

By: Senator(s) Blackmon, Simmons, Johnson
(38th), Walls, Jackson, Jordan

To: Finance

SENATE BILL NO. 3110

1 AN ACT TO CREATE A SPECIAL FUND INTO WHICH THE REVENUE FROM
2 THE INCREASE IN REVENUE AS A RESULT OF THE INCREASE OF TAXES UNDER
3 THIS ACT SHALL BE DEPOSITED; TO PROVIDE THE REVENUE DEPOSITED INTO
4 SUCH SPECIAL FUND SHALL BE EXPENDED TO FUND DEFICITS IN MEDICAID
5 AND FOR INCREASING THE COMPENSATION OF CERTAIN PUBLIC EMPLOYEES;
6 TO AMEND SECTIONS 27-7-9, 27-7-15, 27-7-16, 27-7-17, 27-7-18,
7 27-7-21, 27-7-22.3, 27-7-22.5, 27-7-22.7, 27-7-22.15, 27-7-22.17,
8 27-7-22.19, 27-21-9, 27-25-503, 27-25-703, 27-65-103, 27-65-105,
9 57-73-21, 57-73-25, 75-76-179 AND 83-23-218, MISSISSIPPI CODE OF
10 1972, TO REDUCE BY FIFTY PERCENT CERTAIN TAX EXEMPTIONS, TAX
11 CREDITS AND REDUCED RATES; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** (1) There is hereby created a special fund in
14 the State Treasury into which shall be deposited the increased
15 revenues that result from the lowering of exemptions and credits
16 that are made under this act. Money in the fund shall be
17 distributed, upon appropriation by the Legislature to the Division
18 of Medicaid, Office of the Governor, to assist in the funding of
19 any deficits.

20 (2) Unexpended amounts remaining in the special fund at the
21 end of a fiscal year shall not lapse in to the State General Fund,
22 and any interest earned or investment earnings on amounts in the
23 special fund shall be deposited to the credit of the special fund.

24 **SECTION 2.** Section 27-7-9, Mississippi Code of 1972, is
25 amended as follows:

26 **[Through June 30, 2003, this section shall read as follows:]**

27 27-7-9. (a) Except as provided in Sections 27-7-95 through
28 27-7-103, determination of amount of gain or loss.

29 (1) **Computation of gain or loss.** The gain from the
30 sale or other disposition of property shall be the excess of the
31 amount realized therefrom over the adjusted basis provided in



32 subsection (c) for determining gain, and the loss shall be the
33 excess of the adjusted basis provided in subsection (c) for
34 determining loss over the amount realized.

35 (2) **Amount realized.** The amount realized from the sale
36 or other disposition of property shall be the sum of any money
37 received plus the fair market value of the property (other than
38 money) received.

39 (3) **Installment sales.** Nothing in this section shall
40 be construed to prevent (in the case of property sold under
41 contract providing for payment in installments) the taxation of
42 that portion of any installment payment representing gain or
43 profit in the year in which such payment is received.

44 (b) **Recognition of gain or loss.** Except as otherwise
45 provided in this section, on the sale or exchange of property the
46 entire amount of the gain or loss, determined under subsection
47 (a), shall be recognized.

48 (c) **Adjusted basis for determining gain or loss.**

49 (1) **In general.** The adjusted basis for determining the
50 gain or loss from the sale or other disposition of property,
51 whenever acquired, shall be the basis determined under subsection
52 (d) adjusted as provided in subsection (e).

53 (2) **Bargain sale to a charitable organization.** If a
54 deduction is allowed under Section 27-7-17 (relating to charitable
55 contributions) by reason of a sale, then the adjusted basis for
56 determining the gain from such sale shall be that portion of the
57 adjusted basis which bears the same ratio to the adjusted basis as
58 the amount realized bears to the fair market value of the
59 property.

60 (d) **Basis of property.**

61 (1) **Property acquired after March 16, 1912.** The basis
62 for ascertaining the gain derived or the loss sustained from the
63 sale or other disposition of property, real, personal or mixed,
64 shall be, in the case of property acquired after March 16, 1912,



65 the cost of such property, except as otherwise provided in this
66 subsection.

67 (2) **Inventory property.** If the property should have
68 been included in the last inventory, the basis shall be the last
69 inventory value thereof.

70 (3) **Property acquired by gift.** In the case of property
71 acquired by gift after January 1, 1936, the basis shall be the
72 same as that which it would have in the hands of the donor or the
73 last preceding owner by whom it was not acquired by gift. If the
74 facts necessary to determine such basis are unknown to the donee,
75 the commissioner shall, if possible, obtain such facts from such
76 donor, or last preceding owner, or any other person cognizant
77 thereof. If the commissioner finds it impossible to obtain such
78 facts, the commissioner shall establish a basis for the property
79 from the best information available. In the case of property
80 acquired by gift on or before January 1, 1936, the basis for
81 ascertaining gain or loss from the sale or other disposition
82 thereof shall be the fair market price or value of such property
83 at the time of acquisition.

84 (4) **Property acquired by bequests, devises and**
85 **inheritance.** If personal property was acquired by specific
86 bequest, or if real property was acquired by general or specific
87 devise or by intestacy, the basis shall be the fair market value
88 of the property at the time of the death of the decedent. If the
89 property was acquired by the decedent's estate from the decedent,
90 the basis in the hands of the estate shall be the fair market
91 value of the property at the time of the death of the decedent.
92 In all other cases, if the property was acquired either by will or
93 by intestacy, the basis shall be the fair market value of the
94 property at the time of the distribution to the taxpayer. In the
95 case of property transferred in trust to pay the income for life
96 to or upon the order or direction of the grantor, with the right
97 reserved to the grantor at all times prior to his death to revoke



98 the trust, the basis of such property in the hands of the persons
99 entitled under the terms of the trust instrument to the property
100 after the grantor's death shall, after such death, be the same as
101 if the trust instrument had been a will executed on the day of the
102 grantor's death.

103 (5) **Property acquired by a transfer in trust.** If the
104 property was acquired by a transfer in trust (other than by a
105 transfer in trust by a bequest or devise), the basis shall be the
106 same as it would be in the hands of the grantor, increased in the
107 amount of gain, or decreased in the amount of loss, recognized to
108 the grantor upon such transfer under this section.

109 (6) **Property acquired in tax-free exchanges.** If the
110 property was acquired upon an exchange described in subsection
111 (f), the basis shall be the same as in the case of the property
112 exchanged, decreased in the amount of any money received by the
113 taxpayer and increased in the amount of gain or decreased in the
114 amount of loss to the taxpayer that was recognized upon such
115 exchange by the terms of this act. If the property so acquired
116 consisted in part of the type of property permitted by subsection
117 (f) to be received without recognition of gain or loss, and in
118 part of other property, the basis provided in this subsection
119 shall be allocated between the properties (other than money)
120 received, and for the purpose of the allocation there shall be
121 assigned to such other property an amount equivalent to its fair
122 market value at the date of the exchange.

123 (7) **Property acquired in tax-free distribution.** If the
124 property consists of stock or securities distributed to a taxpayer
125 in connection with a transaction described in subsection (f), the
126 basis in the case of the stock in respect of which the
127 distribution was made shall be apportioned, under rules and
128 regulations prescribed by the commissioner, between such stock and
129 the stock or securities distributed.



130 (8) **Property acquired in involuntary conversions.** If
131 the property was acquired as the result of a compulsory or
132 involuntary conversion described in subsection (f), the basis
133 shall be the same as in the case of property so converted,
134 decreased in the amount of any money received by the taxpayer
135 which was not expended in accordance with the provisions of said
136 subsection determining the taxable status of the gain or loss upon
137 such conversion, and increased in the amount of gain or decreased
138 in the amount of loss to the taxpayer recognized upon such
139 conversion.

140 (9) **Property acquired in wash sales.** If substantially
141 identical property was acquired in place of stock or securities
142 which were sold or disposed of and in respect of which loss was
143 not allowed as a deduction under Section 27-7-17(d), the basis in
144 the case of property so acquired shall be the basis in the case of
145 the stock or securities so sold or disposed of, except that, if
146 the repurchase price was in excess of the sales price, such basis
147 shall be increased in the amount of the difference, or if the
148 repurchase price was less than the sales price, such basis shall
149 be decreased in the amount of the difference.

150 (10) **Property acquired before March 16, 1912.** The
151 basis for determining the gain or loss from the sale or other
152 disposition of property acquired before March 16, 1912, shall be:

153 (A) The cost of such property (or in the case of
154 such property as is described in subsection (d)(2) or (4) of this
155 section the basis as therein provided, or in the case of property
156 acquired by gift or transfer in trust, the fair market value of
157 such property at the time of such acquisition); or

158 (B) The fair market value of such property as of
159 March 16, 1912, whichever is greater.

160 In determining the fair market value of stock in a
161 corporation as of March 16, 1912, due regard shall be given to the



162 fair market value of the assets of the corporation as of that
163 date.

164 (e) **Adjustments to basis.**

165 (1) **In general.** In computing the amount of gain or
166 loss from the sale or other disposition of property, proper
167 adjustment shall be made for any expenditure, receipt, loss or
168 other item, properly chargeable to capital account since the basis
169 date. The cost or other basis of the property shall also be
170 diminished by the amount of the deductions for exhaustion, wear
171 and tear, obsolescence, amortization and depletion, which have
172 since the acquisition of the property been allowable in respect of
173 such property whether or not such deductions were claimed by the
174 taxpayer or formerly allowed. In the case of stock, the basis
175 shall be diminished by the amount of distributions previously made
176 in respect to such stock, to the extent provided under this
177 section.

178 (2) **Substituted basis.** Whenever it appears that the
179 basis of the property in the hands of a taxpayer is a substituted
180 basis, then the adjustments provided in subsection (e)(1) shall be
181 made after first making in respect of such substituted basis
182 proper adjustments of a similar nature in respect of the period
183 during which the property was held by the transferor, donor or
184 grantor, or during which the other property was held by the person
185 for whom the basis is to be determined. The term "substituted
186 basis" as used in this subsection means a basis determined under
187 any provision of this section or under any corresponding provision
188 of a prior Income Tax Law, providing that the basis shall be
189 determined by reference to the basis in the hands of a transferor,
190 donor or grantor, or, by reference to other property held at any
191 time by the person for whom the basis is to be determined.

192 (f) **Recognition of gain or loss -- exceptions.**

193 (1) **Exchange solely in kind.**



194 (A) **Property held for productive use or**
195 **investment.** No gain or loss shall be recognized if property held
196 for productive use in trade or business or for investment (not
197 including stock in trade or other property held primarily for
198 sale, nor stocks, bonds, notes, choses in action, certificates of
199 trust or beneficial interest, or other securities or evidence of
200 indebtedness or interest) is exchanged solely for property of a
201 like kind to be held either for productive use in trade or
202 business or for investment.

203 (B) **Stock for stock in same corporation.** No gain
204 or loss shall be recognized if common stock in a corporation is
205 exchanged solely for common stock in the same corporation, or if
206 preferred stock in a corporation is exchanged solely for preferred
207 stock in the same corporation.

208 (C) **Transfers to corporation controlled by**
209 **transferor.** No gain or loss shall be recognized if property is
210 transferred to a corporation by one or more persons solely in
211 exchange for stock or securities in such corporation, and if
212 immediately after the exchange such person or persons are in
213 control of the corporation; but in the case of an exchange by two
214 (2) or more persons, this subsection shall apply only if the
215 amount of the stock and securities received by each is
216 substantially in proportion to his interest in the property prior
217 to the exchange.

218 (D) **Stock for stock on reorganization.** No gain or
219 loss shall be recognized if stock or securities in a corporation,
220 a party to a reorganization, are, in pursuance of the plan of
221 reorganization, exchanged solely for stock or securities in such
222 corporation or in another corporation, a party to a
223 reorganization.

224 (2) **Gain from exchanges not solely in kind.** If an
225 exchange would be within the provisions of subsection (f) (1) of
226 this section, if it were not for the fact that the property



227 received in exchange consists not only of property permitted by
228 subsection (f)(1) to be received without the recognition of gain,
229 but also of other property or money, then the gain, if any, to the
230 recipient shall be recognized, but in an amount not in excess of
231 the sum of such money and the fair market value of such other
232 property so received.

233 (3) **Loss from exchanges not solely in kind.** If an
234 exchange would be within the provisions of subsection (f)(1) of
235 this section, if it were not for the fact that the property
236 received in exchange consists not only of property permitted by
237 subsection (f)(1) to be received without the recognition of gain
238 or loss but also of other property or money, then no loss from the
239 exchange shall be recognized.

240 (4) **Distribution of stock on reorganization.** If in
241 pursuance of a plan of reorganization, there is distributed to a
242 shareholder in a corporation, a party to the reorganization, stock
243 or securities in such corporation or in another corporation, a
244 party to the reorganization, without the surrender by such
245 shareholder of stock or securities in such corporation, no gain to
246 the distributee from the receipt of such stock or securities shall
247 be recognized.

248 (5) **Distribution with effect of taxable dividend.** If a
249 distribution made in pursuance of a plan of reorganization is
250 within the provisions of subsection (f)(4) of this section, but
251 has the effect of the distribution of a taxable dividend, then
252 there shall be taxed as a dividend to each distributee such an
253 amount of the gain recognized under subsection (f)(2) as is not in
254 excess of his rateable share of the undistributed earnings and
255 profits of the corporation. The remainder, if any, of the gain
256 recognized under subsection (f)(2) shall be taxed as a gain from
257 the exchange of property.

258 (6) **Involuntary conversions.** If property, as a result
259 of its destruction in whole or in part, theft, seizure or



260 requisition or condemnation, or threat or imminence thereof, is
261 compulsorily or involuntarily converted:

262 (A) Into property similar or related in service or
263 use to the property so converted, no gain shall be recognized, but
264 loss shall be recognized;

265 (B) Into money, no gain shall be recognized if
266 such money is expended, within a period ending two (2) years after
267 the close of the first taxable year in which any part of the gain
268 upon the conversion is realized, in the acquisition of other
269 property similar or related in service or use to the property so
270 converted, or in the acquisition of control of a corporation
271 owning such other property, or in the establishment of a
272 replacement fund, but loss shall be recognized. If any part of
273 the money is not so expended, the gain shall be recognized to the
274 extent of the money which is not so expended, regardless of
275 whether such money is received in one or more taxable years and
276 regardless of whether or not the money which is not so expended
277 constitutes gain. Provided, gain realized on property which is
278 compulsorily or involuntarily converted for public use under Title
279 II, Chapter 27, Mississippi Code of 1972, or any federal law
280 relating to the involuntary conversion of property for public use
281 shall not be recognized. Provided further, that gain realized on
282 property which is voluntarily converted for public use shall not
283 be recognized after it becomes evident that eminent domain
284 proceedings are probable.

285 The provisions of this subsection relating to the
286 nonrecognition of gain, including the exception provided in
287 subparagraph (B), shall apply only to an owner of the converted
288 property who has held title to such property for a period at least
289 three (3) years prior to the date of the disposition of the
290 converted property, provided that an owner who acquired such
291 property by bequest, devise, gift or inheritance shall be excluded
292 from this limitation, if the preceding owner acquired title to



293 such property at least three (3) years prior to the date of
294 disposition.

295 (7) **Property exchanged treated as equivalent of cash.**

296 When property other than property specified in subsection
297 (f)(1)(A) of this section is exchanged for other property, the
298 property received in exchange shall, for the purpose of
299 determining gain or loss, be treated as the equivalent of cash to
300 the amount of its fair market value.

301 (8) **Distribution of assets of corporation.** The
302 distribution to the taxpayer of the assets of a corporation shall
303 be treated as a sale of the stock or securities of the corporation
304 owned by him, and the gain or loss shall be computed accordingly.

305 (9) **Organization of a corporation.** In the case of the
306 organization of a corporation, the stock and securities received
307 shall be considered to take the place of property transferred
308 therefor, and no gain or loss shall be deemed to arise therefrom.

309 (10) Sales of certain interests in financial
310 institutions domiciled in Mississippi, domestic corporations,
311 domestic limited partnerships or domestic limited liability
312 companies.

313 (A) No gain shall be recognized from the sale of
314 authorized shares in financial institutions domiciled in
315 Mississippi and domestic corporations, or partnership interests in
316 domestic limited partnerships and domestic limited liability
317 companies, that have been held for more than one (1) year through
318 the 2001 taxable year, fifty percent (50%) of the gain shall be
319 recognized from the sale of authorized shares in financial
320 institutions domiciled in Mississippi and domestic corporations,
321 or partnership interests in domestic limited partnerships and
322 domestic limited liability companies, that have been held for more
323 than one (1) year for taxable years 2002 and 2003, and no gain
324 shall be recognized from the sale of authorized shares in
325 financial institutions domiciled in Mississippi and domestic



326 corporations, or partnership interests in domestic limited
327 partnerships and domestic limited liability companies, that have
328 been held for more than one (1) year for taxable year 2004 and
329 taxable years thereafter; provided, however, that any gain that
330 would otherwise be excluded by this provision shall first be
331 applied against, and reduced by, any losses determined from sales
332 or transactions described by this provision if the losses were
333 incurred in the year of the gain or within the two (2) years
334 preceding or subsequent to the gain.

335 (B) No gain shall be recognized from the sale of
336 all or at least ninety percent (90%) of the assets in domestic
337 corporations except those assets that represent the ownership
338 interest of another entity provided:

339 (i) The assets of the corporation have been
340 held for more than one (1) year;

341 (ii) The corporation is totally liquidated
342 and dissolved within one (1) calendar year from the date of the
343 sale of all or at least ninety percent (90%) of the assets of the
344 corporation; and

345 (iii) The depreciation and/or amortization
346 that has been taken on the assets of the corporation shall be
347 recaptured and taxed as ordinary income in the same manner as
348 provided for in Section 1245 of the Internal Revenue Code, as
349 amended, and any corresponding regulations relating to Section
350 1245 property. All depreciation and/or amortization shall be
351 recaptured up to cost prior to any nonrecognition of gains.

352 (g) **Reorganization defined.** The term "reorganization"
353 means:

354 (1) A statutory merger or consolidation;

355 (2) The acquisition by one (1) corporation, in exchange
356 solely for all or a part of its voting stock (or in exchange
357 solely for all or a part of the voting stock of a corporation
358 which is in control of the acquiring corporation), of stock of



359 another corporation if, immediately after the acquisition, the
360 acquiring corporation has control of such other corporation, or of
361 substantially all the properties of another corporation;

362 (3) A transfer by a corporation of all or a part of its
363 assets to another corporation if immediately after the transfer
364 the transferor, or one or more of its shareholders (including
365 persons who were shareholders immediately before the transfer), or
366 any combination thereof, is in control of the corporation to which
367 the assets are transferred;

368 (4) A recapitalization; or

369 (5) A mere change in identity, form or place of
370 organization, however effected.

371 (h) **Party to a reorganization defined.** The term "a party to
372 a reorganization" includes a corporation resulting from a
373 reorganization and includes both corporations in the case of an
374 acquisition by one (1) corporation of at least a majority of the
375 voting stock and at least a majority of the total number of shares
376 of all other classes of stock of another corporation.

377 (i) **Control defined.** As used in this section, the term
378 "control" means the ownership of at least eighty percent (80%) of
379 the voting stock and at least eighty percent (80%) of the total
380 number of shares of all other classes of stock of the corporation.

381 (j) **Special rules.**

382 (1) **Liquidation of subsidiaries.** A transfer to a
383 parent corporation from its subsidiary of property distributed in
384 complete liquidation of the subsidiary shall result in no
385 recognized gain or loss if the basis of the property in the hands
386 of the parent corporation is the same as it was in the hands of
387 the subsidiary.

