MISSISSIPPI LEGISLATURE

To: Ways and Means

MISSISSIPPI LEGISLATURE REGULAR SESSION 2001

By: Representatives Howell, Cameron, Chism, Davis, Ellington, Formby, Jennings, Martinson, Moore (60th), Nicholson, Robertson, Robinson (84th), Simpson, Smith (35th), Smith (59th), Stevens, Warren

HOUSE BILL NO. 1563

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Interest upon the obligations of the United States or its possessions, or securities issued under the provisions of the Federal Farm Loan Act of July 17, 1916, or bonds issued by the War Finance Corporation, or obligations of the State of Mississippi or political subdivisions thereof.
(e) The amounts received through accident or health insurance as compensation for personal injuries or sickness, plus the amount of any damages received for such injuries or such sickness or injuries, or through the War Risk Insurance Act, or any law for the benefit or relief of injured or disabled members of the military or naval forces of the United States.

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

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

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

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

(j) Amounts paid by the United States to a person as added compensation for hazardous duty pay as a member of the Armed Forces of the United States in a combat zone designated by Executive Order of the President of the United States.
(k) Amounts received as retirement allowances, pensions, annuities or optional retirement allowances paid under the federal Social Security Act, the Railroad Retirement Act, the Federal Civil Service Retirement Act, or any other retirement system of the United States government, retirement allowances paid under the Mississippi Public Employees' Retirement System, Mississippi Highway Safety Patrol Retirement System or any other retirement system of the State of Mississippi or any political subdivision thereof. The exemption allowed under this paragraph (k) shall be available to the spouse or other beneficiary at the death of the primary retiree.

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

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

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

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

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

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

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

(s) Amounts paid by the Mississippi Soil and Water Conservation Commission from the Mississippi Soil and Water Cost-Share Program for the installation of water quality best management practices.
(t) Dividends received by a holding corporation, as defined in Section 27-13-1, from a subsidiary corporation, as defined in Section 27-13-1.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Contributions or payments to a Mississippi Affordable
College Savings (MACS) Program account are deductible from gross
income as provided in Section 37-155-113. Payments made under a prepaid tuition contract entered into under the Mississippi Prepaid Affordable College Tuition Program are deductible as provided in Section 37-155-17.

(5) Health insurance premiums. Amounts paid by an individual as premiums for health insurance covering the individual and any dependents of the individual that is not offered by or through the individual’s employer are deductible as an adjustment to gross income.

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

SECTION 4. This act shall take effect and be in force from and after January 1, 2001.