shall receive, invest and disburse amounts  
249 pursuant to savings trust agreements.

250 (3) The official location of the trust fund shall be the  
251 State of Mississippi Treasury Department, and the facilities of  
252 the Treasury Department shall be used and employed in the  
253 administration of the fund, including, but without limitation to,  
254 the keeping of records, the management of bank accounts and other  
255 investments, the transfer of funds and the safekeeping of  
256 securities evidencing investments. These functions may be  
257 administered pursuant to a management agreement with a qualified

258 entity or entities.

259 (4) Payments received by the board on behalf of  
260 beneficiaries from account owners, other payors or from any other  
261 source, public or private, shall be placed in the trust fund, and  
262 the board shall cause there to be maintained separate records and  
263 accounts for individual beneficiaries, as may be required under  
264 Section 529 of the Internal Revenue Code of 1986, as amended, and  
265 any other applicable federal law.

266 (5) Account owners and any other payors or contributors  
267 shall be permitted only to contribute cash or any other form of  
268 payment or contribution as is permitted under Section 529 of the  
269 Internal Revenue Code of 1986, as amended, and approved by the  
270 board. The board shall cause the program to maintain adequate  
271 safeguards against contributions in excess of what may be required  
272 for qualified higher education expenses. The MACS Trust Fund,  
273 through the Treasurer, may receive and deposit into the trust fund  
274 any gift of any nature, real or personal property, made by an  
275 individual by testamentary disposition, including, without  
276 limitation, any specific gift or bequeath made by will, trust or  
277 other disposition to the extent permitted under Section 529 of the  
278 Internal Revenue Code of 1986, as amended. The MACS Trust Fund  
279 may receive amounts transferred from an UGMA, UTMA or other  
280 account established for the benefit of a minor if the trust  
281 beneficiary of such an account is identified as the legal owner of  
282 the MACS Trust Fund account upon attaining majority age.

283 (6) The account owner retains ownership of all amounts on  
284 deposit in his or her account with the program up to the date of  
285 distribution on behalf of a designated beneficiary. Earnings  
286 derived from investment of the contributions shall be considered  
287 to be held in trust in the same manner as contributions, except as  
288 applied for purposes of the designated beneficiary and for  
289 purposes of maintaining and administrating the program as provided  
290 in this article. Amounts on deposit in an account owner's  
291 account shall be available for expenses and penalties imposed by  
292 the board for the program as disclosed in the savings trust



293 agreement.

294 (7) The MACS Trust Fund shall constitute a fund of an  
295 instrumentality of the state, and its property and income shall be  
296 exempt from all taxation by the state and by all of its political  
297 subdivisions.

298 (8) The assets of the MACS Trust Fund shall be preserved,  
299 invested and expended solely pursuant to and for the purposes of  
300 this article and shall not be loaned or otherwise transferred or  
301 used by the state for any other purpose.

302 SECTION 7. (1) All property and income of the MACS Trust  
303 Fund, as an instrumentality of the state, is exempt from all  
304 taxation by the state and by its political subdivisions.

305 (2) Any contributor or payor to a MACS Program account may  
306 deduct from their Mississippi taxable income any contributions or  
307 payments to an account or accounts in the MACS Trust Fund up to a  
308 maximum annual amount of Twenty Thousand Dollars (\$20,000.00) for  
309 joint filers and Ten Thousand Dollars (\$10,000.00) for single and  
310 other filers. Contributions or payments for such tax years may be  
311 made after such calendar years but before the deadline for making  
312 contributions to an individual retirement account under federal  
313 law for such years. The earnings portion of any withdrawals from  
314 an account that are not qualified withdrawals, as well as any  
315 amounts included in such nonqualified withdrawals previously  
316 deducted from taxable income under this section, shall be included  
317 in the gross income of the resident recipient of the withdrawal  
318 for purposes of the Mississippi Income Tax Law in the year of such  
319 withdrawal.

320 SECTION 8. (1) The board has authority to establish a  
321 comprehensive investment plan for the purposes of this article, to  
322 invest any funds of the MACS Trust Fund in any instrument,  
323 obligation, security or property that constitutes legal  
324 investments for public funds in the state, and to name and use  
325 depositories for its investments and holdings. The comprehensive  
326 investment plan shall specify the investment policies to be  
327 utilized by the board in its administration of the funds. The

328 board may authorize investments in any investment vehicle  
329 authorized for the Mississippi Prepaid Affordable College Tuition  
330 (MPACT) Program under Section 37-155-9. However, the restrictions  
331 in Section 37-155-9 as to percentages of the total fund that may  
332 be invested in any category of authorized investment shall not  
333 apply to the MACS Trust Fund. The program account, in its  
334 discretion, may invest in obligations of the state or any  
335 political subdivision of the state or in any business entity in  
336 the state.

337 Notwithstanding any state law to the contrary, the board  
338 shall invest or cause to be invested amounts on deposit in the  
339 MACS Trust Fund, including the program account, in a manner  
340 reasonable and appropriate to achieve the objectives of the  
341 program, exercising the discretion and care of a prudent person in  
342 similar circumstances with similar objectives. The board shall  
343 give due consideration to the risk, expected rate of return, term  
344 or maturity, diversification of total investments, liquidity and  
345 anticipated investments in and withdrawals from the MACS Trust  
346 Fund.

347 (2) All investments shall be acquired by the board at prices  
348 not exceeding the prevailing market values for such securities.

349 (3) Any limitations set forth in this section shall be  
350 applicable only at the time of purchase and shall not require the  
351 liquidation of any investment at any time. All investments shall  
352 be marked clearly to indicate ownership by the system and, to the  
353 extent possible, shall be registered in the name of the system.

354 (4) Subject to the terms, conditions, limitations and  
355 restrictions set forth in this section, the board may sell,  
356 assign, transfer and dispose of any of the securities and  
357 investments of the system if the sale, assignment or transfer has  
358 the majority approval of the entire board. The board may employ  
359 or contract with investment managers, evaluation services, or  
360 other such services as determined by the board to be necessary for  
361 the effective and efficient operation of the system.

362 (5) Except as otherwise provided in this section, no trustee

363 or employee of the board may have any direct or indirect interest  
364 in the income, gains or profits of any investment made by the  
365 board, and such person may not receive any pay or emolument for  
366 his services in connection with any investment made by the board.

367 No trustee or employee of the board may become an endorser or  
368 surety or in any manner an obligor for money loaned by or borrowed  
369 from the system.

370 (6) Under the authority granted in Section 4 of Senate Bill  
371 No. 2298, 2000 Regular Session, the board may establish criteria  
372 for investment managers, mutual funds or other such entities to  
373 act as contractors or consultants to the board. The board may  
374 contract, either directly or through such contractors or  
375 consultants, to provide such services as may be a part of the  
376 comprehensive investment plan or as may be deemed necessary or  
377 proper by the board, including, but not limited to, providing  
378 consolidated billing, individual and collective record keeping and  
379 accounting, and asset purchase, control and safekeeping.

380 (7) No account owner, contributor, payor or beneficiary may  
381 directly or indirectly direct the investment of any account except  
382 as may be permitted under Section 529 of the Internal Revenue Code  
383 of 1986, as amended.