388 (2) **Gain or loss on sales or exchanges in connection**
389 **with certain liquidations.** Corporations adopting a plan of
390 complete liquidation under the provisions of the Internal Revenue
391 Code shall recognize the gain or loss from the sale or exchange of



392 property by the corporation under said plan. The total gain or
393 loss from the liquidating distributions shall be recognized by the
394 shareholders; however, a credit for the tax paid by the
395 liquidating corporation on the gain from the sale or exchange of
396 property under the plan of liquidation will be allowed to the
397 extent of any tax liability to the shareholders through the 2002
398 taxable year, a credit for fifty percent (50%) of the tax paid by
399 the liquidating corporation on the gain from the sale or exchange
400 of property under the plan of liquidation will be allowed to the
401 extent of any tax liability to the shareholders for calendar years
402 2002 and 2003, and a credit for the tax paid by the liquidating
403 corporation on the gain from the sale or exchange of property
404 under the plan of liquidation will be allowed to the extent of any
405 tax liability to the shareholders for taxable year 2004 and
406 taxable years thereafter. The corporation shall provide to the
407 State Tax Commission a list of all shareholders with their
408 percentage of ownership, distribution, tax credit allowed and any
409 other information requested.

410 (3) **Distribution of stock and securities of a**
411 **controlled corporation.** No gain shall be recognized on a
412 distribution to a stockholder of a corporation if such gain would
413 not be recognized to such stockholder for federal income tax
414 purposes under the provisions of Section 355 of the federal
415 Internal Revenue Code.

416 (4) Notwithstanding the other provisions of this
417 section, a corporation or other entity that is involved in
418 restructuring, reorganizing, distributing assets or profits, or
419 changing ownership that results in an adjustment to its asset
420 basis is required to report a gain in the year such transaction
421 occurs on any such transaction when the transaction involves
422 assets owned or used in this state, or otherwise represents assets
423 owned or used in this state. If a transfer of income or a change
424 in asset valuation occurs on the tax records of the taxpayer, such



425 transaction shall result in taxation to this state to the extent
426 of the transfer of income or change in asset valuation.

427 (5) If a corporation or other entity makes an Internal
428 Revenue Code Section 338 election, or other similar election under
429 which the aggregate basis in assets are increased on the tax
430 records of the taxpayer, then a similar election must also be made
431 for Mississippi purposes, but the gain must be recognized by the
432 corporation in which the increase in basis of the assets occurs.
433 The corporation or other entity is allowed to increase its basis
434 by the amount of gain recognized. An aggregate write-down of
435 assets is not allowed. The parent corporation shall recognize the
436 gain on the disposition of its stock.

437 (6) For state tax purposes, a corporation or other
438 legal entity is considered separate from its shareholders,
439 affiliated corporations or other entities. If a corporation or
440 other legal entity enters into any transaction that is for the
441 benefit of its shareholders or for the benefit of an affiliated
442 corporation without an equal mutual business benefit of the
443 corporation, then, the transaction will be adjusted or eliminated
444 to arrive at taxable income to this state. All transactions
445 entered into by a corporation must be at "arms-length." If
446 requested by the commissioner, the taxpayer must be able to
447 substantiate that the transaction occurred at "arms-length." If
448 not, the transaction may be adjusted to the satisfaction of the
449 commissioner. In determining whether the transaction occurred at
450 arms-length, the commissioner shall consider the following:

451 (A) Whether the transaction is in compliance with
452 the federal regulations promulgated under Internal Revenue Code
453 Section 482;

454 (B) Whether the transaction was done for a valid
455 business purpose;

456 (C) Whether the income being shifted by the
457 transaction is subject to a tax in another state;



458 (D) Whether the transaction is consistent with the
459 results that would have been realized if uncontrolled taxpayers
460 had engaged in the same transaction under the same circumstances;
461 and

462 (E) Other factors which support the conclusion
463 that income is being shifted to avoid the tax imposed by this
464 chapter.

465 (k) **Sale or exchange of residence.**

466 (1) **Loss on sale or exchange of residence.** Loss from
467 the sale or exchange of property used by the taxpayer as his
468 principal residence is not recognized and cannot be deducted.

469 (2) **Nonrecognition of gain.** Gain shall be computed in
470 accordance with the provisions of the Internal Revenue Code,
471 rules, regulations and revenue procedures relating to the sale or
472 exchange of a personal residence not in direct conflict with the
473 provisions of the Mississippi Income Tax Law.

474 (3) **Gain on the sale or exchange of residence.** A
475 recognizable gain on the sale or exchange of a personal residence
476 shall be included in gross income and treated as ordinary income.

477 (l) **Distributions by corporations.**

478 (1) Distributions of the property of a corporation,
479 including partial and complete liquidations, shall be recognized
480 by the distributing corporation and the gain or loss shall be
481 computed on the difference of the fair market value of the assets
482 distributed and their basis. The total gain or loss from the
483 distributions to the shareholders shall be recognized by the
484 shareholders subject to subsections (f)(8) and (j)(1); however, a
485 credit for the tax paid by the distributing corporation on the
486 gain from the sale or exchange of property under the plan of
487 distribution will be allowed to the extent of any liability to the
488 shareholders. The corporation shall provide to the State Tax
489 Commission a list of all shareholders with their percentage of



490 ownership, distribution, tax credit allowed and any other
491 information requested.

492 (2) **Source of distributions.** For the purposes of this
493 act, every distribution is made out of earnings or profits to the
494 extent thereof, and from the most recently accumulated earnings
495 and profits. Any earnings or profit accumulated, or increase in
496 value of property acquired, before March 16, 1912, may be
497 distributed exempt from tax (after the earnings and profits
498 accumulated after March 16, 1912, have been distributed), but any
499 such tax-free distribution shall be applied against and reduce the
500 basis of the stock provided in subsection (d).

501 (3) **Distributions in liquidation.** Amounts distributed
502 in complete liquidation of a corporation shall be treated as in
503 full payment in exchange for the stock, and amounts distributed in
504 partial liquidation of a corporation shall be treated as in part
505 or full payment in exchange for the stock. The gain or loss to
506 the distributee resulting from such exchange shall be determined
507 under subsection (a), but shall be recognized only to the extent
508 provided in subsection (f). In the case of amounts distributed in
509 partial liquidation, the part of such distribution which is
510 property chargeable to capital account shall not be considered a
511 distribution of earnings or profits within the meaning of
512 paragraph (2) of this subsection for the purpose of determining
513 the taxability of subsequent distributions by the corporations.

514 (4) **Other distributions.** If any distribution (not in
515 partial or complete liquidation) made by a corporation to its
516 shareholders, is not out of increase in value of property accrued
517 before March 16, 1912, and is not out of earnings or profits, then
518 the amount of such distribution shall be applied against and
519 reduce the basis of the stock provided in subsection (d), and if
520 in excess of such basis, such excess shall be taxable in the same
521 manner as a gain from the sale or exchange of property.



522 (5) **Stock dividends.** A stock dividend shall not be
523 subject to tax.

524 (6) **Cancellation or redemption of stock.** If a
525 corporation cancels or redeems its stock (whether or not such
526 stock was issued as a stock dividend) at such time and in such
527 manner as to make the distribution and cancellation or redemption
528 in whole or in part essentially equivalent to the distribution of
529 a taxable dividend, the amount so distributed in redemption or
530 cancellation of the stock, to the extent that it represents a
531 distribution of earnings or profits accumulated after March 16,
532 1912, shall be treated as a taxable dividend.

533 (7) **"Amounts distributed in partial liquidation"**
534 **defined.** As used in this subsection, the term "amounts
535 distributed in partial liquidation" means distribution by a
536 corporation in complete cancellation or redemption of a part of
537 its stock, or one of a series of distributions in complete
538 cancellation or redemption of all or a portion of its stock.

539 (8) **Distributions of stock pursuant to order enforcing**
540 **the Antitrust Laws.** Any distribution of stock which is made
541 pursuant to the order of any court enforcing the Antitrust Laws of
542 the United States, or of any state, shall be a distribution which
543 is not out of earnings and profits of the distributing
544 corporation, but the value of the stock so distributed shall be
545 applied against and reduce the basis of the stock of the
546 distributing corporation provided in subsection (d), and if in
547 excess of such basis, such excess shall be taxable in the same
548 manner as a gain from the sale or exchange of property.

549 **[From and after July 1, 2003, this section shall read as**
550 **follows:]**

551 27-7-9. (a) Except as provided in Sections 27-7-95 through
552 27-7-103, determination of amount of gain or loss.

553 (1) **Computation of gain or loss.** The gain from the
554 sale or other disposition of property shall be the excess of the



555 amount realized therefrom over the adjusted basis provided in
556 subsection (c) for determining gain, and the loss shall be the
557 excess of the adjusted basis provided in subsection (c) for
558 determining loss over the amount realized.

559 (2) **Amount realized.** The amount realized from the sale
560 or other disposition of property shall be the sum of any money
561 received plus the fair market value of the property (other than
562 money) received.

563 (3) **Installment sales.** Nothing in this section shall
564 be construed to prevent (in the case of property sold under
565 contract providing for payment in installments) the taxation of
566 that portion of any installment payment representing gain or
567 profit in the year in which such payment is received.

568 (b) **Recognition of gain or loss.** Except as otherwise
569 provided in this section, on the sale or exchange of property the
570 entire amount of the gain or loss, determined under subsection
571 (a), shall be recognized.

572 (c) **Adjusted basis for determining gain or loss.**

573 (1) **In general.** The adjusted basis for determining the
574 gain or loss from the sale or other disposition of property,
575 whenever acquired, shall be the basis determined under subsection
576 (d) adjusted as provided in subsection (e).

577 (2) **Bargain sale to a charitable organization.** If a
578 deduction is allowed under Section 27-7-17 (relating to charitable
579 contributions) by reason of a sale, then the adjusted basis for
580 determining the gain from such sale shall be that portion of the
581 adjusted basis which bears the same ratio to the adjusted basis as
582 the amount realized bears to the fair market value of the
583 property.

584 (d) **Basis of property.**

585 (1) **Property acquired after March 16, 1912.** The basis
586 for ascertaining the gain derived or the loss sustained from the
587 sale or other disposition of property, real, personal or mixed,



588 shall be, in the case of property acquired after March 16, 1912,
589 the cost of such property, except as otherwise provided in this
590 subsection.

591 (2) **Inventory property.** If the property should have
592 been included in the last inventory, the basis shall be the last
593 inventory value thereof.

594 (3) **Property acquired by gift.** In the case of property
595 acquired by gift after January 1, 1936, the basis shall be the
596 same as that which it would have in the hands of the donor or the
597 last preceding owner by whom it was not acquired by gift. If the
598 facts necessary to determine such basis are unknown to the donee,
599 the commissioner shall, if possible, obtain such facts from such
600 donor, or last preceding owner, or any other person cognizant
601 thereof. If the commissioner finds it impossible to obtain such
602 facts, the commissioner shall establish a basis for the property
603 from the best information available. In the case of property
604 acquired by gift on or before January 1, 1936, the basis for
605 ascertaining gain or loss from the sale or other disposition
606 thereof shall be the fair market price or value of such property
607 at the time of acquisition.

608 (4) **Property acquired by bequests, devises and**
609 **inheritance.** If personal property was acquired by specific
610 bequest, or if real property was acquired by general or specific
611 devise or by intestacy, the basis shall be the fair market value
612 of the property at the time of the death of the decedent. If the
613 property was acquired by the decedent's estate from the decedent,
614 the basis in the hands of the estate shall be the fair market
615 value of the property at the time of the death of the decedent.
616 In all other cases, if the property was acquired either by will or
617 by intestacy, the basis shall be the fair market value of the
618 property at the time of the distribution to the taxpayer. In the
619 case of property transferred in trust to pay the income for life
620 to or upon the order or direction of the grantor, with the right



621 reserved to the grantor at all times prior to his death to revoke
622 the trust, the basis of such property in the hands of the persons
623 entitled under the terms of the trust instrument to the property
624 after the grantor's death shall, after such death, be the same as
625 if the trust instrument had been a will executed on the day of the
626 grantor's death.

627 (5) **Property acquired by a transfer in trust.** If the
628 property was acquired by a transfer in trust (other than by a
629 transfer in trust by a bequest or devise), the basis shall be the
630 same as it would be in the hands of the grantor, increased in the
631 amount of gain, or decreased in the amount of loss, recognized to
632 the grantor upon such transfer under this section.

633 (6) **Property acquired in tax-free exchanges.** If the
634 property was acquired upon an exchange described in subsection
635 (f), the basis shall be the same as in the case of the property
636 exchanged, decreased in the amount of any money received by the
637 taxpayer and increased in the amount of gain or decreased in the
638 amount of loss to the taxpayer that was recognized upon such
639 exchange by the terms of this act. If the property so acquired
640 consisted in part of the type of property permitted by subsection
641 (f) to be received without recognition of gain or loss, and in
642 part of other property, the basis provided in this subsection
643 shall be allocated between the properties (other than money)
644 received, and for the purpose of the allocation there shall be
645 assigned to such other property an amount equivalent to its fair
646 market value at the date of the exchange.

647 (7) **Property acquired in tax-free distribution.** If the
648 property consists of stock or securities distributed to a taxpayer
649 in connection with a transaction described in subsection (f), the
650 basis in the case of the stock in respect of which the
651 distribution was made shall be apportioned, under rules and
652 regulations prescribed by the commissioner, between such stock and
653 the stock or securities distributed.



654 (8) **Property acquired in involuntary conversions.** If
655 the property was acquired as the result of a compulsory or
656 involuntary conversion described in subsection (f), the basis
657 shall be the same as in the case of property so converted,
658 decreased in the amount of any money received by the taxpayer
659 which was not expended in accordance with the provisions of said
660 subsection determining the taxable status of the gain or loss upon
661 such conversion, and increased in the amount of gain or decreased
662 in the amount of loss to the taxpayer recognized upon such
663 conversion.

664 (9) **Property acquired in wash sales.** If substantially
665 identical property was acquired in place of stock or securities
666 which were sold or disposed of and in respect of which loss was
667 not allowed as a deduction under Section 27-7-17(d), the basis in
668 the case of property so acquired shall be the basis in the case of
669 the stock or securities so sold or disposed of, except that, if
670 the repurchase price was in excess of the sales price, such basis
671 shall be increased in the amount of the difference, or if the
672 repurchase price was less than the sales price, such basis shall
673 be decreased in the amount of the difference.

674 (10) **Property acquired before March 16, 1912.** The
675 basis for determining the gain or loss from the sale or other
676 disposition of property acquired before March 16, 1912, shall be:

677 (A) The cost of such property (or in the case of
678 such property as is described in subsection (d)(2) or (4) of this
679 section the basis as therein provided, or in the case of property
680 acquired by gift or transfer in trust, the fair market value of
681 such property at the time of such acquisition); or

682 (B) The fair market value of such property as of
683 March 16, 1912, whichever is greater.

684 In determining the fair market value of stock in a
685 corporation as of March 16, 1912, due regard shall be given to the



686 fair market value of the assets of the corporation as of that
687 date.

688 (e) **Adjustments to basis.**

689 (1) **In general.** In computing the amount of gain or
690 loss from the sale or other disposition of property, proper
691 adjustment shall be made for any expenditure, receipt, loss or
692 other item, properly chargeable to capital account since the basis
693 date. The cost or other basis of the property shall also be
694 diminished by the amount of the deductions for exhaustion, wear
695 and tear, obsolescence, amortization and depletion, which have
696 since the acquisition of the property been allowable in respect of
697 such property whether or not such deductions were claimed by the
698 taxpayer or formerly allowed. In the case of stock, the basis
699 shall be diminished by the amount of distributions previously made
700 in respect to such stock, to the extent provided under this
701 section.

702 (2) **Substituted basis.** Whenever it appears that the
703 basis of the property in the hands of a taxpayer is a substituted
704 basis, then the adjustments provided in subsection (e)(1) shall be
705 made after first making in respect of such substituted basis
706 proper adjustments of a similar nature in respect of the period
707 during which the property was held by the transferor, donor or
708 grantor, or during which the other property was held by the person
709 for whom the basis is to be determined. The term "substituted
710 basis" as used in this subsection means a basis determined under
711 any provision of this section or under any corresponding provision
712 of a prior Income Tax Law, providing that the basis shall be
713 determined by reference to the basis in the hands of a transferor,
714 donor or grantor, or, by reference to other property held at any
715 time by the person for whom the basis is to be determined.

716 (f) **Recognition of gain or loss -- exceptions.**

717 (1) **Exchange solely in kind.**



718 (A) **Property held for productive use or**
719 **investment.** No gain or loss shall be recognized if property held
720 for productive use in trade or business or for investment (not
721 including stock in trade or other property held primarily for
722 sale, nor stocks, bonds, notes, choses in action, certificates of
723 trust or beneficial interest, or other securities or evidence of
724 indebtedness or interest) is exchanged solely for property of a
725 like kind to be held either for productive use in trade or
726 business or for investment.

727 (B) **Stock for stock in same corporation.** No gain
728 or loss shall be recognized if common stock in a corporation is
729 exchanged solely for common stock in the same corporation, or if
730 preferred stock in a corporation is exchanged solely for preferred
731 stock in the same corporation.

732 (C) **Transfers to corporation controlled by**
733 **transferor.** No gain or loss shall be recognized if property is
734 transferred to a corporation by one or more persons solely in
735 exchange for stock or securities in such corporation, and if
736 immediately after the exchange such person or persons are in
737 control of the corporation; but in the case of an exchange by two
738 (2) or more persons, this subsection shall apply only if the
739 amount of the stock and securities received by each is
740 substantially in proportion to his interest in the property prior
741 to the exchange.

742 (D) **Stock for stock on reorganization.** No gain or
743 loss shall be recognized if stock or securities in a corporation,
744 a party to a reorganization, are, in pursuance of the plan of
745 reorganization, exchanged solely for stock or securities in such
746 corporation or in another corporation, a party to a
747 reorganization.

748 (2) **Gain from exchanges not solely in kind.** If an
749 exchange would be within the provisions of subsection (f) (1) of
750 this section, if it were not for the fact that the property



751 received in exchange consists not only of property permitted by
752 subsection (f) (1) to be received without the recognition of gain,
753 but also of other property or money, then the gain, if any, to the
754 recipient shall be recognized, but in an amount not in excess of
755 the sum of such money and the fair market value of such other
756 property so received.

757 (3) **Loss from exchanges not solely in kind.** If an
758 exchange would be within the provisions of subsection (f) (1) of
759 this section, if it were not for the fact that the property
760 received in exchange consists not only of property permitted by
761 subsection (f) (1) to be received without the recognition of gain
762 or loss but also of other property or money, then no loss from the
763 exchange shall be recognized.

764 (4) **Distribution of stock on reorganization.** If in
765 pursuance of a plan of reorganization, there is distributed to a
766 shareholder in a corporation, a party to the reorganization, stock
767 or securities in such corporation or in another corporation, a
768 party to the reorganization, without the surrender by such
769 shareholder of stock or securities in such corporation, no gain to
770 the distributee from the receipt of such stock or securities shall
771 be recognized.

772 (5) **Distribution with effect of taxable dividend.** If a
773 distribution made in pursuance of a plan of reorganization is
774 within the provisions of subsection (f) (4) of this section, but
775 has the effect of the distribution of a taxable dividend, then
776 there shall be taxed as a dividend to each distributee such an
777 amount of the gain recognized under subsection (f) (2) as is not in
778 excess of his rateable share of the undistributed earnings and
779 profits of the corporation. The remainder, if any, of the gain
780 recognized under subsection (f) (2) shall be taxed as a gain from
781 the exchange of property.

782 (6) **Involuntary conversions.** If property, as a result
783 of its destruction in whole or in part, theft, seizure or



784 requisition or condemnation, or threat or imminence thereof, is
785 compulsorily or involuntarily converted:

786 (A) Into property similar or related in service or
787 use to the property so converted, no gain shall be recognized, but
788 loss shall be recognized;

789 (B) Into money, no gain shall be recognized if
790 such money is expended, within a period ending two (2) years after
791 the close of the first taxable year in which any part of the gain
792 upon the conversion is realized, in the acquisition of other
793 property similar or related in service or use to the property so
794 converted, or in the acquisition of control of a corporation
795 owning such other property, or in the establishment of a
796 replacement fund, but loss shall be recognized. If any part of
797 the money is not so expended, the gain shall be recognized to the
798 extent of the money which is not so expended, regardless of
799 whether such money is received in one or more taxable years and
800 regardless of whether or not the money which is not so expended
801 constitutes gain. Provided, gain realized on property which is
802 compulsorily or involuntarily converted for public use under Title
803 II, Chapter 27, Mississippi Code of 1972, or any federal law
804 relating to the involuntary conversion of property for public use
805 shall not be recognized. Provided further, that gain realized on
806 property which is voluntarily converted for public use shall not
807 be recognized after it becomes evident that eminent domain
808 proceedings are probable.

809 The provisions of this subsection relating to the
810 nonrecognition of gain, including the exception provided in
811 subparagraph (B), shall apply only to an owner of the converted
812 property who has held title to such property for a period at least
813 three (3) years prior to the date of the disposition of the
814 converted property, provided that an owner who acquired such
815 property by bequest, devise, gift or inheritance shall be excluded
816 from this limitation, if the preceding owner acquired title to



817 such property at least three (3) years prior to the date of
818 disposition.

819 (7) **Property exchanged treated as equivalent of cash.**

820 When property other than property specified in subsection
821 (f)(1)(A) of this section is exchanged for other property, the
822 property received in exchange shall, for the purpose of
823 determining gain or loss, be treated as the equivalent of cash to
824 the amount of its fair market value.

825 (8) **Distribution of assets of corporation.** The
826 distribution to the taxpayer of the assets of a corporation shall
827 be treated as a sale of the stock or securities of the corporation
828 owned by him, and the gain or loss shall be computed accordingly.

829 (9) **Organization of a corporation.** In the case of the
830 organization of a corporation, the stock and securities received
831 shall be considered to take the place of property transferred
832 therefor, and no gain or loss shall be deemed to arise therefrom.

833 (10) Sales of certain interests in financial
834 institutions domiciled in Mississippi, domestic corporations,
835 domestic limited partnerships or domestic limited liability
836 companies.

837 (A) No gain shall be recognized from the sale of
838 authorized shares in financial institutions domiciled in
839 Mississippi and domestic corporations, or partnership interests in
840 domestic limited partnerships and domestic limited liability
841 companies, that have been held for more than one (1) year through
842 the 2001 taxable year, fifty percent (50%) of the gain shall be
843 recognized from the sale of authorized shares in financial
844 institutions domiciled in Mississippi and domestic corporations,
845 or partnership interests in domestic limited partnerships and
846 domestic limited liability companies, that have been held for more
847 than one (1) year for taxable years 2002 and 2003, and no gain
848 shall be recognized from the sale of authorized shares in
849 financial institutions domiciled in Mississippi and domestic



850 corporations, or partnership interests in domestic limited
851 partnerships and domestic limited liability companies, that have
852 been held for more than one (1) year for taxable year 2004 and
853 taxable years thereafter; provided, however, that any gain that
854 would otherwise be excluded by this provision shall first be
855 applied against, and reduced by, any losses determined from sales
856 or transactions described by this provision if the losses were
857 incurred in the year of the gain or within the two (2) years
858 preceding or subsequent to the gain.

859 (B) No gain shall be recognized from the sale of
860 all or at least ninety percent (90%) of the assets in domestic
861 corporations except those assets that represent the ownership
862 interest of another entity provided:

863 (i) The assets of the corporation have been
864 held for more than one (1) year;

865 (ii) The corporation is totally liquidated
866 and dissolved within one (1) calendar year from the date of the
867 sale of all or at least ninety percent (90%) of the assets of the
868 corporation; and

869 (iii) The depreciation and/or amortization
870 that has been taken on the assets of the corporation shall be
871 recaptured and taxed as ordinary income in the same manner as
872 provided for in Section 1245 of the Internal Revenue Code, as
873 amended, and any corresponding regulations relating to Section
874 1245 property. All depreciation and/or amortization shall be
875 recaptured up to cost prior to any nonrecognition of gains.

876 (g) **Reorganization defined.** The term "reorganization"
877 means:

878 (1) A statutory merger or consolidation;

879 (2) The acquisition by one (1) corporation, in exchange
880 solely for all or a part of its voting stock (or in exchange
881 solely for all or a part of the voting stock of a corporation
882 which is in control of the acquiring corporation), of stock of



883 another corporation if, immediately after the acquisition, the
884 acquiring corporation has control of such other corporation, or of
885 substantially all the properties of another corporation;

886 (3) A transfer by a corporation of all or a part of its
887 assets to another corporation if immediately after the transfer
888 the transferor, or one or more of its shareholders (including
889 persons who were shareholders immediately before the transfer), or
890 any combination thereof, is in control of the corporation to which
891 the assets are transferred;

892 (4) A recapitalization; or

893 (5) A mere change in identity, form or place of
894 organization, however effected.

895 (h) **Party to a reorganization defined.** The term "a party to
896 a reorganization" includes a corporation resulting from a
897 reorganization and includes both corporations in the case of an
898 acquisition by one (1) corporation of at least a majority of the
899 voting stock and at least a majority of the total number of shares
900 of all other classes of stock of another corporation.

901 (i) **Control defined.** As used in this section, the term
902 "control" means the ownership of at least eighty percent (80%) of
903 the voting stock and at least eighty percent (80%) of the total
904 number of shares of all other classes of stock of the corporation.

905 (j) **Special rules.**

906 (1) **Liquidation of subsidiaries.** A transfer to a
907 parent corporation from its subsidiary of property distributed in
908 complete liquidation of the subsidiary shall result in no
909 recognized gain or loss if the basis of the property in the hands
910 of the parent corporation is the same as it was in the hands of
911 the subsidiary.

912 (2) **Gain or loss on sales or exchanges in connection**
913 **with certain liquidations.** Corporations adopting a plan of
914 complete liquidation under the provisions of the Internal Revenue
915 Code shall recognize the gain or loss from the sale or exchange of



916 property by the corporation under said plan. The total gain or
917 loss from the liquidating distributions shall be recognized by the
918 shareholders; however, a credit for the tax paid by the
919 liquidating corporation on the gain from the sale or exchange of
920 property under the plan of liquidation will be allowed to the
921 extent of any tax liability to the shareholders through the 2002
922 taxable year, a credit for fifty percent (50%) of the tax paid by
923 the liquidating corporation on the gain from the sale or exchange
924 of property under the plan of liquidation will be allowed to the
925 extent of any tax liability to the shareholders for calendar years
926 2002 and 2003, and a credit for the tax paid by the liquidating
927 corporation on the gain from the sale or exchange of property
928 under the plan of liquidation will be allowed to the extent of any
929 tax liability to the shareholders for taxable year 2004 and
930 taxable years thereafter. The corporation shall provide to the
931 State Tax Commission a list of all shareholders with their
932 percentage of ownership, distribution, tax credit allowed and any
933 other information requested.

934 (3) **Distribution of stock and securities of a**
935 **controlled corporation.** No gain shall be recognized on a
936 distribution to a stockholder of a corporation if such gain would
937 not be recognized to such stockholder for federal income tax
938 purposes under the provisions of Section 355 of the federal
939 Internal Revenue Code.

940 (4) Notwithstanding the other provisions of this
941 section, a corporation or other entity that is involved in
942 restructuring, reorganizing, distributing assets or profits, or
943 changing ownership that results in an adjustment to its asset
944 basis is required to report a gain in the year such transaction
945 occurs on any such transaction when the transaction involves
946 assets owned or used in this state, or otherwise represents assets
947 owned or used in this state. If a transfer of income or a change
948 in asset valuation occurs on the tax records of the taxpayer, such



949 transaction shall result in taxation to this state to the extent
950 of the transfer of income or change in asset valuation.

951 (5) If a corporation or other entity makes an Internal
952 Revenue Code Section 338 election, or other similar election under
953 which the aggregate basis in assets are increased on the tax
954 records of the taxpayer, then a similar election must also be made
955 for Mississippi purposes, but the gain must be recognized by the
956 corporation in which the increase in basis of the assets occurs.
957 The corporation or other entity is allowed to increase its basis
958 by the amount of gain recognized. An aggregate write-down of
959 assets is not allowed. The parent corporation shall recognize the
960 gain on the disposition of its stock.

961 (6) For state tax purposes, a corporation or other
962 legal entity is considered separate from its shareholders,
963 affiliated corporations or other entities. If a corporation or
964 other legal entity enters into any transaction that is for the
965 benefit of its shareholders or for the benefit of an affiliated
966 corporation without an equal mutual business benefit of the
967 corporation, then, the transaction will be adjusted or eliminated
968 to arrive at taxable income to this state. All transactions
969 entered into by a corporation must be at "arms-length." If
970 requested by the commissioner, the taxpayer must be able to
971 substantiate that the transaction occurred at "arms-length." If
972 not, the transaction may be adjusted to the satisfaction of the
973 commissioner. For purpose of this subsection, compliance with
974 federal regulations promulgated under Internal Revenue Code
975 Section 482, shall constitute "arms-length."

976 (k) **Sale or exchange of residence.**

977 (1) **Loss on sale or exchange of residence.** Loss from
978 the sale or exchange of property used by the taxpayer as his
979 principal residence is not recognized and cannot be deducted.

980 (2) **Nonrecognition of gain.** Gain shall be computed in
981 accordance with the provisions of the Internal Revenue Code,



982 rules, regulations and revenue procedures relating to the sale or
983 exchange of a personal residence not in direct conflict with the
984 provisions of the Mississippi Income Tax Law.

985 (3) **Gain on the sale or exchange of residence.** A
986 recognizable gain on the sale or exchange of a personal residence
987 shall be included in gross income and treated as ordinary income.

988 (1) **Distributions by corporations.**

989 (1) Distributions of the property of a corporation,
990 including partial and complete liquidations, shall be recognized
991 by the distributing corporation and the gain or loss shall be
992 computed on the difference of the fair market value of the assets
993 distributed and their basis. The total gain or loss from the
994 distributions to the shareholders shall be recognized by the
995 shareholders subject to subsections (f)(8) and (j)(1); however, a
996 credit for the tax paid by the distributing corporation on the
997 gain from the sale or exchange of property under the plan of
998 distribution will be allowed to the extent of any liability to the
999 shareholders. The corporation shall provide to the State Tax
1000 Commission a list of all shareholders with their percentage of
1001 ownership, distribution, tax credit allowed and any other
1002 information requested.

1003 (2) **Source of distributions.** For the purposes of this
1004 act, every distribution is made out of earnings or profits to the
1005 extent thereof, and from the most recently accumulated earnings
1006 and profits. Any earnings or profit accumulated, or increase in
1007 value of property acquired, before March 16, 1912, may be
1008 distributed exempt from tax (after the earnings and profits
1009 accumulated after March 16, 1912, have been distributed), but any
1010 such tax-free distribution shall be applied against and reduce the
1011 basis of the stock provided in subsection (d).

1012 (3) **Distributions in liquidation.** Amounts distributed
1013 in complete liquidation of a corporation shall be treated as in
1014 full payment in exchange for the stock, and amounts distributed in



1015 partial liquidation of a corporation shall be treated as in part
1016 or full payment in exchange for the stock. The gain or loss to
1017 the distributee resulting from such exchange shall be determined
1018 under subsection (a), but shall be recognized only to the extent
1019 provided in subsection (f). In the case of amounts distributed in
1020 partial liquidation, the part of such distribution which is
1021 property chargeable to capital account shall not be considered a
1022 distribution of earnings or profits within the meaning of
1023 paragraph (2) of this subsection for the purpose of determining
1024 the taxability of subsequent distributions by the corporations.

1025 (4) **Other distributions.** If any distribution (not in
1026 partial or complete liquidation) made by a corporation to its
1027 shareholders, is not out of increase in value of property accrued
1028 before March 16, 1912, and is not out of earnings or profits, then
1029 the amount of such distribution shall be applied against and
1030 reduce the basis of the stock provided in subsection (d), and if
1031 in excess of such basis, such excess shall be taxable in the same
1032 manner as a gain from the sale or exchange of property.

1033 (5) **Stock dividends.** A stock dividend shall not be
1034 subject to tax.

1035 (6) **Cancellation or redemption of stock.** If a
1036 corporation cancels or redeems its stock (whether or not such
1037 stock was issued as a stock dividend) at such time and in such
1038 manner as to make the distribution and cancellation or redemption
1039 in whole or in part essentially equivalent to the distribution of
1040 a taxable dividend, the amount so distributed in redemption or
1041 cancellation of the stock, to the extent that it represents a
1042 distribution of earnings or profits accumulated after March 16,
1043 1912, shall be treated as a taxable dividend.

1044 (7) **"Amounts distributed in partial liquidation"**
1045 **defined.** As used in this subsection, the term "amounts
1046 distributed in partial liquidation" means distribution by a
1047 corporation in complete cancellation or redemption of a part of



1048 its stock, or one of a series of distributions in complete
1049 cancellation or redemption of all or a portion of its stock.

1050 (8) **Distributions of stock pursuant to order enforcing**
1051 **the Antitrust Laws.** Any distribution of stock which is made
1052 pursuant to the order of any court enforcing the Antitrust Laws of
1053 the United States, or of any state, shall be a distribution which
1054 is not out of earnings and profits of the distributing
1055 corporation, but the value of the stock so distributed shall be
1056 applied against and reduce the basis of the stock of the
1057 distributing corporation provided in subsection (d), and if in
1058 excess of such basis, such excess shall be taxable in the same
1059 manner as a gain from the sale or exchange of property.

1060 **SECTION 3.** Section 27-7-15, Mississippi Code of 1972, is
1061 amended as follows:

1062 **[From and after January 1, 2002, through June 30, 2003, this**
1063 **section shall read as follows:]**

1064 27-7-15. (1) For the purposes of this article, except as
1065 otherwise provided, the term "gross income" means and includes the
1066 income of a taxpayer derived from salaries, wages, fees or
1067 compensation for service, of whatever kind and in whatever form
1068 paid, including income from governmental agencies and subdivisions
1069 thereof; or from professions, vocations, trades, businesses,
1070 commerce or sales, or renting or dealing in property, or
1071 reacquired property; also from annuities, interest, rents,
1072 dividends, securities, insurance premiums, reinsurance premiums,
1073 considerations for supplemental insurance contracts, or the
1074 transaction of any business carried on for gain or profit, or
1075 gains, or profits, and income derived from any source whatever and
1076 in whatever form paid. The amount of all such items of income
1077 shall be included in the gross income for the taxable year in
1078 which received by the taxpayer. The amount by which an eligible
1079 employee's salary is reduced pursuant to a salary reduction



1080 agreement authorized under Section 25-17-5 shall be excluded from
1081 the term "gross income" within the meaning of this article.

1082 (2) In determining gross income for the purpose of this
1083 section, the following, under regulations prescribed by the
1084 commissioner, shall be applicable:

1085 (a) **Dealers in property.** Federal rules, regulations
1086 and revenue procedures shall be followed with respect to
1087 installment sales unless a transaction results in the shifting of
1088 income from inside the state to outside the state.

1089 (b) **Casual sales of property.**

1090 (i) Prior to January 1, 2001, federal rules,
1091 regulations and revenue procedures shall be followed with respect
1092 to installment sales except they shall be applied and administered
1093 as if H.R. 3594, the Installment Tax Correction Act of 2000 of the
1094 106th Congress had not been enacted. This provision will
1095 generally affect taxpayers, reporting on the accrual method of
1096 accounting, entering into installment note agreements on or after
1097 December 17, 1999. Any gain or profit resulting from the casual
1098 sale of property will be recognized in the year of sale.

1099 (ii) From and after January 1, 2001, federal
1100 rules, regulations and revenue procedures shall be followed with
1101 respect to installment sales except as provided in this
1102 subparagraph (ii). Gain or profit from the casual sale of
1103 property shall be recognized in the year of sale. When a taxpayer
1104 recognizes gain on the casual sale of property in which the gain
1105 is deferred for federal income tax purposes, a taxpayer may elect
1106 to defer the payment of tax resulting from the gain as allowed and
1107 to the extent provided under regulations prescribed by the
1108 commissioner. If the payment of the tax is made on a deferred
1109 basis, the tax shall be computed based on the applicable rate for
1110 the income reported in the year the payment is made. Except as
1111 otherwise provided in subparagraph (iii) of this paragraph (b),
1112 deferring the payment of the tax shall not affect the liability



1113 for the tax. If at any time the installment note is sold,
1114 contributed, transferred or disposed of in any manner and for any
1115 purpose by the original note holder, or the original note holder
1116 is merged, liquidated, dissolved or withdrawn from this state,
1117 then all deferred tax payments under this section shall
1118 immediately become due and payable.

1119 (iii) If the selling price of the property is
1120 reduced by any alteration in the terms of an installment note,
1121 including default by the purchaser, the gain to be recognized is
1122 recomputed based on the adjusted selling price in the same manner
1123 as for federal income tax purposes. The tax on this amount, less
1124 the previously paid tax on the recognized gain, is payable over
1125 the period of the remaining installments. If the tax on the
1126 previously recognized gain has been paid in full to this state,
1127 the return on which the payment was made may be amended for this
1128 purpose only. The statute of limitations in Section 27-7-49 shall
1129 not bar an amended return for this purpose.

1130 (c) **Reserves of insurance companies.** In the case of
1131 insurance companies, any amounts in excess of the legally required
1132 reserves shall be included as gross income.

1133 (d) **Affiliated companies or persons.** As regards sales,
1134 exchanges or payments for services from one to another of
1135 affiliated companies or persons or under other circumstances where
1136 the relation between the buyer and seller is such that gross
1137 proceeds from the sale or the value of the exchange or the payment
1138 for services are not indicative of the true value of the subject
1139 matter of the sale, exchange or payment for services, the
1140 commissioner shall prescribe uniform and equitable rules for
1141 determining the true value of the gross income, gross sales,
1142 exchanges or payment for services, or require consolidated returns
1143 of affiliates.

1144 (e) **Alimony and separate maintenance payments.** The
1145 federal rules, regulations and revenue procedures in determining



1146 the deductibility and taxability of alimony payments shall be
1147 followed in this state.

1148 (f) **Reimbursement for expenses of moving.** There shall
1149 be included in gross income (as compensation for services) any
1150 amount received or accrued, directly or indirectly, by an
1151 individual as a payment for or reimbursement of expenses of moving
1152 from one residence to another residence which is attributable to
1153 employment or self-employment.

1154 (3) In the case of taxpayers other than residents, gross
1155 income includes gross income from sources within this state.

1156 (4) The words "gross income" do not include the following
1157 items of income which shall be exempt from taxation under this
1158 article:

1159 (a) The proceeds of life insurance policies and
1160 contracts paid upon the death of the insured. However, the income
1161 from the proceeds of such policies or contracts shall be included
1162 in the gross income.

1163 (b) The amount received by the insured as a return of
1164 premium or premiums paid by him under life insurance policies,
1165 endowment, or annuity contracts, either during the term or at
1166 maturity or upon surrender of the contract.

1167 (c) The value of property acquired by gift, bequest,
1168 devise or descent, but the income from such property shall be
1169 included in the gross income.

1170 (d) Interest upon the obligations of the United States
1171 or its possessions, or securities issued under the provisions of
1172 the Federal Farm Loan Act of July 17, 1916, or bonds issued by the
1173 War Finance Corporation, or obligations of the State of
1174 Mississippi or political subdivisions thereof.