384 (8) The board may approve different investment plans and  
385 options to be offered to participants to the extent permitted  
386 under Section 529 of the Internal Revenue Code of 1986, as  
387 amended, and consistent with the objectives of this article and  
388 may require the assistance of investment counseling before  
389 participation in different options.

390 (9) Interests or accounts in the MACS Trust Fund and  
391 transactions in such interests or accounts shall be exempt from  
392 Sections 75-71-113 and 75-71-401.

393 SECTION 9. (1) The board shall furnish, without charge, to  
394 each account owner an annual statement of the following:

395 (a) The amount contributed by the account owner under  
396 the savings trust agreement;

397 (b) The annual earnings and accumulated earnings on the

398 savings trust account; and

399 (c) Any other terms and conditions that the board deems  
400 by rule is necessary or appropriate, including those necessary to  
401 conform the savings trust account with the requirements of Section  
402 529 of the Internal Revenue Code of 1986, as amended, or other  
403 applicable federal law or regulations.

404 (2) The board shall furnish an additional statement  
405 complying with subsection (1) to an account owner or beneficiary  
406 on written request. The board may charge a reasonable fee for  
407 each statement furnished under this subsection.

408 (3) The board shall prepare or cause to be prepared an  
409 annual report setting forth in appropriate detail an accounting of  
410 the funds and a description of the financial condition of the  
411 program at the close of each fiscal year. Such report shall be  
412 submitted to the Governor, the Lieutenant Governor, the Speaker of  
413 the House of Representatives and members the Board of Trustees of  
414 State Institutions of Higher Learning, the State Board for  
415 Community and Junior Colleges and the State Board of Education.  
416 In addition, the board shall make the report available to account  
417 owners of savings trust agreements. The accounts of the fund  
418 shall be subject to annual audits by the State Auditor or his  
419 designee.

420 SECTION 10. This article is not a promise or guarantee that  
421 the beneficiary will be:

422 (a) Admitted to any institution of higher education;

423 (b) Admitted to a particular institution of higher  
424 education after admission;

425 (c) Allowed to continue enrollment at an institution of  
426 higher education; or

427 (d) Graduated from an institution of higher education.

428 SECTION 11. Nothing in this article or in any savings trust  
429 agreement entered into pursuant to this article shall be construed  
430 as a promise or guarantee by the state or any agency or  
431 instrumentality of the state that either qualified higher  
432 education expenses in general or any specific qualified higher

433 education expense shall be covered in full by contributions or  
434 earnings on any savings trust account. Savings trust accounts and  
435 agreements entered into pursuant to this article are not  
436 guaranteed by the full faith and credit of the State of  
437 Mississippi.

438 SECTION 12. Notwithstanding any state law to the contrary,  
439 no monies on deposit in either the MACS or MPACT Programs shall be  
440 considered an asset of the parent, guardian or student for  
441 purposes of determining an individual's eligibility for a  
442 need-based grant, need-based scholarship or need-based work  
443 opportunity offered or administered by any state agency except as  
444 may be required by the funding source of such financial aid.

445 SECTION 13. The provisions of this article are severable.  
446 If any part of this article is declared invalid or  
447 unconstitutional, such declaration shall not affect the parts of  
448 this article which remain.

449 SECTION 14. Section 37-155-5, Mississippi Code of 1972, is  
450 amended as follows:

451 37-155-5. As used in this article, the following terms have  
452 the meanings ascribed to them in this section, unless the context  
453 clearly indicates otherwise:

454 (a) **Prepaid Tuition Contract.** A contract entered into  
455 between the Board of Directors of the College Savings Plans of  
456 Mississippi Trust Funds and a purchaser pursuant to this chapter.

457 (b) **Trust fund.** There is created a special fund in the  
458 State of Mississippi Treasury Department to be designated as the  
459 "Mississippi Prepaid Affordable College Tuition Trust Fund"  
460 (hereinafter referred to as the trust fund or fund) and to be  
461 administered by the State of Mississippi Treasury Department. The  
462 fund shall consist of state appropriations, monies acquired from  
463 other governmental or private sources, and money remitted in  
464 accordance with prepaid tuition contracts. In the event that  
465 dividends, interest and gains exceed the amount necessary for  
466 program administration and disbursements, the board may designate  
467 a percentage of the fund to serve as a contingency fund.

468 (c) **Purchaser.** A person, corporation, trust,  
469 charitable organization or other such entity that makes or is  
470 obligated to make advance payments in accordance with a prepaid  
471 tuition contract entered into pursuant to this chapter.

472 (d) **Beneficiary.** (i) The beneficiary of a prepaid  
473 tuition contract must be eighteen (18) years of age or younger at  
474 the time the purchaser enters into the contract and must be: (A)  
475 a resident of this state at the time the purchaser enters into the  
476 contract; or (B) a nonresident if the purchaser is a resident of  
477 this state at the time that the contract is entered into.

478 (ii) The board may require a reasonable period of  
479 residence in this state for a beneficiary or the purchaser.

480 (iii) A beneficiary is considered a resident for  
481 purposes of tuition regardless of the beneficiary's residence on  
482 the date of enrollment.

483 (e) **Institution of higher education.** Any public  
484 institution of higher learning or public community or junior  
485 college located in Mississippi.

486 (f) **Tuition.** The quarter, semester or term charges and  
487 all required fees imposed by an institution of higher education as  
488 a condition of enrollment by all students.

489 (g) **Board or board of directors.** The Board of  
490 Directors of the College Savings Plans of Mississippi \* \* \* Trust  
491 Funds as provided in Section 37-155-7.

492 (h) **Legislature.** The Legislature of Mississippi.

493 SECTION 15. Section 37-155-9, Mississippi Code of 1972, is  
494 amended as follows:

495 37-155-9. In addition to the powers granted by any other  
496 provision of this chapter, the board of directors shall have the  
497 powers necessary or convenient to carry out the purposes and  
498 provisions of this chapter, the purposes and objectives of the  
499 trust fund and the powers delegated by any other law of the state  
500 or any executive order thereof, including, but not limited to, the  
501 following express powers:

502 (a) To adopt and amend bylaws;

503           (b) To adopt such rules and regulations as are  
504 necessary to implement the provisions of this chapter;

505           (c) To invest any funds of the trust fund in any  
506 instrument, obligation, security or property that constitutes  
507 legal investments for public funds in the state and to name and  
508 use depositories for its investments and holdings;

509           (d) To execute contracts and other necessary  
510 instruments;

511           (e) To impose reasonable requirements for residency for  
512 beneficiaries at the time or purchase of the contract;

513           (f) To impose reasonable limits on the number of  
514 contract participants in the trust fund at any given period of  
515 time;

516           (g) To contract for necessary goods and services, to  
517 employ necessary personnel, and to engage the services of  
518 consultants for administrative and technical assistance in  
519 carrying out the responsibilities of the trust fund;

520           (h) To solicit and accept gifts, including  
521 bequeathments or other testamentary gifts made by will, trust or  
522 other disposition, grants, loans and other aids from any personal  
523 source or to participate in any other way in any federal, state or  
524 local governmental programs in carrying out the purposes of this  
525 chapter. Any gifts made to the board under this subsection \* \* \*  
526 shall be deductible from taxable income of the state in the tax  
527 year;