1175 (e) The amounts received through accident or health
1176 insurance as compensation for personal injuries or sickness, plus
1177 the amount of any damages received for such injuries or such
1178 sickness or injuries, or through the War Risk Insurance Act, or



1179 any law for the benefit or relief of injured or disabled members
1180 of the military or naval forces of the United States.

1181 (f) Income received by any religious denomination or by
1182 any institution or trust for moral or mental improvements,
1183 religious, Bible, tract, charitable, benevolent, fraternal,
1184 missionary, hospital, infirmary, educational, scientific,
1185 literary, library, patriotic, historical or cemetery purposes or
1186 for two (2) or more of such purposes, if such income be used
1187 exclusively for carrying out one or more of such purposes.

1188 (g) Income received by a domestic corporation which is
1189 "taxable in another state" as this term is defined in this
1190 article, derived from business activity conducted outside this
1191 state. Domestic corporations taxable both within and without the
1192 state shall determine Mississippi income on the same basis as
1193 provided for foreign corporations under the provisions of this
1194 article.

1195 (h) In case of insurance companies, there shall be
1196 excluded from gross income such portion of actual premiums
1197 received from an individual policyholder as is paid back or
1198 credited to or treated as an abatement of premiums of such
1199 policyholder within the taxable year.

1200 (i) Income from dividends that has already borne a tax
1201 as dividend income under the provisions of this article, when such
1202 dividends may be specifically identified in the possession of the
1203 recipient.

1204 (j) Amounts paid by the United States to a person as
1205 added compensation for hazardous duty pay as a member of the Armed
1206 Forces of the United States in a combat zone designated by
1207 Executive Order of the President of the United States.

1208 (k) Amounts received as retirement allowances,
1209 pensions, annuities or optional retirement allowances paid under
1210 the federal Social Security Act, the Railroad Retirement Act, the
1211 Federal Civil Service Retirement Act, or any other retirement



1212 system of the United States government, retirement allowances paid
1213 under the Mississippi Public Employees' Retirement System,
1214 Mississippi Highway Safety Patrol Retirement System or any other
1215 retirement system of the State of Mississippi or any political
1216 subdivision thereof. The exemption allowed under this paragraph
1217 (k) shall be available to the spouse or other beneficiary at the
1218 death of the primary retiree.

1219 (1) (a) Through calendar year 2001, amounts received
1220 as retirement allowances, pensions, annuities or optional
1221 retirement allowances paid by any public or governmental
1222 retirement system not designated in paragraph (k) or any private
1223 retirement system or plan of which the recipient was a member at
1224 any time during the period of his employment. Amounts received as
1225 a distribution under a Roth Individual Retirement Account shall be
1226 treated in the same manner as provided under the Internal Revenue
1227 Code of 1986, as amended. The exemption allowed under this
1228 paragraph (1) shall be available to the spouse or other
1229 beneficiary at the death of the primary retiree.

1230 (b) In calendar years 2002 and 2003, fifty percent
1231 (50%) of amounts received as retirement allowances, pensions,
1232 annuities or optional retirement allowances paid by any public or
1233 governmental retirement system not designated in paragraph (k) or
1234 any private retirement system or plan of which the recipient was a
1235 member at any time during the period of his employment. Amounts
1236 received as a distribution under a Roth Individual Retirement
1237 Account shall be treated in the same manner as provided under the
1238 Internal Revenue Code of 1986, as amended. The exemption allowed
1239 under this paragraph (1) shall be available to the spouse or other
1240 beneficiary at the death of the primary retiree.

1241 (c) For calendar year 2004 and calendar years
1242 thereafter, amounts received as retirement allowances, pensions,
1243 annuities or optional retirement allowances paid by any public or
1244 governmental retirement system not designated in paragraph (k) or



1245 any private retirement system or plan of which the recipient was a
1246 member at any time during the period of his employment. Amounts
1247 received as a distribution under a Roth Individual Retirement
1248 Account shall be treated in the same manner as provided under the
1249 Internal Revenue Code of 1986, as amended. The exemption allowed
1250 under this paragraph (l) shall be available to the spouse or other
1251 beneficiary at the death of the primary retiree.

1252 (m) Compensation not to exceed the aggregate sum of
1253 Five Thousand Dollars (\$5,000.00) for any taxable year received by
1254 a member of the National Guard or Reserve Forces of the United
1255 States as payment for inactive duty training, active duty training
1256 and state active duty.

1257 (n) Compensation received for active service as a
1258 member below the grade of commissioned officer and so much of the
1259 compensation as does not exceed the aggregate sum of Five Hundred
1260 Dollars (\$500.00) per month received for active service as a
1261 commissioned officer in the Armed Forces of the United States for
1262 any month during any part of which such members of the Armed
1263 Forces (i) served in a combat zone as designated by Executive
1264 Order of the President of the United States; or (ii) was
1265 hospitalized as a result of wounds, disease or injury incurred
1266 while serving in such combat zone.

1267 (o) The proceeds received from federal and state
1268 forestry incentives programs.

1269 (p) The amount representing the difference between the
1270 increase of gross income derived from sales for export outside the
1271 United States as compared to the preceding tax year wherein gross
1272 income from export sales was highest, and the net increase in
1273 expenses attributable to such increased exports. In the absence
1274 of direct accounting the ratio of net profits to total sales may
1275 be applied to the increase in export sales. This paragraph (p)
1276 shall only apply to businesses located in this state engaging in
1277 the international export of Mississippi goods and services. Such



1278 goods or services shall have at least fifty percent (50%) of value
1279 added at a location in Mississippi.

1280 (q) Amounts paid by the federal government for the
1281 construction of soil conservation systems as required by a
1282 conservation plan adopted pursuant to 16 USCS 3801 et seq.

1283 (r) The amount deposited in a medical savings account,
1284 and any interest accrued thereon, that is a part of a medical
1285 savings account program as specified in the Medical Savings
1286 Account Act under Sections 71-9-1 through 71-9-9; provided,
1287 however, that any amount withdrawn from such account for purposes
1288 other than paying eligible medical expense or to procure health
1289 coverage, shall be included in gross income.

1290 (s) Amounts paid by the Mississippi Soil and Water
1291 Conservation Commission from the Mississippi Soil and Water
1292 Cost-Share Program for the installation of water quality best
1293 management practices.

1294 (t) Dividends received by a holding corporation, as
1295 defined in Section 27-13-1, from a subsidiary corporation, as
1296 defined in Section 27-13-1.

1297 (u) Interest, dividends, gains or income of any kind on
1298 any account in the Mississippi Affordable College Savings Trust
1299 Fund, as established in Sections 37-155-101 through 37-155-125, to
1300 the extent that such amounts remain on deposit in the MACS Trust
1301 Fund or are withdrawn pursuant to a qualified withdrawal, as
1302 defined in Section 37-155-105.

1303 (v) Interest, dividends or gains accruing on the
1304 payments made pursuant to a prepaid tuition contract, as provided
1305 for in Section 37-155-17.

1306 (w) Income resulting from transactions with a related
1307 member where the related member subject to tax under this chapter
1308 was required to, and did in fact, add back the expense of such
1309 transactions as required by Section 27-7-17(2). Under no
1310 circumstances may the exclusion from income exceed the deduction



1311 add-back of the related member, nor shall the exclusion apply to
1312 any income otherwise excluded under this chapter.

1313 (x) Amounts that are subject to the tax levied pursuant
1314 to Section 27-7-901, and are paid to patrons by gaming
1315 establishments licensed under the Mississippi Gaming Control Act.

1316 (5) Prisoners of war, missing in action-taxable status.

1317 (a) **Members of the Armed Forces.** Gross income does not
1318 include compensation received for active service as a member of
1319 the Armed Forces of the United States for any month during any
1320 part of which such member is in a missing status, as defined in
1321 paragraph (d) of this subsection, during the Vietnam Conflict as a
1322 result of such conflict.

1323 (b) **Civilian employees.** Gross income does not include
1324 compensation received for active service as an employee for any
1325 month during any part of which such employee is in a missing
1326 status during the Vietnam Conflict as a result of such conflict.

1327 (c) **Period of conflict.** For the purpose of this
1328 subsection, the Vietnam Conflict began February 28, 1961, and ends
1329 on the date designated by the President by Executive Order as the
1330 date of the termination of combatant activities in Vietnam. For
1331 the purpose of this subsection, an individual is in a missing
1332 status as a result of the Vietnam Conflict if immediately before
1333 such status began he was performing service in Vietnam or was
1334 performing service in Southeast Asia in direct support of military
1335 operations in Vietnam. "Southeast Asia" as used in this paragraph
1336 is defined to include Cambodia, Laos, Thailand and waters adjacent
1337 thereto.

1338 (d) "Missing status" means the status of an employee or
1339 member of the Armed Forces who is in active service and is
1340 officially carried or determined to be absent in a status of (i)
1341 missing; (ii) missing in action; (iii) interned in a foreign
1342 country; (iv) captured, beleaguered or besieged by a hostile
1343 force; or (v) detained in a foreign country against his will; but



1344 does not include the status of an employee or member of the Armed
1345 Forces for a period during which he is officially determined to be
1346 absent from his post of duty without authority.

1347 (e) "Active service" means active federal service by an
1348 employee or member of the Armed Forces of the United States in an
1349 active duty status.

1350 (f) "Employee" means one who is a citizen or national
1351 of the United States or an alien admitted to the United States for
1352 permanent residence and is a resident of the State of Mississippi
1353 and is employed in or under a federal executive agency or
1354 department of the Armed Forces.

1355 (g) "Compensation" means (i) basic pay; (ii) special
1356 pay; (iii) incentive pay; (iv) basic allowance for quarters; (v)
1357 basic allowance for subsistence; and (vi) station per diem
1358 allowances for not more than ninety (90) days.

1359 (h) If refund or credit of any overpayment of tax for
1360 any taxable year resulting from the application of subsection (5)
1361 of this section is prevented by the operation of any law or rule
1362 of law, such refund or credit of such overpayment of tax may,
1363 nevertheless, be made or allowed if claim therefor is filed with
1364 the State Tax Commission within three (3) years after the date of
1365 the enactment of this subsection.

1366 (i) The provisions of this subsection shall be
1367 effective for taxable years ending on or after February 28, 1961.

1368 (6) A shareholder of an S corporation, as defined in Section
1369 27-8-3(1)(g), shall take into account the income, loss, deduction
1370 or credit of the S corporation only to the extent provided in
1371 Section 27-8-7(2).

1372 **[From and after July 1, 2003, this section shall read as**
1373 **follows:]**

1374 27-7-15. (1) For the purposes of this article, except as
1375 otherwise provided, the term "gross income" means and includes the
1376 income of a taxpayer derived from salaries, wages, fees or



1377 compensation for service, of whatever kind and in whatever form
1378 paid, including income from governmental agencies and subdivisions
1379 thereof; or from professions, vocations, trades, businesses,
1380 commerce or sales, or renting or dealing in property, or
1381 reacquired property; also from annuities, interest, rents,
1382 dividends, securities, insurance premiums, reinsurance premiums,
1383 considerations for supplemental insurance contracts, or the
1384 transaction of any business carried on for gain or profit, or
1385 gains, or profits, and income derived from any source whatever and
1386 in whatever form paid. The amount of all such items of income
1387 shall be included in the gross income for the taxable year in
1388 which received by the taxpayer. The amount by which an eligible
1389 employee's salary is reduced pursuant to a salary reduction
1390 agreement authorized under Section 25-17-5 shall be excluded from
1391 the term "gross income" within the meaning of this article.

1392 (2) In determining gross income for the purpose of this
1393 section, the following, under regulations prescribed by the
1394 commissioner, shall be applicable:

1395 (a) **Dealers in property.** Federal rules, regulations
1396 and revenue procedures shall be followed with respect to
1397 installment sales.

1398 (b) **Casual sales of property.** Federal rules,
1399 regulations and revenue procedures shall be followed with respect
1400 to installment sales.

1401 (i) The term "installment sale" means a
1402 disposition of property where at least one (1) payment is to be
1403 received after the close of the taxable year in which the
1404 disposition occurs.

1405 (ii) The term "installment method" means a method
1406 under which the income recognized for any taxable year from the
1407 disposition is that proportion of the payments received in that
1408 year which the gross profit (realized or to be realized when
1409 payment is completed) bears to the total contract price.



1410 (c) **Reserves of insurance companies.** In the case of
1411 insurance companies, any amounts in excess of the legally required
1412 reserves shall be included as gross income.

1413 (d) **Affiliated companies or persons.** As regards sales,
1414 exchanges or payments for services from one to another of
1415 affiliated companies or persons or under other circumstances where
1416 the relation between the buyer and seller is such that gross
1417 proceeds from the sale or the value of the exchange or the payment
1418 for services are not indicative of the true value of the subject
1419 matter of the sale, exchange or payment for services, the
1420 commissioner shall prescribe uniform and equitable rules for
1421 determining the true value of the gross income, gross sales,
1422 exchanges or payment for services, or require consolidated returns
1423 of affiliates.

1424 (e) **Alimony and separate maintenance payments.** The
1425 federal rules, regulations and revenue procedures in determining
1426 the deductibility and taxability of alimony payments shall be
1427 followed in this state.

1428 (f) **Reimbursement for expenses of moving.** There shall
1429 be included in gross income (as compensation for services) any
1430 amount received or accrued, directly or indirectly, by an
1431 individual as a payment for or reimbursement of expenses of moving
1432 from one residence to another residence which is attributable to
1433 employment or self-employment.

1434 (3) In the case of taxpayers other than residents, gross
1435 income includes gross income from sources within this state.

1436 (4) The words "gross income" do not include the following
1437 items of income which shall be exempt from taxation under this
1438 article:

1439 (a) The proceeds of life insurance policies and
1440 contracts paid upon the death of the insured. However, the income
1441 from the proceeds of such policies or contracts shall be included
1442 in the gross income.



1443 (b) The amount received by the insured as a return of
1444 premium or premiums paid by him under life insurance policies,
1445 endowment, or annuity contracts, either during the term or at
1446 maturity or upon surrender of the contract.

1447 (c) The value of property acquired by gift, bequest,
1448 devise or descent, but the income from such property shall be
1449 included in the gross income.

1450 (d) Interest upon the obligations of the United States
1451 or its possessions, or securities issued under the provisions of
1452 the Federal Farm Loan Act of July 17, 1916, or bonds issued by the
1453 War Finance Corporation, or obligations of the State of
1454 Mississippi or political subdivisions thereof.

1455 (e) The amounts received through accident or health
1456 insurance as compensation for personal injuries or sickness, plus
1457 the amount of any damages received for such injuries or such
1458 sickness or injuries, or through the War Risk Insurance Act, or
1459 any law for the benefit or relief of injured or disabled members
1460 of the military or naval forces of the United States.

1461 (f) Income received by any religious denomination or by
1462 any institution or trust for moral or mental improvements,
1463 religious, Bible, tract, charitable, benevolent, fraternal,
1464 missionary, hospital, infirmary, educational, scientific,
1465 literary, library, patriotic, historical or cemetery purposes or
1466 for two (2) or more of such purposes, if such income be used
1467 exclusively for carrying out one or more of such purposes.

1468 (g) Income received by a domestic corporation which is
1469 "taxable in another state" as this term is defined in this
1470 article, derived from business activity conducted outside this
1471 state. Domestic corporations taxable both within and without the
1472 state shall determine Mississippi income on the same basis as
1473 provided for foreign corporations under the provisions of this
1474 article.



1475 (h) In case of insurance companies, there shall be
1476 excluded from gross income such portion of actual premiums
1477 received from an individual policyholder as is paid back or
1478 credited to or treated as an abatement of premiums of such
1479 policyholder within the taxable year.

1480 (i) Income from dividends that has already borne a tax
1481 as dividend income under the provisions of this article, when such
1482 dividends may be specifically identified in the possession of the
1483 recipient.

1484 (j) Amounts paid by the United States to a person as
1485 added compensation for hazardous duty pay as a member of the Armed
1486 Forces of the United States in a combat zone designated by
1487 Executive Order of the President of the United States.

1488 (k) Amounts received as retirement allowances,
1489 pensions, annuities or optional retirement allowances paid under
1490 the federal Social Security Act, the Railroad Retirement Act, the
1491 Federal Civil Service Retirement Act, or any other retirement
1492 system of the United States government, retirement allowances paid
1493 under the Mississippi Public Employees' Retirement System,
1494 Mississippi Highway Safety Patrol Retirement System or any other
1495 retirement system of the State of Mississippi or any political
1496 subdivision thereof. The exemption allowed under this paragraph
1497 (k) shall be available to the spouse or other beneficiary at the
1498 death of the primary retiree.

1499 (l) (a) Through calendar year 2001, amounts received
1500 as retirement allowances, pensions, annuities or optional
1501 retirement allowances paid by any public or governmental
1502 retirement system not designated in paragraph (k) or any private
1503 retirement system or plan of which the recipient was a member at
1504 any time during the period of his employment. Amounts received as
1505 a distribution under a Roth individual retirement account shall be
1506 treated in the same manner as provided under the Internal Revenue
1507 Code of 1986, as amended. The exemption allowed under this



1508 paragraph (l) shall be available to the spouse or other
1509 beneficiary at the death of the primary retiree.

1510 (b) In calendar years 2002 and 2003, fifty percent
1511 (50%) of amounts received as retirement allowances, pensions,
1512 annuities or optional retirement allowances paid by any public or
1513 governmental retirement system not designated in paragraph (k) or
1514 any private retirement system or plan of which the recipient was a
1515 member at any time during the period of his employment. Amounts
1516 received as a distribution under a Roth Individual Retirement
1517 Account shall be treated in the same manner as provided under the
1518 Internal Revenue Code of 1986, as amended. The exemption allowed
1519 under this paragraph (l) shall be available to the spouse or other
1520 beneficiary at the death of the primary retiree.

1521 (c) For calendar year 2004 and calendar years
1522 thereafter, amounts received as retirement allowances, pensions,
1523 annuities or optional retirement allowances paid by any public or
1524 governmental retirement system not designated in paragraph (k) or
1525 any private retirement system or plan of which the recipient was a
1526 member at any time during the period of his employment. Amounts
1527 received as a distribution under a Roth Individual Retirement
1528 Account shall be treated in the same manner as provided under the
1529 Internal Revenue Code of 1986, as amended. The exemption allowed
1530 under this paragraph (l) shall be available to the spouse or other
1531 beneficiary at the death of the primary retiree.

1532 (m) Compensation not to exceed the aggregate sum of
1533 Five Thousand Dollars (\$5,000.00) for any taxable year received by
1534 a member of the National Guard or Reserve Forces of the United
1535 States as payment for inactive duty training, active duty training
1536 and state active duty.

1537 (n) Compensation received for active service as a
1538 member below the grade of commissioned officer and so much of the
1539 compensation as does not exceed the aggregate sum of Five Hundred
1540 Dollars (\$500.00) per month received for active service as a



1541 commissioned officer in the Armed Forces of the United States for
1542 any month during any part of which such members of the Armed
1543 Forces (i) served in a combat zone as designated by Executive
1544 Order of the President of the United States; or (ii) was
1545 hospitalized as a result of wounds, disease or injury incurred
1546 while serving in such combat zone.

1547 (o) The proceeds received from federal and state
1548 forestry incentives programs.

1549 (p) The amount representing the difference between the
1550 increase of gross income derived from sales for export outside the
1551 United States as compared to the preceding tax year wherein gross
1552 income from export sales was highest, and the net increase in
1553 expenses attributable to such increased exports. In the absence
1554 of direct accounting the ratio of net profits to total sales may
1555 be applied to the increase in export sales. This paragraph (p)
1556 shall only apply to businesses located in this state engaging in
1557 the international export of Mississippi goods and services. Such
1558 goods or services shall have at least fifty percent (50%) of value
1559 added at a location in Mississippi.

1560 (q) Amounts paid by the federal government for the
1561 construction of soil conservation systems as required by a
1562 conservation plan adopted pursuant to 16 USCS 3801 et seq.

1563 (r) The amount deposited in a medical savings account,
1564 and any interest accrued thereon, that is a part of a medical
1565 savings account program as specified in the Medical Savings
1566 Account Act under Sections 71-9-1 through 71-9-9; provided,
1567 however, that any amount withdrawn from such account for purposes
1568 other than paying eligible medical expense or to procure health
1569 coverage, shall be included in gross income.

1570 (s) Amounts paid by the Mississippi Soil and Water
1571 Conservation Commission from the Mississippi Soil and Water
1572 Cost-Share Program for the installation of water quality best
1573 management practices.



1574 (t) Dividends received by a holding corporation, as
1575 defined in Section 27-13-1, from a subsidiary corporation, as
1576 defined in Section 27-13-1.

1577 (u) Interest, dividends, gains or income of any kind on
1578 any account in the Mississippi Affordable College Savings Trust
1579 Fund, as established in Sections 37-155-101 through 37-155-125, to
1580 the extent that such amounts remain on deposit in the MACS Trust
1581 Fund or are withdrawn pursuant to a qualified withdrawal, as
1582 defined in Section 37-155-105.

1583 (v) Interest, dividends or gains accruing on the
1584 payments made pursuant to a prepaid tuition contract, as provided
1585 for in Section 37-155-17.

1586 (w) Amounts that are subject to the tax levied pursuant
1587 to Section 27-7-901, and are paid to patrons by gaming
1588 establishments licensed under the Mississippi Gaming Control Act.

1589 (5) Prisoners of war, missing in action-taxable status.

1590 (a) **Members of the Armed Forces.** Gross income does not
1591 include compensation received for active service as a member of
1592 the Armed Forces of the United States for any month during any
1593 part of which such member is in a missing status, as defined in
1594 paragraph (d) of this subsection, during the Vietnam Conflict as a
1595 result of such conflict.

1596 (b) **Civilian employees.** Gross income does not include
1597 compensation received for active service as an employee for any
1598 month during any part of which such employee is in a missing
1599 status during the Vietnam Conflict as a result of such conflict.

1600 (c) **Period of conflict.** For the purpose of this
1601 subsection, the Vietnam Conflict began February 28, 1961, and ends
1602 on the date designated by the President by Executive Order as the
1603 date of the termination of combatant activities in Vietnam. For
1604 the purpose of this subsection, an individual is in a missing
1605 status as a result of the Vietnam Conflict if immediately before
1606 such status began he was performing service in Vietnam or was



1607 performing service in Southeast Asia in direct support of military
1608 operations in Vietnam. "Southeast Asia" as used in this paragraph
1609 is defined to include Cambodia, Laos, Thailand and waters adjacent
1610 thereto.

1611 (d) "Missing status" means the status of an employee or
1612 member of the Armed Forces who is in active service and is
1613 officially carried or determined to be absent in a status of (i)
1614 missing; (ii) missing in action; (iii) interned in a foreign
1615 country; (iv) captured, beleaguered or besieged by a hostile
1616 force; or (v) detained in a foreign country against his will; but
1617 does not include the status of an employee or member of the Armed
1618 Forces for a period during which he is officially determined to be
1619 absent from his post of duty without authority.

1620 (e) "Active service" means active federal service by an
1621 employee or member of the Armed Forces of the United States in an
1622 active duty status.

1623 (f) "Employee" means one who is a citizen or national
1624 of the United States or an alien admitted to the United States for
1625 permanent residence and is a resident of the State of Mississippi
1626 and is employed in or under a federal executive agency or
1627 department of the Armed Forces.

1628 (g) "Compensation" means (i) basic pay; (ii) special
1629 pay; (iii) incentive pay; (iv) basic allowance for quarters; (v)
1630 basic allowance for subsistence; and (vi) station per diem
1631 allowances for not more than ninety (90) days.

1632 (h) If refund or credit of any overpayment of tax for
1633 any taxable year resulting from the application of subsection (5)
1634 of this section is prevented by the operation of any law or rule
1635 of law, such refund or credit of such overpayment of tax may,
1636 nevertheless, be made or allowed if claim therefor is filed with
1637 the State Tax Commission within three (3) years after the date of
1638 the enactment of this subsection.



1639 (i) The provisions of this subsection shall be
1640 effective for taxable years ending on or after February 28, 1961.

1641 (6) A shareholder of an S corporation, as defined in Section
1642 27-8-3(1)(g), shall take into account the income, loss, deduction
1643 or credit of the S corporation only to the extent provided in
1644 Section 27-8-7(2).

1645 **SECTION 4.** Section 27-7-16, Mississippi Code of 1972, is
1646 amended as follows:

1647 27-7-16. (a) Amounts contributed in the taxable year by
1648 employees and/or self-employed individuals, including partners, to
1649 an employees' pension trust, tax-sheltered annuity plan,
1650 authorized deferred compensation plan, self-employed retirement
1651 plan, individual retirement account or retirement bond which meets
1652 the requirements of a qualified plan under the provisions of the
1653 Internal Revenue Code of 1986, as amended, shall be deductible
1654 from gross income, subject to the conditions and limitations of
1655 the Internal Revenue Code of 1986, as amended. Amounts
1656 contributed in the taxable year to a Roth individual retirement
1657 account shall be treated in the same manner as provided under the
1658 Internal Revenue Code of 1986, as amended.

1659 (b) For taxable years 2002 and 2003, fifty percent
1660 (50%) of amounts contributed in the taxable year by employees
1661 and/or self-employed individuals, including partners, to an
1662 employees' pension trust, tax-sheltered annuity plan, authorized
1663 deferred compensation plan, self-employed retirement plan,
1664 individual retirement account or retirement bond which meets the
1665 requirements of a qualified plan under the provisions of the
1666 Internal Revenue Code of 1986, as amended, shall be deductible
1667 from gross income, subject to the conditions and limitations of
1668 the Internal Revenue Code of 1986, as amended. Fifty percent
1669 (50%) of amounts contributed in the taxable year to a Roth
1670 individual retirement account shall be treated in the same manner
1671 as provided under the Internal Revenue Code of 1986, as amended.



1672 (c) For taxable year 2004 and taxable years thereafter,
1673 amounts contributed in the taxable year by employees and/or
1674 self-employed individuals, including partners, to an employees'
1675 pension trust, tax-sheltered annuity plan, authorized deferred
1676 compensation plan, self-employed retirement plan, individual
1677 retirement account or retirement bond which meets the requirements
1678 of a qualified plan under the provisions of the Internal Revenue
1679 Code of 1986, as amended, shall be deductible from gross income,
1680 subject to the conditions and limitations of the Internal Revenue
1681 Code of 1986, as amended. Amounts contributed in the taxable year
1682 to a Roth individual retirement account shall be treated in the
1683 same manner as provided under the Internal Revenue Code of 1986,
1684 as amended.

1685 **SECTION 5.** Section 27-7-17, Mississippi Code of 1972, is
1686 amended as follows:

1687 **[From and after January 1, 2002, through June 30, 2003, this**
1688 **section shall read as follows:]**

1689 27-7-17. In computing taxable income, there shall be allowed
1690 as deductions:

1691 (1) **Business deductions.**

1692 (a) **Business expenses.** All the ordinary and necessary
1693 expenses paid or incurred during the taxable year in carrying on
1694 any trade or business, including a reasonable allowance for
1695 salaries or other compensation for personal services actually
1696 rendered; nonreimbursable traveling expenses incident to current
1697 employment, including a reasonable amount expended for meals and
1698 lodging while away from home in the pursuit of a trade or
1699 business; and rentals or other payments required to be made as a
1700 condition of the continued use or possession, for purposes of the
1701 trade or business of property to which the taxpayer has not taken
1702 or is not taking title or in which he had no equity. Expense
1703 incurred in connection with earning and distributing nontaxable
1704 income is not an allowable deduction. Limitations on



1705 entertainment expenses shall conform to the provisions of the
1706 Internal Revenue Code of 1986.

1707 (b) **Interest.** All interest paid or accrued during the
1708 taxable year on business indebtedness, except interest upon the
1709 indebtedness for the purchase of tax-free bonds, or any stocks,
1710 the dividends from which are nontaxable under the provisions of
1711 this article; provided, however, in the case of securities
1712 dealers, interest payments or accruals on loans, the proceeds of
1713 which are used to purchase tax-exempt securities, shall be
1714 deductible if income from otherwise tax-free securities is
1715 reported as income. Investment interest expense shall be limited
1716 to investment income. Interest expense incurred for the purchase
1717 of treasury stock, to pay dividends, or incurred as a result of an
1718 undercapitalized affiliated corporation may not be deducted unless
1719 an ordinary and necessary business purpose can be established to
1720 the satisfaction of the commissioner. For the purposes of this
1721 paragraph, the phrase "interest upon the indebtedness for the
1722 purchase of tax-free bonds" applies only to the indebtedness
1723 incurred for the purpose of directly purchasing tax-free bonds and
1724 does not apply to any other indebtedness incurred in the regular
1725 course of the taxpayer's business. Any corporation, association,
1726 organization or other entity taxable under Section 27-7-23(c)
1727 shall allocate interest expense as provided in Section
1728 27-7-23(c)(3)(I).

1729 (c) **Taxes.** Taxes paid or accrued within the taxable
1730 year, except state and federal income taxes, excise taxes based on
1731 or measured by net income, estate and inheritance taxes, gift
1732 taxes, cigar and cigarette taxes, gasoline taxes, and sales and
1733 use taxes unless incurred as an item of expense in a trade or
1734 business or in the production of taxable income. In the case of
1735 an individual, taxes permitted as an itemized deduction under the
1736 provisions of subsection (3)(a) of this section are to be claimed
1737 thereunder.



1738 (d) **Business losses.**

1739 (i) Losses sustained during the taxable year not
1740 compensated for by insurance or otherwise, if incurred in trade or
1741 business, or nonbusiness transactions entered into for profit.

1742 (ii) Limitations on losses from passive activities
1743 and rental real estate shall conform to the provisions of the
1744 Internal Revenue Code of 1986.

1745 (e) **Bad debts.** Losses from debts ascertained to be
1746 worthless and charged off during the taxable year, if sustained in
1747 the conduct of the regular trade or business of the taxpayer;
1748 provided, that such losses shall be allowed only when the taxpayer
1749 has reported as income, on the accrual basis, the amount of such
1750 debt or account.

1751 (f) **Depreciation.** A reasonable allowance for
1752 exhaustion, wear and tear of property used in the trade or
1753 business, or rental property, and depreciation upon buildings
1754 based upon their reasonable value as of March 16, 1912, if
1755 acquired prior thereto, and upon cost if acquired subsequent to
1756 that date.

1757 (g) **Depletion.** In the case of mines, oil and gas
1758 wells, other natural deposits and timber, a reasonable allowance
1759 for depletion and for depreciation of improvements, based upon
1760 cost, including cost of development, not otherwise deducted, or
1761 fair market value as of March 16, 1912, if acquired prior to that
1762 date, such allowance to be made upon regulations prescribed by the
1763 commissioner, with the approval of the Governor.

1764 (h) **Contributions or gifts.** Except as otherwise
1765 provided in subsection (3)(a) of this section for individuals,
1766 contributions or gifts made by corporations within the taxable
1767 year to corporations, organizations, associations or institutions,
1768 including Community Chest funds, foundations and trusts created
1769 solely and exclusively for religious, charitable, scientific or
1770 educational purposes, or for the prevention of cruelty to children



1771 or animals, no part of the net earnings of which inure to the
1772 benefit of any private stockholder or individual. This deduction
1773 shall be allowed in an amount not to exceed twenty percent (20%)
1774 of the net income. Such contributions or gifts shall be allowable
1775 as deductions only if verified under rules and regulations
1776 prescribed by the commissioner, with the approval of the Governor.
1777 Contributions made in any form other than cash shall be allowed as
1778 a deduction, subject to the limitations herein provided, in an
1779 amount equal to the actual market value of the contributions at
1780 the time the contribution is actually made and consummated.

1781 (i) **Reserve funds - insurance companies.** In the case
1782 of insurance companies the net additions required by law to be
1783 made within the taxable year to reserve funds when such reserve
1784 funds are maintained for the purpose of liquidating policies at
1785 maturity.

1786 (j) **Annuity income.** The sums, other than dividends,
1787 paid within the taxpayer year on policy or annuity contracts when
1788 such income has been included in gross income.

1789 (k) **Contributions to employee pension plans.**
1790 Contributions made by an employer to a plan or a trust forming
1791 part of a pension plan, stock bonus plan, disability or
1792 death-benefit plan, or profit-sharing plan of such employer for
1793 the exclusive benefit of some or all of his, their, or its
1794 employees, or their beneficiaries, shall be deductible from his,
1795 their, or its income only to the extent that, and for the taxable
1796 year in which, the contribution is deductible for federal income
1797 tax purposes under the Internal Revenue Code of 1986 and any other
1798 provisions of similar purport in the Internal Revenue Laws of the
1799 United States, and the rules, regulations, rulings and
1800 determinations promulgated thereunder, provided that:

1801 (i) The plan or trust be irrevocable.

1802 (ii) The plan or trust constitute a part of a
1803 pension plan, stock bonus plan, disability or death-benefit plan,



1804 or profit-sharing plan for the exclusive benefit of some or all of
1805 the employer's employees and/or officers, or their beneficiaries,
1806 for the purpose of distributing the corpus and income of the plan
1807 or trust to such employees and/or officers, or their
1808 beneficiaries.

1809 (iii) No part of the corpus or income of the plan
1810 or trust can be used for purposes other than for the exclusive
1811 benefit of employees and/or officers, or their beneficiaries.

1812 Contributions to all plans or to all trusts of real or
1813 personal property (or real and personal property combined) or to
1814 insured plans created under a retirement plan for which provision
1815 has been made under the laws of the United States of America,
1816 making such contributions deductible from income for federal
1817 income tax purposes, shall be deductible only to the same extent
1818 under the Income Tax Laws of the State of Mississippi.

1819 (1) **Net operating loss carrybacks and carryovers.** A
1820 net operating loss for any taxable year ending after December 31,
1821 1993, and taxable years thereafter, shall be a net operating loss
1822 carryback to each of the three (3) taxable years preceding the
1823 taxable year of the loss. If the net operating loss for any
1824 taxable year is not exhausted by carrybacks to the three (3)
1825 taxable years preceding the taxable year of the loss, then there
1826 shall be a net operating loss carryover to each of the fifteen
1827 (15) taxable years following the taxable year of the loss
1828 beginning with any taxable year after December 31, 1991.

1829 For any taxable year ending after December 31, 1997, the
1830 period for net operating loss carrybacks and net operating loss
1831 carryovers shall be the same as those established by the Internal
1832 Revenue Code and the rules, regulations, rulings and
1833 determinations promulgated thereunder.

1834 The term "net operating loss," for the purposes of this
1835 paragraph, shall be the excess of the deductions allowed over the



1836 gross income; provided, however, the following deductions shall
1837 not be allowed in computing same:

1838 (i) No net operating loss deduction shall be
1839 allowed.

1840 (ii) No personal exemption deduction shall be
1841 allowed.

1842 (iii) Allowable deductions which are not
1843 attributable to taxpayer's trade or business shall be allowed only
1844 to the extent of the amount of gross income not derived from such
1845 trade or business.

1846 Any taxpayer entitled to a carryback period as provided by
1847 this paragraph may elect to relinquish the entire carryback period
1848 with respect to a net operating loss for any taxable year ending
1849 after December 31, 1991. The election shall be made in the manner
1850 prescribed by the State Tax Commission and shall be made by the
1851 due date, including extensions of time, for filing the taxpayer's
1852 return for the taxable year of the net operating loss for which
1853 the election is to be in effect. The election, once made for any
1854 taxable year, shall be irrevocable for that taxable year.

1855 (m) **Amortization of pollution or environmental control**
1856 **facilities.** Allowance of deduction. Every taxpayer, at his
1857 election, shall be entitled to a deduction for pollution or
1858 environmental control facilities to the same extent as that
1859 allowed under the Internal Revenue Code and the rules,
1860 regulations, rulings and determinations promulgated thereunder.

1861 (n) **Dividend distributions - real estate investment**
1862 **trusts.** "Real estate investment trust" (hereinafter referred to
1863 as REIT) shall have the meaning ascribed to such term in Section
1864 856 of the federal Internal Revenue Code of 1986, as amended. A
1865 REIT is allowed a dividend distributed deduction if the dividend
1866 distributions meet the requirements of Section 857 or are
1867 otherwise deductible under Section 858 or 860, federal Internal
1868 Revenue Code of 1986, as amended. In addition:



1869 (i) A dividend distributed deduction shall only be
1870 allowed for dividends paid by a publicly traded REIT. A qualified
1871 REIT subsidiary shall be allowed a dividend distributed deduction
1872 if its owner is a publicly traded REIT.

1873 (ii) Income generated from real estate contributed
1874 or sold to a REIT by a shareholder or related party shall not give
1875 rise to a dividend distributed deduction, unless the shareholder
1876 or related party would have received the dividend distributed
1877 deduction under this chapter.

1878 (iii) A holding corporation receiving a dividend
1879 from a REIT shall not be allowed the deduction in Section
1880 27-7-15(4)(t).

1881 (iv) Any REIT not allowed the dividend distributed
1882 deduction in the federal Internal Revenue Code of 1986, as
1883 amended, shall not be allowed a dividend distributed deduction
1884 under this chapter.

1885 The commissioner is authorized to promulgate rules and
1886 regulations consistent with the provisions in Section 269 of the
1887 federal Internal Revenue Code of 1986, as amended, so as to
1888 prevent the evasion or avoidance of state income tax.

1889 (o) **Contributions to college savings trust fund**
1890 **accounts.** Contributions or payments to a Mississippi Affordable
1891 College Savings Program account are deductible as provided under
1892 Section 37-155-113. Payments made under a prepaid tuition
1893 contract entered into under the Mississippi Prepaid Affordable
1894 College Tuition Program are deductible as provided under Section
1895 37-155-17.

1896 (2) **Restrictions on the deductibility of certain intangible**
1897 **expenses and interest expenses with a related member.**

1898 (a) As used in this subsection (2):

1899 (i) "Intangible expenses and costs" include:

1900 1. Expenses, losses and costs for, related
1901 to, or in connection directly or indirectly with the direct or



1902 indirect acquisition, use, maintenance or management, ownership,
1903 sale, exchange or any other disposition of intangible property to
1904 the extent such amounts are allowed as deductions or costs in
1905 determining taxable income under this chapter;

1906 2. Expenses or losses related to or incurred
1907 in connection directly or indirectly with factoring transactions
1908 or discounting transactions;

1909 3. Royalty, patent, technical and copyright
1910 fees;

1911 4. Licensing fees; and

1912 5. Other similar expenses and costs.

1913 (ii) "Intangible property" means patents, patent
1914 applications, trade names, trademarks, service marks, copyrights
1915 and similar types of intangible assets.

1916 (iii) "Interest expenses and cost" means amounts
1917 directly or indirectly allowed as deductions for purposes of
1918 determining taxable income under this chapter to the extent such
1919 interest expenses and costs are directly or indirectly for,
1920 related to, or in connection with the direct or indirect
1921 acquisition maintenance, management, ownership, sale, exchange or
1922 disposition of intangible property.

1923 (iv) "Related member" means an entity or person
1924 that, with respect to the taxpayer during all or any portion of
1925 the taxable year, is a related entity, a component member as
1926 defined in the Internal Revenue Code, or is an entity or a person
1927 to or from whom there is attribution of stock ownership in
1928 accordance with Section 1563(e) of the Internal Revenue Code.