528           (i) To define the terms and conditions under which  
529 payments may be withdrawn or refunded from the trust fund,  
530 including, but not limited to, the amount paid in and an  
531 additional amount in the nature of interest at a rate that  
532 corresponds, at a minimum, to the prevailing interest rates for  
533 savings accounts provided by banks and savings and loan  
534 associations and impose reasonable charges for such withdrawal or  
535 refund;

536           (j) To ensure applicability to private and out-of-state  
537 tuitions:

538 (i) Under the program, a state purchaser may enter  
539 into a prepaid tuition contract with the board under which the  
540 purchaser agrees to attend a public institution of higher  
541 education in Mississippi;

542 (ii) If the beneficiary of a plan described by  
543 Section 37-155-11 enrolls in any in-state or out-of-state  
544 regionally accredited private four- or two-year college or an  
545 out-of-state regionally accredited, state-supported, nonprofit  
546 four- or two-year college or university, the board shall pay to  
547 the institution an amount up to, but not greater than, the tuition  
548 and required fees that the board would have paid had the  
549 beneficiary enrolled in an institution of higher education covered  
550 by the plan selected in the prepaid tuition contract. The  
551 beneficiary is responsible for paying a private institution or an  
552 out-of-state public institution the amount by which the tuition  
553 and required fees of the institution exceed the tuition and  
554 required fees paid by the board;

555 (k) To impose reasonable time limits on the use of the  
556 tuition benefits provided by the program;

557 (l) To provide for the receipt of contributions to the  
558 trust fund in lump sums or installment payments;

559 (m) To adopt an official seal and rules;

560 (n) To sue and be sued;

561 (o) To establish agreements or other transactions with  
562 federal, state and local agencies, including state universities  
563 and community colleges;

564 (p) To appear in its own behalf before boards,  
565 commissions or other governmental agencies;

566 (q) To segregate contributions and payments to the fund  
567 into various accounts and funds;

568 (r) To require and collect administrative fees and  
569 charges in connection with any transaction and impose reasonable  
570 penalties, including default, for delinquent payments or for  
571 entering into an advance payment contract on a fraudulent basis;

572 (s) To procure insurance against any loss in connection



573 with the property, assets and activities of the fund or the board;

574           (t) To require that purchasers of advance payment  
575 contracts verify, under oath, any requests for contract  
576 conversions, substitutions, transfers, cancellations, refund  
577 requests or contract changes of any nature;

578           (u) To administer the fund in a manner that is  
579 sufficiently actuarially sound to meet the obligations of the  
580 program. The board shall annually evaluate or cause to be  
581 evaluated the actuarial soundness of the fund. If the board  
582 perceives a need for additional assets in order to preserve  
583 actuarial soundness, the board may adjust the terms of subsequent  
584 advance payment contracts to ensure such soundness;

585           (v) To establish a comprehensive investment plan for  
586 the purposes of this section. The comprehensive investment plan  
587 shall specify the investment policies to be utilized by the board  
588 in its administration of the fund. The board may authorize  
589 investments in:

590           (i) Bonds, notes, certificates and other valid  
591 general obligations of the State of Mississippi, or of any county,  
592 or of any city, or of any supervisors district of any county of  
593 the State of Mississippi, or of any school district bonds of the  
594 State of Mississippi; notes or certificates of indebtedness issued  
595 by the Veterans' Home Purchase Board of Mississippi, provided such  
596 notes or certificates of indebtedness are secured by the pledge of  
597 collateral equal to two hundred percent (200%) of the amount of  
598 the loan, which collateral is also guaranteed at least for fifty  
599 percent (50%) of the face value by the United States government,  
600 and provided that not more than five percent (5%) of the total  
601 investment holdings of the system shall be in Veterans' Home  
602 Purchase Board notes or certificates at any time; real estate  
603 mortgage loans one hundred percent (100%) insured by the Federal  
604 Housing Administration on single family homes located in the State  
605 of Mississippi, where monthly collections and all servicing  
606 matters are handled by Federal Housing Administration approved  
607 mortgagees authorized to make such loans in the State of

608 Mississippi;

609 (ii) State of Mississippi highway bonds;

610 (iii) Funds may be deposited in federally insured  
611 institutions domiciled in the State of Mississippi or a custodial  
612 bank which appears on the State of Mississippi Treasury  
613 Department's approved depository list and/or safekeeper list;

614 (iv) Corporate bonds of investment grade as rated  
615 by Standard & Poor's or by Moody's Investment Service, with bonds  
616 rated BAA/BBB not to exceed five percent (5%) of the book value of  
617 the total fixed income investments; or corporate short-term  
618 obligations of corporations or of wholly owned subsidiaries of  
619 corporations, whose short-term obligations are rated A-3 or better  
620 by Standard and Poor's or rated P-3 or better by Moody's  
621 Investment Service;

622 (v) Bonds of the Tennessee Valley Authority;

623 (vi) Bonds, notes, certificates and other valid  
624 obligations of the United States, and other valid obligations of  
625 any federal instrumentality that issues securities under authority  
626 of an act of Congress and are exempt from registration with the  
627 Securities and Exchange Commission;

628 (vii) Bonds, notes, debentures and other  
629 securities issued by any federal instrumentality and fully  
630 guaranteed by the United States. Direct obligations issued by the  
631 United States of America shall be deemed to include securities of,  
632 or other interests in, any open-end or closed-end management type  
633 investment company or investment trust registered under the  
634 provisions of 15 USCS Section 80(a)-1 et seq., provided that the  
635 portfolio of such investment company or investment trust is  
636 limited to direct obligations issued by the United States of  
637 America, United States government agencies, United States  
638 government instrumentalities or United States government sponsored  
639 enterprises, and to repurchase agreements fully collateralized by  
640 direct obligations of the United States of America, United States  
641 government agencies, United States government instrumentalities or  
642 United States government sponsored enterprises, and the investment

643 company or investment trust takes delivery of such collateral for  
644 the repurchase agreement, either directly or through an authorized  
645 custodian. The State Treasurer and the Executive Director of the  
646 Department of Finance and Administration shall review and approve  
647 the investment companies and investment trusts in which funds may  
648 be invested \* \* \*;

649 (viii) Interest-bearing bonds or notes which are  
650 general obligations of any other state in the United States or of  
651 any city or county therein, provided such city or county had a  
652 population as shown by the federal census next preceding such  
653 investment of not less than twenty-five thousand (25,000)  
654 inhabitants and provided that such state, city or county has not  
655 defaulted for a period longer than thirty (30) days in the payment  
656 of principal or interest on any of its general obligation  
657 indebtedness during a period of ten (10) calendar years  
658 immediately preceding such investment;

659 (ix) Shares of stocks, common and/or preferred, of  
660 corporations created by or existing under the laws of the United  
661 States or any state, district or territory thereof; provided:

662 (A) The maximum investments in stocks shall  
663 not exceed fifty percent (50%) of the book value of the total  
664 investment fund of the system;

665 (B) The stock of such corporation shall:

666 1. Be listed on a national stock

667 exchange, or

668 2. Be traded in the over-the-counter

669 market, provided price quotations for such over-the-counter stocks  
670 are quoted by the National Association of Securities Dealers  
671 Automated Quotation System (NASDAQ);

672 (C) The outstanding shares of such  
673 corporation shall have a total market value of not less than Fifty  
674 Million Dollars (\$50,000,000.00);

675 (D) The amount of investment in any one (1)  
676 corporation shall not exceed three percent (3%) of the book value  
677 of the assets of the system; and

678 (E) The shares of any one (1) corporation  
679 owned by the system shall not exceed five percent (5%) of that  
680 corporation's outstanding stock;

681 (x) Bonds rated Single A or better, stocks and  
682 convertible securities of established non-United States companies,  
683 which companies are listed on only primary national stock  
684 exchanges of foreign nations; and in foreign government securities  
685 rated Single A or better by a recognized rating agency; provided  
686 that the total book value of investments under this paragraph  
687 shall at no time exceed twenty percent (20%) of the total book  
688 value of all investments of the system. The board may take  
689 requisite action to effectuate or hedge such transactions through  
690 foreign banks, including the purchase and sale, transfer, exchange  
691 or otherwise disposal of, and generally deal in foreign exchange  
692 through the use of foreign currency, interbank forward contracts,  
693 futures contracts, options contracts, swaps and other related  
694 derivative instruments, notwithstanding any other provisions of  
695 this chapter to the contrary;

696 (xi) Covered call and put options on securities  
697 traded on one or more of the regulated exchanges;

698 (xii) Institutional investment trusts managed by a  
699 corporate trustee or by a Securities and Exchange Commission  
700 registered investment advisory firm retained as an investment  
701 manager by the board of directors, and institutional class shares  
702 of investment companies and unit investment trusts registered  
703 under the Investment Company Act of 1940 where such \* \* \* funds or  
704 shares are comprised of common or preferred stocks, bonds, money  
705 market instruments or other investments authorized under this  
706 section. \* \* \* Any investment manager or managers approved by the  
707 board of directors shall invest such \* \* \* funds or shares as a  
708 fiduciary;

709 (xiii) Pooled or commingled real estate funds or  
710 real estate securities managed by a corporate trustee or by a  
711 Securities and Exchange Commission registered investment advisory  
712 firm retained as an investment manager by the board of directors.

713 Such investment in commingled funds or shares shall be held in  
714 trust; provided that the total book value of investments under  
715 this paragraph shall at no time exceed five percent (5%) of the  
716 total book value of all investments of the system. Any investment  
717 manager approved by the board of directors shall invest such  
718 commingled funds or shares as a fiduciary \* \* \*;

719 (w) All investments shall be acquired by the board at  
720 prices not exceeding the prevailing market values for such  
721 securities;

722 (x) Any limitations herein set forth shall be  
723 applicable only at the time of purchase and shall not require the  
724 liquidation of any investment at any time. All investments shall  
725 be clearly marked to indicate ownership by the system and to the  
726 extent possible shall be registered in the name of the system;

727 (y) Subject to the above terms, conditions, limitations  
728 and restrictions, the board shall have power to sell, assign,  
729 transfer and dispose of any of the securities and investments of  
730 the system, provided that the sale, assignment or transfer has the  
731 majority approval of the entire board. The board may employ or  
732 contract with investment managers, evaluation services or other  
733 such services as determined by the board to be necessary for the  
734 effective and efficient operation of the system;

735 (z) Except as otherwise provided herein, no trustee and  
736 no employee of the board shall have any direct or indirect  
737 interest in the income, gains or profits of any investment made by  
738 the board, nor shall any such person receive any pay or emolument  
739 for his services in connection with any investment made by the  
740 board. No trustee or employee of the board shall become an  
741 endorser or surety, or in any manner an obligor for money loaned  
742 by or borrowed from the system;

743 (aa) All interest derived from investments and any  
744 gains from the sale or exchange of investments shall be credited  
745 by the board to the account of the system;

746 (bb) To delegate responsibility for administration of  
747 the comprehensive investment plan to a consultant the board

748 determines to be qualified. Such consultant shall be compensated  
749 by the board. Directly or through such consultant, the board may  
750 contract to provide such services as may be a part of the  
751 comprehensive investment plan or as may be deemed necessary or  
752 proper by the board or such consultant, including, but not limited  
753 to, providing consolidated billing, individual and collective  
754 record keeping and accounting, and asset purchase, control and  
755 safekeeping;

756 (cc) To annually prepare or cause to be prepared a  
757 report setting forth in appropriate detail an accounting of the  
758 fund and a description of the financial condition of the program  
759 at the close of each fiscal year. Such report shall be submitted  
760 to the Governor, the Lieutenant Governor, the President of the  
761 Senate, the Speaker of the House of Representatives, and members  
762 of the Board of Trustees of State Institutions of Higher Learning,  
763 the State Board for Community and Junior Colleges and the State  
764 Board of Education on or before March 31 each year. In addition,  
765 the board shall make the report available to purchasers of advance  
766 payment contracts. The board shall provide to the Board of  
767 Trustees of State Institutions of Higher Learning and the State  
768 Board for Community and Junior Colleges by March 31 each year  
769 complete advance payment contract sales information including  
770 projected postsecondary enrollments of beneficiaries. The  
771 accounts of the fund shall be subject to annual audits by the  
772 State Auditor or his designee;

773 (dd) To solicit proposals for the marketing of the  
774 Mississippi Prepaid Affordable College Tuition Program. The  
775 entity designated pursuant to this paragraph shall serve as a  
776 centralized marketing agent for the program and shall solely be  
777 responsible for the marketing of the program. Any materials  
778 produced for the purpose of marketing the programs shall be  
779 submitted to the board for review. No such materials shall be  
780 made available to the public before the materials are approved by  
781 the board. Any educational institution may distribute marketing  
782 materials produced for the program; however, all such materials

783 shall have been approved by the board prior to distribution.

784 Neither the state nor the board shall be liable for

785 misrepresentation of the program by a marketing agent; and

786 (ee) To establish other policies, procedures and

787 criteria necessary to implement and administer the provisions of

788 this chapter.

789 For efficient and effective administration of the program and

790 trust fund, the board may authorize the State of Mississippi

791 Treasury Department and/or the State Treasurer to carry out any or

792 all of the powers and duties enumerated above.

793 SECTION 16. Section 27-7-15, Mississippi Code of 1972, is

794 amended as follows:

795 27-7-15. (1) For the purposes of this article, except as

796 otherwise provided, the term "gross income" means and includes the

797 income of a taxpayer derived from salaries, wages, fees or

798 compensation for service, of whatever kind and in whatever form

799 paid, including income from governmental agencies and subdivisions

800 thereof; or from professions, vocations, trades, businesses,

801 commerce or sales, or renting or dealing in property, or

802 reacquired property; also from annuities, interest, rents,

803 dividends, securities, insurance premiums, reinsurance premiums,

804 considerations for supplemental insurance contracts, or the

805 transaction of any business carried on for gain or profit, or

806 gains, or profits, and income derived from any source whatever and

807 in whatever form paid. The amount of all such items of income

808 shall be included in the gross income for the taxable year in

809 which received by the taxpayer. The amount by which an eligible

810 employee's salary is reduced pursuant to a salary reduction

811 agreement authorized under Section 25-17-5 shall be excluded from

812 the term "gross income" within the meaning of this article.