1929 (v) "Related entity" means:

1930 1. A stockholder who is an individual or a
1931 member of the stockholder's family, as defined in regulations
1932 prescribed by the commissioner, if the stockholder and the members
1933 of the stockholder's family own, directly, indirectly,



1934 beneficially or constructively, in the aggregate, at least fifty
1935 percent (50%) of the value of the taxpayer's outstanding stock;

1936 2. A stockholder, or a stockholder's
1937 partnership, limited liability company, estate, trust or
1938 corporation, if the stockholder and the stockholder's
1939 partnerships, limited liability companies, estates, trusts and
1940 corporations own, directly, indirectly, beneficially or
1941 constructively, in the aggregate, at least fifty percent (50%) of
1942 the value of the taxpayer's outstanding stock;

1943 3. A corporation, or a party related to the
1944 corporation in a manner that would require an attribution of stock
1945 from the corporation to the party or from the party to the
1946 corporation, if the taxpayer owns, directly, indirectly,
1947 beneficially or constructively, at least fifty percent (50%) of
1948 the value of the corporation's outstanding stock under regulation
1949 prescribed by the commissioner;

1950 4. Any entity or person which would be a
1951 related member under this section if the taxpayer were considered
1952 a corporation for purposes of this section.

1953 (b) In computing net income, a taxpayer shall add back
1954 otherwise deductible interest expenses and costs and intangible
1955 expenses and costs directly or indirectly paid, accrued to or
1956 incurred, in connection directly or indirectly with one or more
1957 direct or indirect transactions with one or more related members.

1958 (c) The adjustments required by this subsection shall
1959 not apply to such portion of interest expenses and costs and
1960 intangible expenses and costs that the taxpayer can establish
1961 meets one (1) of the following:

1962 (i) The related member directly or indirectly
1963 paid, accrued or incurred such portion to a person during the same
1964 income year who is not a related member; or

1965 (ii) The transaction giving rise to the interest
1966 expenses and costs or intangible expenses and costs between the



1967 taxpayer and related member was done primarily for a valid
1968 business purpose other than the avoidance of taxes, and the
1969 related member is not primarily engaged in the acquisition, use,
1970 maintenance or management, ownership, sale, exchange or any other
1971 disposition of intangible property.

1972 (d) Nothing in this subsection shall require a taxpayer
1973 to add to its net income more than once any amount of interest
1974 expenses and costs or intangible expenses and costs that the
1975 taxpayer pays, accrues or incurs to a related member.

1976 (e) The commissioner may prescribe such regulations as
1977 necessary or appropriate to carry out the purposes of this
1978 subsection, including, but not limited to, clarifying definitions
1979 of terms, rules of stock attribution, factoring and discount
1980 transactions.

1981 (3) **Individual nonbusiness deductions.**

1982 (a) The amount allowable for individual nonbusiness
1983 itemized deductions for federal income tax purposes where the
1984 individual is eligible to elect, for the taxable year, to itemize
1985 deductions on his federal return except the following:

- 1986 (i) The deduction for state income taxes paid;
1987 (ii) The deduction for gaming losses from gaming
1988 establishments licensed under the Mississippi Gaming Control Act;
1989 (iii) The deduction for taxes collected by
1990 licensed gaming establishments pursuant to Section 27-7-901.

1991 (b) In lieu of the individual nonbusiness itemized
1992 deductions authorized in paragraph (a), for all purposes other
1993 than ordinary and necessary expenses paid or incurred during the
1994 taxable year in carrying on any trade or business, an optional
1995 standard deduction of:

- 1996 (i) Three Thousand Four Hundred Dollars
1997 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred
1998 Dollars (\$4,200.00) for the calendar year 1998, Four Thousand Six
1999 Hundred Dollars (\$4,600.00) for each calendar year through



2000 calendar year 2001, Four Thousand Dollars (\$4,000.00) for each
2001 calendar years 2002 and 2003 and Four Thousand Six Hundred Dollars
2002 (\$4,600.00) for calendar year 2004 and calendar years thereafter
2003 in the case of married individuals filing a joint or combined
2004 return;

2005 (ii) One Thousand Seven Hundred Dollars
2006 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred
2007 Dollars (\$2,100.00) for the calendar year 1998, Two Thousand Three
2008 Hundred Dollars (\$2,300.00) through calendar year 2001, Two
2009 Thousand Dollars (\$2,000.00) for calendar years 2003 and 2003, and
2010 Two Thousand Three Hundred Dollars (\$2,300.00) for each calendar
2011 year thereafter in the case of married individuals filing separate
2012 returns;

2013 (iii) Three Thousand Four Hundred Dollars
2014 (\$3,400.00) in the case of a head of family; or

2015 (iv) Two Thousand Three Hundred Dollars
2016 (\$2,300.00) in the case of an individual who is not married.

2017 In the case of a husband and wife living together, having
2018 separate incomes, and filing combined returns, the standard
2019 deduction authorized may be divided in any manner they choose. In
2020 the case of separate returns by a husband and wife, the standard
2021 deduction shall not be allowed to either if the taxable income of
2022 one of the spouses is determined without regard to the standard
2023 deduction.

2024 (c) A nonresident individual shall be allowed the same
2025 individual nonbusiness deductions as are authorized for resident
2026 individuals in paragraph (a) or (b) of this subsection; however,
2027 the nonresident individual is entitled only to that proportion of
2028 the individual nonbusiness deductions as his net income from
2029 sources within the State of Mississippi bears to his total or
2030 entire net income from all sources.

2031 (3) Nothing in this section shall permit the same item to be
2032 deducted more than once, either in fact or in effect.



2033 **[From and after July 1, 2003, this section shall read as**
2034 **follows:]**

2035 27-7-17. In computing taxable income, there shall be allowed
2036 as deductions:

2037 (1) **Business deductions.**

2038 (a) **Business expenses.** All the ordinary and necessary
2039 expenses paid or incurred during the taxable year in carrying on
2040 any trade or business, including a reasonable allowance for
2041 salaries or other compensation for personal services actually
2042 rendered; nonreimbursable traveling expenses incident to current
2043 employment, including a reasonable amount expended for meals and
2044 lodging while away from home in the pursuit of a trade or
2045 business; and rentals or other payments required to be made as a
2046 condition of the continued use or possession, for purposes of the
2047 trade or business of property to which the taxpayer has not taken
2048 or is not taking title or in which he had no equity. Expense
2049 incurred in connection with earning and distributing nontaxable
2050 income is not an allowable deduction. Limitations on
2051 entertainment expenses shall conform to the provisions of the
2052 Internal Revenue Code of 1986.

2053 (b) **Interest.** All interest paid or accrued during the
2054 taxable year on business indebtedness, except interest upon the
2055 indebtedness for the purchase of tax-free bonds, or any stocks,
2056 the dividends from which are nontaxable under the provisions of
2057 this article; provided, however, in the case of securities
2058 dealers, interest payments or accruals on loans, the proceeds of
2059 which are used to purchase tax-exempt securities, shall be
2060 deductible if income from otherwise tax-free securities is
2061 reported as income. Investment interest expense shall be limited
2062 to investment income. Interest expense incurred for the purchase
2063 of treasury stock, to pay dividends, or incurred as a result of an
2064 undercapitalized affiliated corporation may not be deducted unless
2065 an ordinary and necessary business purpose can be established to



2066 the satisfaction of the commissioner. For the purposes of this
2067 paragraph, the phrase "interest upon the indebtedness for the
2068 purchase of tax-free bonds" applies only to the indebtedness
2069 incurred for the purpose of directly purchasing tax-free bonds and
2070 does not apply to any other indebtedness incurred in the regular
2071 course of the taxpayer's business. Any corporation, association,
2072 organization or other entity taxable under Section 27-7-23(c)
2073 shall allocate interest expense as provided in Section
2074 27-7-23(c)(4)(H).

2075 (c) **Taxes.** Taxes paid or accrued within the taxable
2076 year, except state and federal income taxes, excise taxes based on
2077 or measured by net income, estate and inheritance taxes, gift
2078 taxes, cigar and cigarette taxes, gasoline taxes, and sales and
2079 use taxes unless incurred as an item of expense in a trade or
2080 business or in the production of taxable income. In the case of
2081 an individual, taxes permitted as an itemized deduction under the
2082 provisions of subsection (2)(a) of this section are to be claimed
2083 thereunder.

2084 (d) **Business losses.**

2085 (i) Losses sustained during the taxable year not
2086 compensated for by insurance or otherwise, if incurred in trade or
2087 business, or nonbusiness transactions entered into for profit.

2088 (ii) Limitations on losses from passive activities
2089 and rental real estate shall conform to the provisions of the
2090 Internal Revenue Code of 1986.

2091 (e) **Bad debts.** Losses from debts ascertained to be
2092 worthless and charged off during the taxable year, if sustained in
2093 the conduct of the regular trade or business of the taxpayer;
2094 provided, that such losses shall be allowed only when the taxpayer
2095 has reported as income, on the accrual basis, the amount of such
2096 debt or account.

2097 (f) **Depreciation.** A reasonable allowance for
2098 exhaustion, wear and tear of property used in the trade or



2099 business, or rental property, and depreciation upon buildings
2100 based upon their reasonable value as of March 16, 1912, if
2101 acquired prior thereto, and upon cost if acquired subsequent to
2102 that date.

2103 (g) **Depletion.** In the case of mines, oil and gas
2104 wells, other natural deposits and timber, a reasonable allowance
2105 for depletion and for depreciation of improvements, based upon
2106 cost, including cost of development, not otherwise deducted, or
2107 fair market value as of March 16, 1912, if acquired prior to that
2108 date, such allowance to be made upon regulations prescribed by the
2109 commissioner, with the approval of the Governor.

2110 (h) **Contributions or gifts.** Except as otherwise
2111 provided in subsection (2)(a) of this section for individuals,
2112 contributions or gifts made by corporations within the taxable
2113 year to corporations, organizations, associations or institutions,
2114 including Community Chest funds, foundations and trusts created
2115 solely and exclusively for religious, charitable, scientific or
2116 educational purposes, or for the prevention of cruelty to children
2117 or animals, no part of the net earnings of which inure to the
2118 benefit of any private stockholder or individual. This deduction
2119 shall be allowed in an amount not to exceed twenty percent (20%)
2120 of the net income. Such contributions or gifts shall be allowable
2121 as deductions only if verified under rules and regulations
2122 prescribed by the commissioner, with the approval of the Governor.
2123 Contributions made in any form other than cash shall be allowed as
2124 a deduction, subject to the limitations herein provided, in an
2125 amount equal to the actual market value of the contributions at
2126 the time the contribution is actually made and consummated.

2127 (i) **Reserve funds - insurance companies.** In the case
2128 of insurance companies the net additions required by law to be
2129 made within the taxable year to reserve funds when such reserve
2130 funds are maintained for the purpose of liquidating policies at
2131 maturity.



2132 (j) **Annuity income.** The sums, other than dividends,
2133 paid within the taxpayer year on policy or annuity contracts when
2134 such income has been included in gross income.

2135 (k) **Contributions to employee pension plans.**
2136 Contributions made by an employer to a plan or a trust forming
2137 part of a pension plan, stock bonus plan, disability or
2138 death-benefit plan, or profit-sharing plan of such employer for
2139 the exclusive benefit of some or all of his, their, or its
2140 employees, or their beneficiaries, shall be deductible from his,
2141 their, or its income only to the extent that, and for the taxable
2142 year in which, the contribution is deductible for federal income
2143 tax purposes under the Internal Revenue Code of 1986 and any other
2144 provisions of similar purport in the Internal Revenue Laws of the
2145 United States, and the rules, regulations, rulings and
2146 determinations promulgated thereunder, provided that:

2147 (i) The plan or trust be irrevocable.

2148 (ii) The plan or trust constitute a part of a
2149 pension plan, stock bonus plan, disability or death-benefit plan,
2150 or profit-sharing plan for the exclusive benefit of some or all of
2151 the employer's employees and/or officers, or their beneficiaries,
2152 for the purpose of distributing the corpus and income of the plan
2153 or trust to such employees and/or officers, or their
2154 beneficiaries.

2155 (iii) No part of the corpus or income of the plan
2156 or trust can be used for purposes other than for the exclusive
2157 benefit of employees and/or officers, or their beneficiaries.

2158 Contributions to all plans or to all trusts of real or
2159 personal property (or real and personal property combined) or to
2160 insured plans created under a retirement plan for which provision
2161 has been made under the laws of the United States of America,
2162 making such contributions deductible from income for federal
2163 income tax purposes, shall be deductible only to the same extent
2164 under the Income Tax Laws of the State of Mississippi.



2165 (1) Net operating loss carrybacks and carryovers. A
2166 net operating loss for any taxable year ending after December 31,
2167 1993, and taxable years thereafter, shall be a net operating loss
2168 carryback to each of the three (3) taxable years preceding the
2169 taxable year of the loss. If the net operating loss for any
2170 taxable year is not exhausted by carrybacks to the three (3)
2171 taxable years preceding the taxable year of the loss, then there
2172 shall be a net operating loss carryover to each of the fifteen
2173 (15) taxable years following the taxable year of the loss
2174 beginning with any taxable year after December 31, 1991.

2175 For any taxable year ending after December 31, 1997, the
2176 period for net operating loss carrybacks and net operating loss
2177 carryovers shall be the same as those established by the Internal
2178 Revenue Code and the rules, regulations, rulings and
2179 determinations promulgated thereunder.

2180 The term "net operating loss," for the purposes of this
2181 paragraph, shall be the excess of the deductions allowed over the
2182 gross income; provided, however, the following deductions shall
2183 not be allowed in computing same:

2184 (i) No net operating loss deduction shall be
2185 allowed.

2186 (ii) No personal exemption deduction shall be
2187 allowed.

2188 (iii) Allowable deductions which are not
2189 attributable to taxpayer's trade or business shall be allowed only
2190 to the extent of the amount of gross income not derived from such
2191 trade or business.

2192 Any taxpayer entitled to a carryback period as provided by
2193 this paragraph may elect to relinquish the entire carryback period
2194 with respect to a net operating loss for any taxable year ending
2195 after December 31, 1991. The election shall be made in the manner
2196 prescribed by the State Tax Commission and shall be made by the
2197 due date, including extensions of time, for filing the taxpayer's



2198 return for the taxable year of the net operating loss for which
2199 the election is to be in effect. The election, once made for any
2200 taxable year, shall be irrevocable for that taxable year.

2201 (m) **Amortization of pollution or environmental control**
2202 **facilities.** Allowance of deduction. Every taxpayer, at his
2203 election, shall be entitled to a deduction for pollution or
2204 environmental control facilities to the same extent as that
2205 allowed under the Internal Revenue Code and the rules,
2206 regulations, rulings and determinations promulgated thereunder.

2207 (n) **Dividend distributions - real estate investment**
2208 **trusts.** "Real estate investment trust" (hereinafter referred to
2209 as REIT) shall have the meaning ascribed to such term in Section
2210 856 of the federal Internal Revenue Code of 1986, as amended. A
2211 REIT is allowed a dividend distributed deduction if the dividend
2212 distributions meet the requirements of Section 857 or are
2213 otherwise deductible under Section 858 or 860, federal Internal
2214 Revenue Code of 1986, as amended. In addition:

2215 (i) A dividend distributed deduction shall only be
2216 allowed for dividends paid by a publicly traded REIT. A qualified
2217 REIT subsidiary shall be allowed a dividend distributed deduction
2218 if its owner is a publicly traded REIT.

2219 (ii) Income generated from real estate contributed
2220 or sold to a REIT by a shareholder or related party shall not give
2221 rise to a dividend distributed deduction, unless the shareholder
2222 or related party would have received the dividend distributed
2223 deduction under this chapter.

2224 (iii) A holding corporation receiving a dividend
2225 from a REIT shall not be allowed the deduction in Section
2226 27-7-15(4)(t).

2227 (iv) Any REIT not allowed the dividend distributed
2228 deduction in the federal Internal Revenue Code of 1986, as
2229 amended, shall not be allowed a dividend distributed deduction
2230 under this chapter.



2231 The commissioner is authorized to promulgate rules and
2232 regulations consistent with the provisions in Section 269 of the
2233 federal Internal Revenue Code of 1986, as amended, so as to
2234 prevent the evasion or avoidance of state income tax.

2235 (o) **Contributions to college savings trust fund**
2236 **accounts.** Contributions or payments to a Mississippi Affordable
2237 College Savings Program account are deductible as provided under
2238 Section 37-155-113. Payments made under a prepaid tuition
2239 contract entered into under the Mississippi Prepaid Affordable
2240 College Tuition Program are deductible as provided under Section
2241 37-155-17.

2242 (2) **Individual nonbusiness deductions.**

2243 (a) The amount allowable for individual nonbusiness
2244 itemized deductions for federal income tax purposes where the
2245 individual is eligible to elect, for the taxable year, to itemize
2246 deductions on his federal return except the following:

- 2247 (i) The deduction for state income taxes paid;
2248 (ii) The deduction for gaming losses from gaming
2249 establishments licensed under the Mississippi Gaming Control Act;
2250 (iii) The deduction for taxes collected by
2251 licensed gaming establishments pursuant to Section 27-7-901.

2252 (b) In lieu of the individual nonbusiness itemized
2253 deductions authorized in paragraph (a), for all purposes other
2254 than ordinary and necessary expenses paid or incurred during the
2255 taxable year in carrying on any trade or business, an optional
2256 standard deduction of:

- 2257 (i) Three Thousand Four Hundred Dollars
2258 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred
2259 Dollars (\$4,200.00) for the calendar year 1998, Four Thousand Six
2260 Hundred Dollars (\$4,600.00) through calendar year 2001, Four
2261 Thousand Dollars (\$4,000.00) for each calendar years 2002 and 2003
2262 and Four Thousand Six Hundred Dollars (\$4,600.00) for each



2263 calendar year thereafter in the case of married individuals filing
2264 a joint or combined return;

2265 (ii) One Thousand Seven Hundred Dollars
2266 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred
2267 Dollars (\$2,100.00) for the calendar year 1998, Two Thousand Three
2268 Hundred Dollars (\$2,300.00) through calendar year 2001, Two
2269 Thousand Dollars (\$2,000.00) for calendar years 2002 and 2003, and
2270 Two Thousand Three Hundred Dollars (\$2,300.00) for each calendar
2271 year thereafter in the case of married individuals filing separate
2272 returns;

2273 (iii) Three Thousand Four Hundred Dollars
2274 (\$3,400.00) in the case of a head of family; or

2275 (iv) Two Thousand Three Hundred Dollars
2276 (\$2,300.00) in the case of an individual who is not married.

2277 In the case of a husband and wife living together, having
2278 separate incomes, and filing combined returns, the standard
2279 deduction authorized may be divided in any manner they choose. In
2280 the case of separate returns by a husband and wife, the standard
2281 deduction shall not be allowed to either if the taxable income of
2282 one of the spouses is determined without regard to the standard
2283 deduction.

2284 (c) A nonresident individual shall be allowed the same
2285 individual nonbusiness deductions as are authorized for resident
2286 individuals in paragraph (a) or (b) of this subsection; however,
2287 the nonresident individual is entitled only to that proportion of
2288 the individual nonbusiness deductions as his net income from
2289 sources within the State of Mississippi bears to his total or
2290 entire net income from all sources.

2291 (3) Nothing in this section shall permit the same item to be
2292 deducted more than once, either in fact or in effect.

2293 **SECTION 6.** Section 27-7-18, Mississippi Code of 1972, is
2294 amended as follows:



2295 27-7-18. (1) Alimony payments. In the case of a person
2296 described in Section 27-7-15(2)(e), there shall be allowed as a
2297 deduction from gross income amounts paid as periodic payments to
2298 the extent of such amounts as are includible in the gross income
2299 of the spouse as provided in Section 27-7-15(2)(e), payment of
2300 which is made within the person's taxable year.

2301 (2) (a) Unreimbursed moving expenses incurred after
2302 December 31, 1994, through December 31, 2001, are deductible as an
2303 adjustment to gross income in accordance with provisions of the
2304 United States Internal Revenue Code, and rules, regulations and
2305 revenue procedures thereunder relating to moving expenses, not in
2306 direct conflict with the provisions of the Mississippi Income Tax
2307 Law.

2308 (b) Fifty percent (50%) unreimbursed moving expenses
2309 incurred after December 31, 2001, through December 31, 2003, are
2310 deductible as an adjustment to gross income in accordance with
2311 provisions of the United States Internal Revenue Code, and rules,
2312 regulations and revenue procedures thereunder relating to moving
2313 expenses, not in direct conflict with the provisions of the
2314 Mississippi Income Tax Law.

2315 (c) Unreimbursed moving expenses incurred after
2316 December 31, 2003, are deductible as an adjustment to gross income
2317 in accordance with provisions of the United States Internal
2318 Revenue Code, and rules, regulations and revenue procedures
2319 thereunder relating to moving expenses, not in direct conflict
2320 with the provisions of the Mississippi Income Tax Law.

2321 (3) (a) Amounts paid after December 31, 1998, through
2322 December 31, 2001, by a self-employed individual for insurance
2323 which constitute medical care for the taxpayer, his spouse and
2324 dependents, are deductible as an adjustment to gross income in
2325 accordance with provisions of the United States Internal Revenue
2326 Code, and rules, regulations and revenue procedures thereunder



2327 relating to such payments, not in direct conflict with the
2328 provisions of the Mississippi Income Tax Law.

2329 (b) Fifty percent (50%) of amounts paid after December
2330 31, 2001, through December 31, 2003, by a self-employed individual
2331 for insurance which constitute medical care for the taxpayer, his
2332 spouse and dependents, are deductible as an adjustment to gross
2333 income in accordance with provisions of the United States Internal
2334 Revenue Code, and rules, regulations and revenue procedures
2335 thereunder relating to such payments, not in direct conflict with
2336 the provisions of the Mississippi Income Tax Law.

2337 (c) Amounts paid after December 31, 2003, by a
2338 self-employed individual for insurance which constitute medical
2339 care for the taxpayer, his spouse and dependents, are deductible
2340 as an adjustment to gross income in accordance with provisions of
2341 the United States Internal Revenue Code, and rules, regulations
2342 and revenue procedures thereunder relating to such payments, not
2343 in direct conflict with the provisions of the Mississippi Income
2344 Tax Law.

2345 (4) (a) Contributions or payments made through December 31,
2346 2001, to a Mississippi Affordable College Savings (MACS) Program
2347 account are deductible from gross income as provided in Section
2348 37-155-113. Payments made under a prepaid tuition contract
2349 entered into under the Mississippi Prepaid Affordable College
2350 Tuition Program are deductible as provided in Section 37-155-17.

2351 (b) Fifty percent (50%) of contributions or payments
2352 made after December 31, 2001, through December 31, 2003, to a
2353 Mississippi Affordable College Savings (MACS) Program account are
2354 deductible from gross income as provided in Section 37-155-113.
2355 Payments made under a prepaid tuition contract entered into under
2356 the Mississippi Prepaid Affordable College Tuition Program are
2357 deductible as provided in Section 37-155-17.

2358 (c) Contributions or payments made after December 31,
2359 2003, to a Mississippi Affordable College Savings (MACS) Program



2360 account are deductible from gross income as provided in Section
2361 37-155-113. Payments made under a prepaid tuition contract
2362 entered into under the Mississippi Prepaid Affordable College
2363 Tuition Program are deductible as provided in Section 37-155-17.

2364 **SECTION 7.** Section 27-7-21, Mississippi Code of 1972, is
2365 amended as follows:

2366 27-7-21. (a) **Allowance of deductions.** In the case of a
2367 resident individual, the exemptions provided by this section, as
2368 applicable to individuals, shall be allowed as deductions in
2369 computing taxable income.

2370 (b) **Single individuals.** In the case of a single individual,
2371 a personal exemption of Five Thousand Two Hundred Fifty Dollars
2372 (\$5,250.00) for the 1979 and 1980 calendar years and Six Thousand
2373 Dollars (\$6,000.00) for each calendar year thereafter.

2374 (c) **Married individuals.** In the case of married individuals
2375 living together, a joint personal exemption of Eight Thousand
2376 Dollars (\$8,000.00) for the 1979 and 1980 calendar years and Nine
2377 Thousand Five Hundred Dollars (\$9,500.00) for the 1981 through
2378 1997 calendar years, Ten Thousand Dollars (\$10,000.00) for the
2379 calendar year 1998, Eleven Thousand Dollars (\$11,000.00) for the
2380 calendar year 1999, * * * Twelve Thousand Dollars (\$12,000.00) for
2381 the 2000 and 2001 calendar years, Ten Thousand Seven Hundred Fifty
2382 Dollars (\$10,750.00) for the 2002 and 2003 calendar years, and
2383 Twelve Thousand Dollars (\$12,000.00) for each calendar year
2384 thereafter. A husband and wife living together shall receive but
2385 one (1) personal exemption in the amounts provided for in this
2386 subsection for each calendar year against their aggregate income.

2387 (d) **Head of family individuals.** In the case of a head of
2388 family individual, a personal exemption of Eight Thousand Dollars
2389 (\$8,000.00) for the 1979 and 1980 calendar years and Nine Thousand
2390 Five Hundred Dollars (\$9,500.00) for each calendar year
2391 thereafter. The term "head of family" means an individual who is
2392 single, or married but not living with his spouse for the entire



2393 taxable year, who maintains a household which constitutes the
2394 principal place of abode of himself and one or more individuals
2395 who are dependents under the provisions of Section 152(a) of the
2396 Internal Revenue Code of 1954, as amended. The head of family
2397 individual shall be entitled to the additional dependent exemption
2398 as provided in subsection (e) of this section only to the extent
2399 of dependents in excess of the one (1) dependent needed to qualify
2400 as head of family.

2401 (e) **Additional exemption for dependents.** In the case of any
2402 individual having a dependent, other than husband or wife, an
2403 additional personal exemption of One Thousand Five Hundred Dollars
2404 (\$1,500.00) for each such dependent, except as otherwise provided
2405 in subsection (d) of this section. The term "dependent" as used
2406 in this subsection shall mean any person or individual who
2407 qualifies as a dependent under the provisions of Section 152,
2408 Internal Revenue Code of 1954, as amended.

2409 (f) **Additional exemption for taxpayer or spouse aged**
2410 **sixty-five (65) or more.** In the case of any taxpayer or the
2411 spouse of the taxpayer who has attained the age of sixty-five (65)
2412 before the close of his taxable year, an additional exemption of
2413 One Thousand Five Hundred Dollars (\$1,500.00).

2414 (g) **Additional exemption for blindness of taxpayer or**
2415 **spouse.** In the case of any taxpayer or the spouse of the taxpayer
2416 who is blind at the close of the taxable year, an additional
2417 exemption of One Thousand Five Hundred Dollars (\$1,500.00). For
2418 the purpose of this subsection, an individual is blind only if his
2419 central visual acuity does not exceed 20/200 in the better eye
2420 with correcting lenses, or if his visual acuity is greater than
2421 20/200 but is accompanied by a limitation in the fields of vision
2422 such that the widest diameter of the visual field subtends an
2423 angle no greater than twenty (20) degrees.

2424 (h) **Husband and wife--claiming exemptions.** In the case of
2425 husband and wife living together and filing combined returns, the



2426 personal and additional exemptions authorized and allowed by this
2427 section may be taken by either, or divided between them in any
2428 manner they may choose. If the husband and wife fail to choose,
2429 the commissioner shall divide the exemptions between husband and
2430 wife in an equitable manner. In the case of a husband and wife
2431 filing separate returns, the personal and additional exemptions
2432 authorized and allowed by this section shall be divided equally
2433 between the spouses.

2434 (i) **Nonresidents.** A nonresident individual shall be allowed
2435 the same personal and additional exemptions as are authorized for
2436 resident individuals in subsection (a) of this section; however,
2437 the nonresident individual is entitled only to that proportion of
2438 the personal and additional exemptions as his net income from
2439 sources within the State of Mississippi bears to his total or
2440 entire net income from all sources.

2441 A nonresident individual who is married and whose spouse has
2442 income from independent sources must declare the joint income of
2443 himself and his spouse from sources within and without Mississippi
2444 and claim as a personal exemption that proportion of the
2445 authorized personal and additional exemptions which the total net
2446 income from Mississippi sources bears to the total net income of
2447 both spouses from all sources. If both spouses have income from
2448 sources within Mississippi and wish to file separate returns,
2449 their combined personal and additional exemptions shall be that
2450 proration of the exemption which their combined net income from
2451 Mississippi sources is of their total combined net income from all
2452 sources. The amount of the personal and additional exemptions so
2453 computed may be divided between them in any manner they choose.

2454 In the case of married individuals where one (1) spouse is a
2455 resident and the other is a nonresident, the personal exemption of
2456 the resident individual shall be prorated on the same basis as if
2457 both were nonresidents having net income from within and without
2458 the State of Mississippi.



2459 For the purpose of this subsection, the term "net income"
2460 means gross income less business expenses incurred in the
2461 taxpayer's regular trade or business and computed in accordance
2462 with the provisions of the Mississippi Income Tax Law.

2463 (j) **Part-year residents.** An individual who is a resident of
2464 Mississippi for only a part of his taxable year by reason of
2465 either moving into the state or moving from the state shall be
2466 allowed the same personal and additional exemptions as authorized
2467 for resident individuals in subsection (a) of this section; the
2468 part-year resident shall prorate his exemption on the same basis
2469 as nonresidents having net income from within and without the
2470 state.

2471 (k) **Estates.** In the case of an estate, a specific exemption
2472 of Six Hundred Dollars (\$600.00).

2473 (l) **Trusts.** In the case of a trust which, under its
2474 governing instrument, is required to distribute all of its income
2475 currently, a specific exemption of Three Hundred Dollars
2476 (\$300.00). In the case of all other trusts, a specific exemption
2477 of One Hundred Dollars (\$100.00).

2478 (m) **Corporations, foundations, joint ventures, associations.**
2479 In the case of a corporation, foundation, joint venture or
2480 association taxable herein, there shall be allowed no specific
2481 exemption, except as provided under the Growth and Prosperity Act.

2482 (n) **Status.** The status on the last day of the taxable year,
2483 except in the case of the head of family as provided in subsection
2484 (d) of this section, shall determine the right to the exemptions
2485 provided in this section; provided, that a taxpayer shall be
2486 entitled to such exemptions, otherwise allowable, if the husband
2487 or wife or dependent has died during the taxable year.

2488 (o) **Fiscal-year taxpayers.** Individual taxpayers reporting
2489 on a fiscal year basis shall prorate their exemptions in a manner
2490 established by regulations promulgated by the commissioner.



2491 **SECTION 8.** Section 27-7-22.3, Mississippi Code of 1972, is
2492 amended as follows:

2493 **[Through December 31, 2003, this section shall read as**
2494 **follows:]**

2495 **[In cases involving an economic development project for which**
2496 **the Mississippi Business Finance Corporation has issued bonds for**
2497 **the purpose of financing the approved costs of such project prior**
2498 **to July 1, 1994, this section shall read as follows:]**

2499 27-7-22.3. (1) For taxpayers who are required to pay a job
2500 assessment fee as provided in Section 57-10-413, there shall be
2501 allowed as a credit against the taxes imposed by this chapter, an
2502 amount equal to fifty percent (50%) of the amount of the job
2503 assessment fee imposed upon such taxpayer pursuant to Section
2504 57-10-413. If the amount allowable as a credit exceeds the tax
2505 imposed by this article and Section 27-7-22.3, the amount of such
2506 excess shall not be refundable or carried forward to any other
2507 taxable year.

2508 (2) For any approved company as defined in Section
2509 57-10-401, there shall be allowed against the taxes imposed by
2510 this chapter on the income of the approved company generated by or
2511 arising out of the economic development project (as defined in
2512 Section 57-10-401), a credit in an amount not to exceed fifty
2513 percent (50%) of the total debt service paid under a financing
2514 agreement entered into under Section 57-10-409. The tax credit
2515 allowed in this subsection shall not exceed the amount of taxes
2516 due the State of Mississippi.

2517 **[In cases involving an economic development project for which**
2518 **the Mississippi Business Finance Corporation has not issued bonds**
2519 **for the purpose of financing the approved costs of such project**
2520 **prior to July 1, 1994, but has issued bonds for such project prior**
2521 **to July 1, 1997, or in cases involving an economic development**
2522 **project which has been induced by a resolution of the Board of**
2523 **Directors of the Mississippi Business Finance Corporation that has**



2524 **been filed with the State Tax Commission prior to July 1, 1997,**
2525 **this section shall read as follows:]**

2526 27-7-22.3. (1) (a) For taxpayers who are required to pay a
2527 job assessment fee as provided in Section 57-10-413, there shall
2528 be allowed as a credit against the taxes imposed by this chapter,
2529 an amount equal to the following:

2530 (i) Through taxable year 2001, the amount of the
2531 job assessment fee imposed upon such taxpayer pursuant to Section
2532 57-10-413.

2533 (ii) For taxable years 2002 and 2003, fifty
2534 percent (50%) of the amount of the job assessment fee imposed upon
2535 such taxpayer pursuant to Section 57-10-413.

2536 (iii) For taxable year 2004 and thereafter, the
2537 amount of the job assessment fee imposed upon such taxpayer
2538 pursuant to Section 57-10-413.

2539 (b) If the amount allowable as a credit exceeds the tax
2540 imposed by this article and Section 27-7-22.3, the amount of such
2541 excess shall not be refundable or carried forward to any other
2542 taxable year.

2543 (2) (a) For any approved company as defined in Section
2544 57-10-401, there shall be allowed against the taxes imposed by
2545 this chapter on the income of the approved company generated by or
2546 arising out of the economic development project (as defined in
2547 Section 57-10-401), a credit in an amount not to exceed the
2548 following:

2549 (i) Through taxable year 2001, the total debt
2550 service paid under a financing agreement entered into under
2551 Section 57-10-409.

2552 (ii) For taxable years 2002 and 2003, fifty
2553 percent (50%) of the total debt service paid under a financing
2554 agreement entered into under Section 57-10-409.



2555 (iii) For taxable years 2002 and 2003, the total
2556 debt service paid under a financing agreement entered into under
2557 Section 57-10-409.

2558 (b) The tax credit allowed in this subsection shall not
2559 exceed the amount of taxes due the State of Mississippi. The
2560 amount of income of the approved company generated by or arising
2561 out of the economic development project shall be determined by a
2562 formula adopted by the Mississippi Business Finance Corporation.

2563 **[In cases involving an economic development project for which**
2564 **the Mississippi Business Finance Corporation has not issued bonds**
2565 **for the purpose of financing the approved costs of such project**
2566 **prior to July 1, 1997, or in cases involving an economic**
2567 **development project which has not been induced by a resolution of**
2568 **the Board of Directors of the Mississippi Business Finance**
2569 **Corporation that has been filed with the State Tax Commission**
2570 **prior to July 1, 1997, this section shall read as follows:]**

2571 27-7-22.3. (1) Except as otherwise provided in subsection
2572 (2) of this section, for any approved company as defined in
2573 Section 57-10-401, there shall be allowed against the taxes
2574 imposed by this chapter on the income of the approved company
2575 generated by or arising out of the economic development project
2576 (as defined in Section 57-10-401), a credit in an amount not to
2577 exceed the following:

2578 (i) Through taxable year 2001, the total debt
2579 service paid under a financing agreement entered into under
2580 Section 57-10-409.

2581 (ii) For taxable years 2002 and 2003, fifty
2582 percent (50%) of the total debt service paid under a financing
2583 agreement entered into under Section 57-10-409.

2584 (iii) For taxable year 2004 and thereafter, the
2585 total debt service paid under a financing agreement entered into
2586 under Section 57-10-409.



2587 (2) * * * The tax credit allowed in this subsection shall
2588 not exceed eighty percent (80%) of the amount of taxes due the
2589 State of Mississippi prior to the application of the credit. To
2590 the extent that financing agreement annual payments exceed the
2591 amount of the credit authorized pursuant to this section in any
2592 taxable year, such excess payment may be recouped from excess
2593 credits in succeeding years not to exceed three (3) years
2594 following the date upon which the credit was earned. The amount
2595 of income of the approved company generated by or arising out of
2596 the economic development project shall be determined by a formula
2597 adopted by the Mississippi Business Finance Corporation.

2598 **SECTION 9.** Section 27-7-22.5, Mississippi Code of 1972, is
2599 amended as follows:

2600 27-7-22.5. (1) For any manufacturer, distributor, wholesale
2601 or retail merchant who pays to a county, municipality, school
2602 district, levee district or any other taxing authority of the
2603 state or a political subdivision thereof, ad valorem taxes imposed
2604 on commodities, products, goods, wares and merchandise held for
2605 resale, a credit against the income taxes imposed under this
2606 chapter shall be allowed for the portion of the ad valorem taxes
2607 so paid in the amounts prescribed in subsection (2).

2608 (2) The tax credit allowed by this section shall not exceed
2609 the amounts set forth in paragraphs (a) through (d) of this
2610 subsection; may be claimed only in the year in which the ad
2611 valorem taxes are paid; and may be claimed for each location where
2612 such commodities, products, goods, wares and merchandise are found
2613 and upon which the ad valorem taxes have been paid.

2614 (a) For the 1994 taxable year, the tax credit for each
2615 location of the taxpayer shall not exceed the lesser of Two
2616 Thousand Dollars (\$2,000.00) or the amount of income taxes due the
2617 State of Mississippi that are attributable to such location.

2618 (b) For the 1995 taxable year, the tax credit for each
2619 location of the taxpayer shall not exceed the lesser of Three



2620 Thousand Dollars (\$3,000.00) or the amount of income taxes due the
2621 State of Mississippi that are attributable to such location.

2622 (c) For the 1996 taxable year, the tax credit for each
2623 location of the taxpayer shall not exceed the lesser of Four
2624 Thousand Dollars (\$4,000.00) or the amount of income taxes due the
2625 State of Mississippi that are attributable to such location.

2626 (d) For the 1997 taxable year and through the 2001
2627 taxable year * * *, the tax credit for each location of the
2628 taxpayer shall not exceed the lesser of Five Thousand Dollars
2629 (\$5,000.00) or the amount of income taxes due the State of
2630 Mississippi that are attributable to such location.

2631 (e) For the 2002 and 2003 taxable years, the tax credit
2632 for each location of the taxpayer shall not exceed the lesser of
2633 Two Thousand Five Hundred Dollars (\$2,500.00) or the amount of
2634 income taxes due the State of Mississippi that are attributable to
2635 such location.

2636 (f) For the 2004 taxable year and each taxable year
2637 thereafter, the tax credit for each location of the taxpayer shall
2638 not exceed the lesser of Five Thousand Dollars (\$5,000.00) or the
2639 amount of income taxes due the State of Mississippi that are
2640 attributable to such location.

2641 (3) Any amount of ad valorem taxes paid by a taxpayer that
2642 is applied toward the tax credit allowed in this section may not
2643 be used as a deduction by the taxpayer for state income tax
2644 purposes. In the case of a taxpayer that is a partnership or S
2645 corporation, the credit may be applied only to the tax
2646 attributable to partnership or S corporation income derived from
2647 the taxpayer.

2648 **SECTION 10.** Section 27-7-22.7, Mississippi Code of 1972, is
2649 amended as follows:

2650 27-7-22.7. (1) As used in this section, the term "port"
2651 means a state, county or municipal port or harbor established
2652 pursuant to Sections 59-5-1 through 59-5-69, Sections 59-7-1



2653 through 59-7-519, 59-9-1 through 59-9-85 or Sections 59-11-1
2654 through 59-11-11.