813 (2) In determining gross income for the purpose of this

814 section, the following, under regulations prescribed by the

815 commissioner, shall be applicable:

816 (a) Dealers in property. Federal rules, regulations

817 and revenue procedures shall be followed with respect to

818 installment sales.

819 (b) Casual sales of property. Federal rules,  
820 regulations and revenue procedures shall be followed with respect  
821 to installment sales.

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

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

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

834 (d) Affiliated companies or persons. As regards sales,  
835 exchanges or payments for services from one to another of  
836 affiliated companies or persons or under other circumstances where  
837 the relation between the buyer and seller is such that gross  
838 proceeds from the sale or the value of the exchange or the payment  
839 for services are not indicative of the true value of the subject  
840 matter of the sale, exchange or payment for services, the  
841 commissioner shall prescribe uniform and equitable rules for  
842 determining the true value of the gross income, gross sales,  
843 exchanges or payment for services, or require consolidated returns  
844 of affiliates.

845 (e) Alimony and separate maintenance payments. The  
846 federal rules, regulations and revenue procedures in determining  
847 the deductibility and taxability of alimony payments shall be  
848 followed in this state.

849 (f) Reimbursement for expenses of moving. There shall  
850 be included in gross income (as compensation for services) any  
851 amount received or accrued, directly or indirectly, by an  
852 individual as a payment for or reimbursement of expenses of moving



853 from one residence to another residence which is attributable to  
854 employment or self-employment.

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

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

860 (a) The proceeds of life insurance policies and  
861 contracts paid upon the death of the insured. However, the income  
862 from the proceeds of such policies or contracts shall be included  
863 in the gross income.

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

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

871 (d) Interest upon the obligations of the United States  
872 or its possessions, or securities issued under the provisions of  
873 the Federal Farm Loan Act of July 17, 1916, or bonds issued by the  
874 War Finance Corporation, or obligations of the State of  
875 Mississippi or political subdivisions thereof.

876 (e) The amounts received through accident or health  
877 insurance as compensation for personal injuries or sickness, plus  
878 the amount of any damages received for such injuries or such  
879 sickness or injuries, or through the War Risk Insurance Act, or  
880 any law for the benefit or relief of injured or disabled members  
881 of the military or naval forces of the United States.

882 (f) Income received by any religious denomination or by  
883 any institution or trust for moral or mental improvements,  
884 religious, Bible, tract, charitable, benevolent, fraternal,  
885 missionary, hospital, infirmary, educational, scientific,  
886 literary, library, patriotic, historical or cemetery purposes or  
887 for two (2) or more of such purposes, if such income be used

888 exclusively for carrying out one or more of such purposes.

889           (g) Income received by a domestic corporation which is  
890 "taxable in another state" as this term is defined in this  
891 article, derived from business activity conducted outside this  
892 state. Domestic corporations taxable both within and without the  
893 state shall determine Mississippi income on the same basis as  
894 provided for foreign corporations under the provisions of this  
895 article.

896           (h) In case of insurance companies, there shall be  
897 excluded from gross income such portion of actual premiums  
898 received from an individual policyholder as is paid back or  
899 credited to or treated as an abatement of premiums of such  
900 policyholder within the taxable year.

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

905           (j) Amounts paid by the United States to a person as  
906 added compensation for hazardous duty pay as a member of the Armed  
907 Forces of the United States in a combat zone designated by  
908 Executive Order of the President of the United States.

909           (k) Amounts received as retirement allowances,  
910 pensions, annuities or optional retirement allowances paid under  
911 the federal Social Security Act, the Railroad Retirement Act, the  
912 Federal Civil Service Retirement Act, or any other retirement  
913 system of the United States government, retirement allowances paid  
914 under the Mississippi Public Employees' Retirement System,  
915 Mississippi Highway Safety Patrol Retirement System or any other  
916 retirement system of the State of Mississippi or any political  
917 subdivision thereof. The exemption allowed under this paragraph  
918 (k) shall be available to the spouse or other beneficiary at the  
919 death of the primary retiree.

920           (l) Amounts received as retirement allowances,  
921 pensions, annuities or optional retirement allowances paid by any  
922 public or governmental retirement system not designated in

923 subsection (k) or any private retirement system or plan of which  
924 the recipient was a member at any time during the period of his  
925 employment. Amounts received as a distribution under a Roth  
926 individual retirement account shall be treated in the same manner  
927 as provided under the Internal Revenue Code of 1986, as amended.  
928 The exemption allowed under this paragraph (l) shall be available  
929 to the spouse or other beneficiary at the death of the primary  
930 retiree.

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

936 (n) Compensation received for active service as a  
937 member below the grade of commissioned officer and so much of the  
938 compensation as does not exceed the aggregate sum of Five Hundred  
939 Dollars (\$500.00) per month received for active service as a  
940 commissioned officer in the Armed Forces of the United States for  
941 any month during any part of which such members of the Armed  
942 Forces (i) served in a combat zone as designated by Executive  
943 Order of the President of the United States; or (ii) was  
944 hospitalized as a result of wounds, disease or injury incurred  
945 while serving in such combat zone.

946 (o) The proceeds received from federal and state  
947 forestry incentives programs.

948 (p) The amount representing the difference between the  
949 increase of gross income derived from sales for export outside the  
950 United States as compared to the preceding tax year wherein gross  
951 income from export sales was highest, and the net increase in  
952 expenses attributable to such increased exports. In the absence  
953 of direct accounting the ratio of net profits to total sales may  
954 be applied to the increase in export sales. This item (p) shall  
955 only apply to businesses located in this state engaging in the  
956 international export of Mississippi goods and services. Such  
957 goods or services shall have at least fifty percent (50%) of value

958 added at a location in Mississippi.

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

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

969 (s) Amounts paid by the Mississippi Soil and Water  
970 Conservation Commission from the Mississippi Soil and Water  
971 Cost-Share Program for the installation of water quality best  
972 management practices.

973 (t) Dividends received by a holding corporation, as  
974 defined in Section 27-13-1, from a subsidiary corporation, as  
975 defined in Section 27-13-1.

976 (u) Interest, dividends, gains or income of any kind on  
977 any account in the Mississippi Affordable College Savings Trust  
978 fund, as established under Senate Bill No. 2298, 2000 Regular  
979 Session, to the extent that such amounts remain on deposit in the  
980 MACS Trust Fund or are withdrawn pursuant to a qualified  
981 withdrawal, as defined in Section 3 of Senate Bill No. 2298, 2000  
982 Regular Session.

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

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

987 (a) Members of the Armed Forces. Gross income does not  
988 include compensation received for active service as a member of  
989 the Armed Forces of the United States for any month during any  
990 part of which such member is in a missing status, as defined in  
991 paragraph (d) of this subsection, during the Vietnam Conflict as a  
992 result of such conflict.

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

997 (c) Period of conflict. For the purpose of this  
998 subsection, the Vietnam Conflict began February 28, 1961, and ends  
999 on the date designated by the President by Executive Order as the  
1000 date of the termination of combatant activities in Vietnam. For  
1001 the purpose of this subsection, an individual is in a missing  
1002 status as a result of the Vietnam Conflict if immediately before  
1003 such status began he was performing service in Vietnam or was  
1004 performing service in Southeast Asia in direct support of military  
1005 operations in Vietnam. "Southeast Asia" as used in this paragraph  
1006 is defined to include Cambodia, Laos, Thailand and waters adjacent  
1007 thereto.

1008 (d) "Missing status" means the status of an employee or  
1009 member of the Armed Forces who is in active service and is  
1010 officially carried or determined to be absent in a status of (i)  
1011 missing; (ii) missing in action; (iii) interned in a foreign  
1012 country; (iv) captured, beleaguered or besieged by a hostile  
1013 force; or (v) detained in a foreign country against his will; but  
1014 does not include the status of an employee or member of the Armed  
1015 Forces for a period during which he is officially determined to be  
1016 absent from his post of duty without authority.

1017 (e) "Active service" means active federal service by an  
1018 employee or member of the Armed Forces of the United States in an  
1019 active duty status.

1020 (f) "Employee" means one who is a citizen or national  
1021 of the United States or an alien admitted to the United States for  
1022 permanent residence and is a resident of the State of Mississippi  
1023 and is employed in or under a federal executive agency or  
1024 department of the Armed Forces.

1025 (g) "Compensation" means (i) basic pay; (ii) special  
1026 pay; (iii) incentive pay; (iv) basic allowance for quarters; (v)  
1027 basic allowance for subsistence; and (vi) station per diem

1028 allowances for not more than ninety (90) days.

1029           (h) If refund or credit of any overpayment of tax for  
1030 any taxable year resulting from the application of subsection (5)  
1031 of this section is prevented by the operation of any law or rule  
1032 of law, such refund or credit of such overpayment of tax may,  
1033 nevertheless, be made or allowed if claim therefor is filed with  
1034 the State Tax Commission within three (3) years after the date of  
1035 the enactment of this subsection.

1036           (i) The provisions of this subsection shall be  
1037 effective for taxable years ending on or after February 28, 1961.

1038           (6) A shareholder of an S corporation, as defined in Section  
1039 27-8-3(1)(g), shall take into account the income, loss, deduction  
1040 or credit of the S corporation only to the extent provided in  
1041 Section 27-8-7(2).

1042           SECTION 17. Section 27-7-17, Mississippi Code of 1972, is  
1043 amended as follows:

1044           27-7-17. In computing taxable income, there shall be allowed  
1045 as deductions:

1046           (1) **Business deductions.**

1047           (a) Business expenses. All the ordinary and necessary  
1048 expenses paid or incurred during the taxable year in carrying on  
1049 any trade or business, including a reasonable allowance for  
1050 salaries or other compensation for personal services actually  
1051 rendered; nonreimbursable traveling expenses incident to current  
1052 employment, including a reasonable amount expended for meals and  
1053 lodging while away from home in the pursuit of a trade or  
1054 business; and rentals or other payments required to be made as a  
1055 condition of the continued use or possession, for purposes of the  
1056 trade or business of property to which the taxpayer has not taken  
1057 or is not taking title or in which he had no equity. Expense  
1058 incurred in connection with earning and distributing nontaxable  
1059 income is not an allowable deduction. Limitations on  
1060 entertainment expenses shall conform to the provisions of the  
1061 Internal Revenue Code of 1986.

1062           (b) Interest. All interest paid or accrued during the

1063 taxable year on business indebtedness, except interest upon the  
1064 indebtedness for the purchase of tax-free bonds, or any stocks,  
1065 the dividends from which are nontaxable under the provisions of  
1066 this article; provided, however, in the case of securities  
1067 dealers, interest payments or accruals on loans, the proceeds of  
1068 which are used to purchase tax-exempt securities, shall be  
1069 deductible if income from otherwise tax-free securities is  
1070 reported as income. Investment interest expense shall be limited  
1071 to investment income. Interest expense incurred for the purchase  
1072 of treasury stock, to pay dividends, or incurred as a result of an  
1073 undercapitalized affiliated corporation may not be deducted unless  
1074 an ordinary and necessary business purpose can be established to  
1075 the satisfaction of the commissioner. For the purposes of this  
1076 paragraph, the phrase "interest upon the indebtedness for the  
1077 purchase of tax-free bonds" applies only to the indebtedness  
1078 incurred for the purpose of directly purchasing tax-free bonds and  
1079 does not apply to any other indebtedness incurred in the regular  
1080 course of the taxpayer's business. Any corporation, association,  
1081 organization or other entity taxable under Section 27-7-23(c)  
1082 shall allocate interest expense as provided in Section  
1083 27-7-23(c)(4)(H).

1084 (c) Taxes. Taxes paid or accrued within the taxable  
1085 year, except state and federal income taxes, excise taxes based on  
1086 or measured by net income, estate and inheritance taxes, gift  
1087 taxes, cigar and cigarette taxes, gasoline taxes, and sales and  
1088 use taxes unless incurred as an item of expense in a trade or  
1089 business or in the production of taxable income. In the case of  
1090 an individual, taxes permitted as an itemized deduction under the  
1091 provisions of subsection (2)(a) of this section are to be claimed  
1092 thereunder.

1093 (d) Business losses.

1094 (i) Losses sustained during the taxable year not  
1095 compensated for by insurance or otherwise, if incurred in trade or  
1096 business, or nonbusiness transactions entered into for profit.

1097 (ii) Limitations on losses from passive activities

1098 and rental real estate shall conform to the provisions of the  
1099 Internal Revenue Code of 1986.

1100 (e) Bad debts. Losses from debts ascertained to be  
1101 worthless and charged off during the taxable year, if sustained in  
1102 the conduct of the regular trade or business of the taxpayer;  
1103 provided, that such losses shall be allowed only when the taxpayer  
1104 has reported as income, on the accrual basis, the amount of such  
1105 debt or account.

1106 (f) Depreciation. A reasonable allowance for  
1107 exhaustion, wear and tear of property used in the trade or  
1108 business, or rental property, and depreciation upon buildings  
1109 based upon their reasonable value as of March 16, 1912, if  
1110 acquired prior thereto, and upon cost if acquired subsequent to  
1111 that date.

1112 (g) Depletion. In the case of mines, oil and gas  
1113 wells, other natural deposits and timber, a reasonable allowance  
1114 for depletion and for depreciation of improvements, based upon  
1115 cost, including cost of development, not otherwise deducted, or  
1116 fair market value as of March 16, 1912, if acquired prior to that  
1117 date, such allowance to be made upon regulations prescribed by the  
1118 commissioner, with the approval of the Governor.

1119 (h) Contributions or gifts. Except as otherwise  
1120 provided in subsection (2)(a) of this section for individuals,  
1121 contributions or gifts made by corporations within the taxable  
1122 year to corporations, organizations, associations or institutions,  
1123 including Community Chest funds, foundations and trusts created  
1124 solely and exclusively for religious, charitable, scientific or  
1125 educational purposes, or for the prevention of cruelty to children  
1126 or animals, no part of the net earnings of which inure to the  
1127 benefit of any private stockholder or individual. This deduction  
1128 shall be allowed in an amount not to exceed twenty percent (20%)  
1129 of the net income. Such contributions or gifts shall be allowable  
1130 as deductions only if verified under rules and regulations  
1131 prescribed by the commissioner, with the approval of the Governor.  
1132 Contributions made in any form other than cash shall be allowed



1133 as a deduction, subject to the limitations herein provided, in an  
1134 amount equal to the actual market value of the contributions at  
1135 the time the contribution is actually made and consummated.

1136 (i) Reserve funds - insurance companies. In the case  
1137 of insurance companies the net additions required by law to be  
1138 made within the taxable year to reserve funds when such reserve  
1139 funds are maintained for the purpose of liquidating policies at  
1140 maturity.

1141 (j) Annuity income. The sums, other than dividends,  
1142 paid within the taxpayer year on policy or annuity contracts when  
1143 such income has been included in gross income.

1144 (k) Contributions to employee pension plans.  
1145 Contributions made by an employer to a plan or a trust forming  
1146 part of a pension plan, stock bonus plan, disability or  
1147 death-benefit plan, or profit-sharing plan of such employer for  
1148 the exclusive benefit of some or all of his, their, or its  
1149 employees, or their beneficiaries, shall be deductible from his,  
1150 their, or its income only to the extent that, and for the taxable  
1151 year in which, the contribution is deductible for federal income  
1152 tax purposes under the Internal Revenue Code of 1986 and any other  
1153 provisions of similar purport in the Internal Revenue Laws of the  
1154 United States, and the rules, regulations, rulings and  
1155 determinations promulgated thereunder, provided that:

1156 (i) The plan or trust be irrevocable.

1157 (ii) The plan or trust constitute a part of a  
1158 pension plan, stock bonus plan, disability or death-benefit plan,  
1159 or profit-sharing plan for the exclusive benefit of some or all of  
1160 the employer's employees and/or officers, or their beneficiaries,  
1161 for the purpose of distributing the corpus and income of the plan  
1162 or trust to such employees and/or officers, or their  
1163 beneficiaries.

1164 (iii) No part of the corpus or income of the plan  
1165 or trust can be used for purposes other than for the exclusive  
1166 benefit of employees and/or officers, or their beneficiaries.

1167 Contributions to all plans or to all trusts of real or

1168 personal property (or real and personal property combined) or to  
1169 insured plans created under a retirement plan for which provision  
1170 has been made under the laws of the United States of America,  
1171 making such contributions deductible from income for federal  
1172 income tax purposes, shall be deductible only to the same extent  
1173 under the Income Tax Laws of the State of Mississippi.

1174 (1) Net operating loss carrybacks and carryovers. A  
1175 net operating loss for any taxable year ending after December 31,  
1176 1993, and taxable years thereafter, shall be a net operating loss  
1177 carryback to each of the three (3) taxable years preceding the  
1178 taxable year of the loss. If the net operating loss for any  
1179 taxable year is not exhausted by carrybacks to the three (3)  
1180 taxable years preceding the taxable year of the loss, then there  
1181 shall be a net operating loss carryover to each of the fifteen  
1182 (15) taxable years following the taxable year of the loss  
1183 beginning with any taxable year after December 31, 1991.

1184 For any taxable year ending after December 31, 1997, the  
1185 period for net operating loss carrybacks and net operating loss  
1186 carryovers shall be the same as those established by the Internal  
1187 Revenue Code and the rules, regulations, rulings and  
1188 determinations promulgated thereunder.

1189 The term "net operating loss," for the purposes of this  
1190 paragraph, shall be the excess of the deductions allowed over the  
1191 gross income; provided, however, the following deductions shall  
1192 not be allowed in computing same:

1193 (i) No net operating loss deduction shall be  
1194 allowed.

1195 (ii) No personal exemption deduction shall be  
1196 allowed.

1197 (iii) Allowable deductions which are not  
1198 attributable to taxpayer's trade or business shall be allowed only  
1199 to the extent of the amount of gross income not derived from such  
1200 trade or business.

1201 Any taxpayer entitled to a carryback period as provided by  
1202 this paragraph may elect to relinquish the entire carryback period

1203 with respect to a net operating loss for any taxable year ending  
1204 after December 31, 1991. The election shall be made in the manner  
1205 prescribed by the State Tax Commission and shall be made by the  
1206 due date, including extensions of time, for filing the taxpayer's  
1207 return for the taxable year of the net operating loss for which  
1208 the election is to be in effect. The election, once made for any  
1209 taxable year, shall be irrevocable for that taxable year.

1210 (m) Amortization of pollution or environmental control  
1211 facilities.

1212 Allowance of deduction. Every taxpayer, at his election,  
1213 shall be entitled to a deduction for pollution or environmental  
1214 control facilities to the same extent as that allowed under the  
1215 Internal Revenue Code and the rules, regulations, rulings and  
1216 determinations promulgated thereunder.

1217 (n) Dividend distributions - investment trusts.

1218 Dividends distributed by an investment trust defined in Section  
1219 79-15-3, if the dividend distributions meet the requirements of  
1220 Section 857 or are otherwise deductible under Section 858 or 860,  
1221 federal Internal Revenue Code of 1986, as amended. The deductions  
1222 allowed in this paragraph shall be effective for the 1985 taxable  
1223 year of the investment trust and for each taxable year thereafter.

1224 (o) Contributions to College Savings Trust Fund  
1225 Accounts Contributions or payments to a Mississippi Affordable  
1226 College Savings Program account are deductible as provided under  
1227 Section 7, Senate Bill No. 2298, 2000 Regular Session. Payments  
1228 made under a prepaid tuition contract entered into under the  
1229 Mississippi Prepaid Affordable College Tuition Program are  
1230 deductible as provided under Section 37-155-17.

1231 (2) **Individual nonbusiness deductions.**

1232 (a) The amount allowable for individual nonbusiness  
1233 itemized deductions for federal income tax purposes, except the  
1234 deduction for state income taxes paid, where the individual is  
1235 eligible to elect, for the taxable year, to itemize deductions on  
1236 his federal return; or

1237 (b) In lieu of the individual nonbusiness itemized

1238 deductions authorized in paragraph (a), for all purposes other  
1239 than ordinary and necessary expenses paid or incurred during the  
1240 taxable year in carrying on any trade or business, an optional  
1241 standard deduction of:

1242                   (i) Three Thousand Four Hundred Dollars  
1243 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred  
1244 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand  
1245 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter  
1246 in the case of married individuals filing a joint or combined  
1247 return;

1248                   (ii) One Thousand Seven Hundred Dollars  
1249 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred  
1250 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand  
1251 Three Hundred Dollars (\$2,300.00) for each calendar year  
1252 thereafter in the case of married individuals filing separate  
1253 returns;

1254                   (iii) Three Thousand Four Hundred Dollars  
1255 (\$3,400.00) in the case of a head of family; or

1256                   (iv) Two Thousand Three Hundred Dollars  
1257 (\$2,300.00) in the case of an individual who is not married.

1258           In the case of a husband and wife living together, having  
1259 separate incomes, and filing combined returns, the standard  
1260 deduction authorized may be divided in any manner they choose. In  
1261 the case of separate returns by a husband and wife, the standard  
1262 deduction shall not be allowed to either if the taxable income of  
1263 one of the spouses is determined without regard to the standard  
1264 deduction.

1265                   (c) A nonresident individual shall be allowed the same  
1266 individual nonbusiness deductions as are authorized for resident  
1267 individuals in paragraph (a) or (b) of this subsection; however,  
1268 the nonresident individual is entitled only to that proportion of  
1269 the individual nonbusiness deductions as his net income from  
1270 sources within the State of Mississippi bears to his total or  
1271 entire net income from all sources.

1272           (3) Nothing in this section shall permit the same item to be

1273 deducted more than once, either in fact or in effect.

1274 SECTION 18. Section 27-7-18, Mississippi Code of 1972, is  
1275 amended as follows:

1276 27-7-18. (1) Alimony payments. In the case of a person  
1277 described in Section 27-7-15(2)(e), there shall be allowed as a  
1278 deduction from gross income amounts paid as periodic payments to  
1279 the extent of such amounts as are includible in the gross income  
1280 of the spouse as provided in Section 27-7-15(2)(e), payment of  
1281 which is made within the person's taxable year.

1282 (2) Unreimbursed moving expenses incurred after December 31,  
1283 1994, are deductible as an adjustment to gross income in  
1284 accordance with provisions of the United States Internal Revenue  
1285 Code, and rules, regulations and revenue procedures thereunder  
1286 relating to moving expenses, not in direct conflict with the  
1287 provisions of the Mississippi Income Tax Law.

1288 (3) Amounts paid after December 31, 1998, by a self-employed  
1289 individual for insurance which constitute medical care for the  
1290 taxpayer, his spouse and dependents, are deductible as an  
1291 adjustment to gross income in accordance with provisions of the  
1292 United States Internal Revenue Code, and rules, regulations and  
1293 revenue procedures thereunder relating to such payments, not in  
1294 direct conflict with the provisions of the Mississippi Income Tax  
1295 Law.

1296 (4) Contributions or payments to a Mississippi Affordable  
1297 College Savings (MACS) Program account are deductible from gross  
1298 income as provided in Section 7, Senate Bill No. 2298, 2000  
1299 Regular Session. Payments made under a prepaid tuition contract  
1300 entered into under the Mississippi Prepaid Affordable College  
1301 Tuition Program are deductible as provided in Section 37-155-17.

1302 SECTION 19. Section 75-71-113, Mississippi Code of 1972, is  
1303 amended as follows:

1304 75-71-113. The Secretary of State, by rule or order, may  
1305 require the filing of any prospectus, pamphlet, circular, form  
1306 letter, advertisement, or other sales literature or advertising  
1307 communication addressed or intended for distribution to

1308 prospective investors, including clients or prospective clients of  
1309 an investment adviser, unless the security or transaction is  
1310 exempted under Article 3 of this chapter or Section 8 of Senate  
1311 Bill No. 2298, 2000 Regular Session, or is a federal covered  
1312 security.

1313 SECTION 20. Section 75-71-401, Mississippi Code of 1972, is  
1314 amended as follows:

1315 75-71-401. Except as provided for in Section 75-71-109(a),  
1316 it is unlawful for any person to offer or sell any security in the  
1317 State of Mississippi unless: (1) it is registered under this  
1318 chapter or Section 8 of Senate Bill No. 2298, 2000 Regular  
1319 Session; (2) the security or transaction is exempted under Article  
1320 3 of this chapter, or (3) it is a federal covered security.

1321 SECTION 21. Sections 1 through 13 of this act shall be  
1322 codified as a separate article in Chapter 155, Title 37,  
1323 Mississippi Code of 1972.

1324 SECTION 22. Nothing in this act shall affect or defeat any  
1325 claim, assessment, appeal, suit, right or cause of action for  
1326 taxes due or accrued under the income tax laws before the date on  
1327 which Sections 16 through 18 of this act become effective, whether  
1328 such claims, assessments, appeals, suits or actions have been  
1329 begun before the date on which Sections 16 through 18 of this act  
1330 become effective or are begun thereafter; and the provisions of  
1331 the income tax laws are expressly continued in full force, effect  
1332 and operation for the purpose of the assessment, collection and  
1333 enrollment of liens for any taxes due or accrued and the execution  
1334 of any warrant under such laws before the date on which Sections  
1335 16 through 18 of this act become effective, and for the imposition  
1336 of any penalties, forfeitures or claims for failure to comply with  
1337 such laws.

1338 SECTION 23. Sections 1 through 15 and 19 through 23 of this  
1339 act shall take effect and be in force from and after July 1, 2000.

1340 Sections 16 through 18 of this act shall take effect and be in  
1341 force from and after January 1, 2000.

**Further, amend by striking the title in its entirety and**

inserting in lieu thereof the following:

1 AN ACT TO CREATE THE MISSISSIPPI AFFORDABLE COLLEGE SAVINGS  
2 (MACS) PROGRAM; TO DEFINE CERTAIN TERMS AND PHRASES RELATING TO  
3 THE MACS PROGRAM; TO PRESCRIBE THE POWERS OF THE BOARD OF  
4 DIRECTORS OF THE COLLEGE SAVINGS PLANS OF MISSISSIPPI TRUST FUNDS  
5 RELATING TO THE ADMINISTRATION OF THE MACS PROGRAM; TO PRESCRIBE  
6 CERTAIN TERMS OF SAVINGS TRUST AGREEMENTS ENTERED INTO UNDER THE  
7 PROGRAM; TO ESTABLISH THE MISSISSIPPI AFFORDABLE COLLEGE SAVINGS  
8 (MACS) TRUST FUND; TO EXEMPT PROPERTY IN THE TRUST FUND FROM  
9 TAXATION AND TO ESTABLISH DEDUCTIONS FOR PAYMENTS TO MACS  
10 ACCOUNTS; TO PRESCRIBE THE AUTHORITY OF THE BOARD OF DIRECTORS TO  
11 INVEST FUNDS IN THE TRUST FUND; TO REQUIRE THE BOARD TO PROVIDE  
12 ANNUAL ACCOUNTING STATEMENTS; TO AMEND SECTION 37-155-5,  
13 MISSISSIPPI CODE OF 1972, TO CHANGE THE NAME OF THE BOARD OF  
14 DIRECTORS OF THE MISSISSIPPI PREPAID AFFORDABLE COLLEGE TUITION  
15 PROGRAM TRUST FUND TO THE "BOARD OF DIRECTORS OF THE COLLEGE  
16 SAVINGS PLANS OF MISSISSIPPI TRUST FUNDS"; TO AMEND SECTION  
17 37-155-9, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO AND TO  
18 EXPAND THE BOARD'S INVESTMENT AUTHORITY; TO AMEND SECTION 27-7-15,  
19 MISSISSIPPI CODE OF 1972, TO EXCLUDE PAYMENTS TO A MACS ACCOUNT  
20 FROM THE DEFINITION OF GROSS INCOME FOR INCOME TAX PURPOSES; TO  
21 AMEND SECTIONS 27-7-17, 27-7-18, 75-71-113 AND 75-71-401,  
22 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS  
23 ACT; AND FOR RELATED PURPOSES.