2655 (2) For any income taxpayer utilizing the port facilities at
2656 any port for the export of cargo that is loaded on a carrier
2657 calling at any such port, a credit against the taxes imposed
2658 pursuant to this chapter shall be allowed in the amounts provided
2659 in this section.

2660 (3) Except as otherwise provided by subsection (6) of this
2661 section, the amount of the credit allowed pursuant to this section
2662 shall be the total of the following charges on export cargo paid
2663 by the corporation:

- 2664 (a) Receiving into the port;
- 2665 (b) Handling to a vessel; and
- 2666 (c) Wharfage.

2667 (4) (a) Through taxable year 2001, the credit provided for
2668 in this section shall not exceed fifty percent (50%) of the amount
2669 of tax imposed upon the taxpayer for the taxable year reduced by
2670 the sum of all other credits allowable to such taxpayer under this
2671 chapter, except credit for tax payments made by or on behalf of
2672 the taxpayer.

2673 (b) For taxable years 2002 and 2003, the credit
2674 provided for in this section shall not exceed twenty-five percent
2675 (25%) of the amount of tax imposed upon the taxpayer for the
2676 taxable year reduced by the sum of all other credits allowable to
2677 such taxpayer under this chapter, except credit for tax payments
2678 made by or on behalf of the taxpayer.

2679 (c) For taxable year 2004 and taxable years thereafter,
2680 the credit provided for in this section shall not exceed fifty
2681 percent (50%) of the amount of tax imposed upon the taxpayer for
2682 the taxable year reduced by the sum of all other credits allowable
2683 to such taxpayer under this chapter, except credit for tax
2684 payments made by or on behalf of the taxpayer.



2685 (5) Any unused portion of the credit may be carried forward
2686 for the succeeding five (5) years. The maximum cumulative credit
2687 that may be claimed by a taxpayer pursuant to this chapter and for
2688 the period of time beginning on January 1, 1994, and ending on
2689 December 31, 2002, is limited to One Million Two Hundred Thousand
2690 Dollars (\$1,200,000.00).

2691 (6) To obtain the credit provided for in this section, a
2692 taxpayer must provide to the State Tax Commission a statement from
2693 the governing authority of the port certifying the amount of
2694 charges paid by the taxpayer for which a credit is claimed and any
2695 other information required by the State Tax Commission.

2696 **SECTION 11.** Section 27-7-22.15, Mississippi Code of 1972, is
2697 amended as follows:

2698 27-7-22.15. (1) As used in this section, the following
2699 words and phrases shall have the meanings ascribed to herein
2700 unless the context clearly indicates otherwise:

2701 (a) "Approved reforestation practices" means the
2702 following practices for establishing a crop of trees suitable for
2703 manufacturing into forest products:

2704 (i) "Pine and hardwood tree planting practices"
2705 including the cost of seedlings, planting by hand or machine, and
2706 site preparation.

2707 (ii) "Mixed-stand regeneration practices" to
2708 establish a mixed-crop of pine and hardwood trees by planting or
2709 direct seeding, or both, including the cost of seedlings,
2710 seed/acorns, planting, seeding and site preparation.

2711 (iii) "Direct seeding practices" to establish a
2712 crop of pine or oak trees by directly applying seed/acorns to the
2713 site including the cost of seed/acorns, seeding and site
2714 preparation.

2715 (iv) "Post-planting site preparation practices" to
2716 reduce or control undesirable competition within the first growing
2717 season of an established crop of trees.



2718 Approved reforestation practices shall not include the
2719 establishment of orchards, Christmas trees or ornamental trees.

2720 (b) "Eligible tree species" means pine and hardwood
2721 commercial tree species suitable for manufacturing into forest
2722 products.

2723 (c) "Cost-share assistance" means partial financial
2724 payment for approved reforestation practices from the state
2725 government as authorized under Sections 49-19-201 through
2726 49-19-227, or the federal government.

2727 (d) "Eligible owner" means a private individual, group
2728 or association, but the term shall not mean private corporations
2729 which manufacture products or provide public utility services of
2730 any type or any subsidiary of such corporations.

2731 (e) "Eligible lands" means nonindustrial private lands
2732 owned by a private individual, group or association, but shall not
2733 mean lands owned by private corporations which manufacture
2734 products or provide public utility services of any type or any
2735 subsidiary of such corporations.

2736 (f) "Reforestation prescription or plan" means a
2737 written description of the approved reforestation practices that
2738 the eligible owner plans to use and includes a legal description
2739 and map of the area to be reforested, a list of the tree seedling
2740 or seed species to be used in the reforestation and the site
2741 preparation practices that will be utilized.

2742 (2) Subject to the limitations provided in subsection (3) of
2743 this section, upon submission to the State Tax Commission of the
2744 written verification provided for in subsection (5) of this
2745 section and such other documentation as the State Tax Commission
2746 may require, any eligible owner who incurs costs for approved
2747 reforestation practices for eligible tree species on eligible
2748 lands shall be allowed a credit as follows:

2749 (a) Through taxable year 2001, in an amount equal to
2750 the lesser of fifty percent (50%) of the actual costs of the



2751 approved reforestation practices or fifty percent (50%) of the
2752 average cost of approved practices as established by the
2753 Mississippi Forestry Commission under Section 49-19-219, against
2754 the taxes imposed pursuant to this chapter for the tax year in
2755 which the costs are incurred.

2756 (b) For taxable years 2002 and 2003, in an amount equal
2757 to the lesser of twenty-five percent (25%) of the actual costs of
2758 the approved reforestation practices or twenty-five percent (25%)
2759 of the average cost of approved practices as established by the
2760 Mississippi Forestry Commission under Section 49-19-219, against
2761 the taxes imposed pursuant to this chapter for the tax year in
2762 which the costs are incurred.

2763 (c) For taxable year 2004 and thereafter, in an amount
2764 equal to the lesser of fifty percent (50%) of the actual costs of
2765 the approved reforestation practices or fifty percent (50%) of the
2766 average cost of approved practices as established by the
2767 Mississippi Forestry Commission under Section 49-19-219, against
2768 the taxes imposed pursuant to this chapter for the tax year in
2769 which the costs are incurred.

2770 (3) The credit provided for in this section shall not exceed
2771 the lesser of Ten Thousand Dollars (\$10,000.00) or the amount of
2772 income tax imposed upon the eligible owner for the taxable year
2773 reduced by the sum of all other credits allowable to the eligible
2774 owner under this chapter, except credit for tax payments made by
2775 or on behalf of the eligible owner. Any unused portion of the
2776 credit may be carried forward for succeeding tax years. The
2777 maximum dollar amount of the credit provided for in this section
2778 that an eligible owner may utilize during his lifetime shall be
2779 Ten Thousand Dollars (\$10,000.00) in the aggregate.

2780 (4) If an eligible owner receives any state or federal cost
2781 share assistance funds to defray the cost of an approved
2782 reforestation practice, the cost of that practice on the same acre
2783 or acres within the same tax year is not eligible for the credit



2784 provided in this section unless the eligible owner's adjusted
2785 gross income is less than the federal earned income credit level.

2786 (5) To be eligible for the tax credit, an eligible owner
2787 must have a reforestation prescription or plan prepared for the
2788 eligible lands by a graduate forester of a college, school or
2789 university accredited by the Society of American Foresters or by a
2790 registered forester under the Foresters Registration Law of 1977.
2791 The forester must verify in writing that the reforestation
2792 practices were completed and that the reforestation prescription
2793 or plan was followed.

2794 **SECTION 12.** Section 27-7-22.17, Mississippi Code of 1972, is
2795 amended as follows:

2796 27-7-22.17. (1) Permanent business enterprises engaged in
2797 operating a project and companies that are members of an
2798 affiliated group that includes such permanent business enterprises
2799 are allowed a job tax credit for taxes imposed by Section 27-7-5
2800 equal to Five Thousand Dollars (\$5,000.00) annually through
2801 taxable year 2001, equal to Two Thousand Five Hundred Dollars
2802 (\$2,500.00) annually for taxable years 2002 and 2003, and equal to
2803 Five Thousand Dollars (\$5,000.00) annually for taxable year 2004
2804 and thereafter, for each net new full-time employee job for a
2805 period of twenty (20) years from the date the credit commences.
2806 The credit shall commence on the date selected by the permanent
2807 business enterprise; provided, however, that the commencement date
2808 shall not be more than five (5) years from the date the business
2809 enterprise commences commercial production. For the year in which
2810 the commencement date occurs, the number of new full-time jobs
2811 shall be determined by using the monthly average number of
2812 full-time employees subject to the Mississippi income tax
2813 withholding. Thereafter, the number of new full-time jobs shall
2814 be determined by comparing the monthly average number of full-time
2815 employees subject to the Mississippi income tax withholding for
2816 the taxable year with the corresponding period of the prior



2817 taxable year. Once a permanent business enterprise creates or
2818 increases employment three thousand (3,000) or more, such
2819 enterprise and the members of the affiliated group that include
2820 such enterprise, shall be eligible for the credit. The credit is
2821 not allowed for any year of the twenty-year period in which the
2822 overall monthly average number of full-time employees subject to
2823 the Mississippi income tax withholding falls below three thousand
2824 (3,000). The State Tax Commission shall adjust the credit allowed
2825 each year for the net new employment fluctuations above three
2826 thousand (3,000).

2827 (2) Any tax credit claimed under this section but not used
2828 in any taxable year may be carried forward for five (5)
2829 consecutive years from the close of the tax year in which the
2830 credits were earned. The credit that may be utilized each year
2831 shall be limited to an amount not greater than the total state
2832 income tax liability of the permanent business enterprise and the
2833 state income tax liability of any member of the affiliated group
2834 that includes such enterprise that is generated by, or arises out
2835 of, the project.

2836 (3) The tax credits provided for in this section shall be in
2837 lieu of the tax credits provided for in Section 57-73-21 and any
2838 permanent business enterprise or any member of the affiliated
2839 group that includes such enterprise utilizing the tax credit
2840 authorized in this section shall not utilize the tax credit
2841 authorized in Section 57-73-21.

2842 (4) As used in this section:

2843 (a) "Project" means a project as defined in Section
2844 57-75-5(f)(iv).

2845 (b) "Affiliated group" means one or more corporations
2846 connected through stock ownership with a common parent corporation
2847 where at least eighty percent (80%) of the voting power of all
2848 classes of stock and at least eighty percent (80%) of each class
2849 of the nonvoting stock of each of the member corporations, except



2850 the common parent corporation, is directly owned by one or more of
2851 the other member corporations; and the common parent corporation
2852 directly owns stock possessing at least eighty percent (80%) of
2853 the voting power of all classes of stock and at least eighty
2854 percent (80%) of each class of the nonvoting stock of at least one
2855 (1) of the other member corporations. As used in this subsection,
2856 the term "stock" does not include nonvoting stock that is limited
2857 and preferred as to dividends.

2858 **SECTION 13.** Section 27-7-22.19, Mississippi Code of 1972, is
2859 amended as follows:

2860 27-7-22.19. (1) Integrated suppliers are allowed a job tax
2861 credit for taxes imposed by Section 27-7-5 equal to One Thousand
2862 Dollars (\$1,000.00) annually through taxable year 2001, equal to
2863 Five Hundred Dollars (\$500.00) annually for calendar years 2002
2864 and 2003, and equal to One Thousand Dollars (\$1,000.00) annually
2865 for calendar year 2004 and thereafter, for each net new full-time
2866 employee for five (5) years from the date the credit commences.
2867 The credit shall commence on the date selected by the integrated
2868 supplier; provided, however, that the commencement date shall not
2869 be more than five (5) years from the date the integrated supplier
2870 commences commercial production. For the year in which the
2871 commencement date occurs, the number of new full-time jobs shall
2872 be determined by using the monthly average number of full-time
2873 employees subject to Mississippi income tax withholding.
2874 Thereafter, the number of new full-time jobs shall be determined
2875 by comparing the monthly average number of full-time employees
2876 subject to Mississippi income tax withholding for the taxable year
2877 with the corresponding period of the prior taxable year. Only
2878 those integrated suppliers that increase employment by twenty (20)
2879 or more are eligible for the credit. The credit is not allowed
2880 during any of the five (5) years if the net employment increase
2881 falls below twenty (20). The State Tax Commission shall adjust



2882 the credit allowed each year for the net new employment
2883 fluctuations above the minimum level of twenty (20).

2884 (2) Any tax credit claimed under this section but not used
2885 in any taxable year may be carried forward for five (5)
2886 consecutive years from the close of the tax year in which the
2887 credits were earned. The credit that may be utilized each year
2888 shall be limited to an amount not greater than the taxpayer's
2889 state income tax liability which is attributable to income derived
2890 from operation in the state for that year.

2891 (3) The tax credits provided for in this section shall be in
2892 lieu of the tax credits provided for in Section 57-73-21, and any
2893 integrated supplier utilizing the tax credit authorized in this
2894 section shall not utilize the tax credit authorized in Section
2895 57-73-21.

2896 (4) As used in this section the term "integrated supplier"
2897 means a supplier located on the project site which provides goods
2898 or services on the project site solely for a project as defined in
2899 Section 57-75-5(f)(iv)1.

2900 **SECTION 14.** Section 27-21-9, Mississippi Code of 1972, is
2901 amended as follows:

2902 **[Through December 31, 2003, this section shall read as**
2903 **follows:]**

2904 27-21-9. The tax hereby levied is in lieu of all other
2905 privilege taxes upon such business, and shall be paid to the
2906 commissioner, as provided by law, previous to enjoyment of the
2907 privilege for the period covered by the payment; and fifty percent
2908 (50%) of the amounts paid by the taxpayer in any given calendar
2909 year shall be credited upon such income tax as may be due by the
2910 taxpayer for such calendar year, or for the next fiscal year
2911 ending after the close of such calendar year on the income derived
2912 exclusively from the business which measures the annual statewide
2913 privilege tax levied by Section 27-21-3, Mississippi Code of 1972.
2914 The credit so allowed shall, in no event, be in a greater amount



2915 than the total amount of income tax due by the taxpayer for such
2916 calendar or fiscal year; it being the purpose and effect of this
2917 section that whichever of the above taxes is greater in amount
2918 shall be paid by the taxpayer.

2919 **[From and after January 1, 2004, this section shall read as**
2920 **follows:]**

2921 27-21-9. The tax hereby levied is in lieu of all other
2922 privilege taxes upon such business, and shall be paid to the
2923 commissioner, as provided by law, previous to enjoyment of the
2924 privilege for the period covered by the payment; and the amounts
2925 paid by the taxpayer in any given calendar year shall be credited
2926 upon such income tax as may be due by the taxpayer for such
2927 calendar year, or for the next fiscal year ending after the close
2928 of such calendar year on the income derived exclusively from the
2929 business which measures the annual statewide privilege tax levied
2930 by Section 27-21-3, Mississippi Code of 1972. The credit so
2931 allowed shall, in no event, be in a greater amount than the total
2932 amount of income tax due by the taxpayer for such calendar or
2933 fiscal year; it being the purpose and effect of this section that
2934 whichever of the above taxes is greater in amount shall be paid by
2935 the taxpayer.

2936 **SECTION 15.** Section 27-25-503, Mississippi Code of 1972, is
2937 amended as follows:

2938 27-25-503. (1) Except as otherwise provided herein, there
2939 is hereby levied, to be collected hereafter, as provided herein,
2940 annual privilege taxes upon every person engaging or continuing
2941 within this state in the business of producing, or severing oil,
2942 as defined herein, from the soil or water for sale, transport,
2943 storage, profit or for commercial use. The amount of such tax
2944 shall be measured by the value of the oil produced, and shall be
2945 levied and assessed at the rate of six percent (6%) of the value
2946 thereof at the point of production. However, such tax shall be
2947 levied and assessed at the rate of three percent (3%) of the value



2948 of the oil at the point of production on oil produced by an
2949 enhanced oil recovery method in which carbon dioxide is used;
2950 provided, that such carbon dioxide is transported by pipeline to
2951 the oil well site and on oil produced by any other enhanced oil
2952 recovery method approved and permitted by the State Oil and Gas
2953 Board on or after April 1, 1994, pursuant to Section 53-3-101 et
2954 seq.

2955 (2) The tax is hereby levied upon the entire production in
2956 this state regardless of the place of sale or to whom sold, or by
2957 whom used, or the fact that the delivery may be made to points
2958 outside the state, and the tax shall accrue at the time such oil
2959 is severed from the soil, or water, and in its natural, unrefined
2960 or unmanufactured state.

2961 (3) (a) Through December 31, 2001, oil produced from a
2962 discovery well for which drilling or re-entry commenced on or
2963 after April 1, 1994, but before July 1, 1999, shall be exempt from
2964 the taxes levied under this section until the effective date of
2965 this act and taxed at the rate of three percent (3%) of the value
2966 of the oil at the point of production thereafter, for a period of
2967 five (5) years beginning on the date of first sale of production
2968 from such well, provided that the average monthly sales price of
2969 such oil does not exceed Twenty-five Dollars (\$25.00) per barrel.
2970 The exemption or reduced rate for oil produced from a discovery
2971 well as described in this paragraph (a) shall be repealed from and
2972 after July 1, 2003, provided that any such production for which a
2973 permit was granted by the board before July 1, 2003, shall be
2974 exempt or taxed at the reduced rate for an entire period of five
2975 (5) years, notwithstanding that the repeal of this provision has
2976 become effective. Oil produced from development wells or
2977 replacement wells drilled in connection with discovery wells for
2978 which drilling commenced on or after January 1, 1994, but before
2979 July 1, 1999, shall be assessed at the rate of three percent (3%)
2980 until the effective date of this act and four and one-half percent



2981 (4.5%) thereafter, of the value of the oil at the point of
2982 production for a period of three (3) years. The reduced rate of
2983 assessment of oil produced from development wells or replacement
2984 wells as described in this paragraph (a) shall be repealed from
2985 and after January 1, 2003, provided that any such production for
2986 which drilling commenced before January 1, 2003, shall be assessed
2987 at the reduced rate for an entire period of three (3) years,
2988 notwithstanding that the repeal of this provision has become
2989 effective.

2990 (b) Oil produced from a discovery well for which
2991 drilling or re-entry commenced on or after July 1, 1999, shall be
2992 assessed at the rate of three percent (3%) until the effective
2993 date of this act and four and one-half percent (4.5%) thereafter
2994 of the value of the oil at the point of production for a period of
2995 five (5) years beginning on the date of first sale of production
2996 from such well, provided that the average monthly sales price of
2997 such oil does not exceed Twenty Dollars (\$20.00) per barrel. The
2998 reduced rate of assessment of oil produced from a discovery well
2999 as described in this paragraph (b) shall be repealed from and
3000 after July 1, 2003, provided that any such production for which a
3001 permit was granted by the board before July 1, 2003, shall be
3002 assessed at the reduced rate for an entire period of five (5)
3003 years, notwithstanding that the repeal of this provision has
3004 become effective. Oil produced from development wells or
3005 replacement wells drilled in connection with discovery wells for
3006 which drilling commenced on or after July 1, 1999, shall be
3007 assessed at the rate of three percent (3%) of the value of the oil
3008 at the point of production for a period of three (3) years. The
3009 reduced rate of assessment of oil produced from development wells
3010 or replacement wells as described in this paragraph (b) shall be
3011 repealed from and after January 1, 2003, provided that any such
3012 production for which drilling commenced before July 1, 2003, shall
3013 be assessed at the reduced rate for an entire period of three (3)



3014 years, notwithstanding that the repeal of this provision has
3015 become effective.

3016 (4) (a) Oil produced from a development well for which
3017 drilling commenced on or after April 1, 1994, but before July 1,
3018 1999, and for which three-dimensional seismic was utilized in
3019 connection with the drilling of such well shall be assessed at the
3020 rate of three percent (3%) until the effective date of this act
3021 and four and one-half percent (4.5%) thereafter, of the value of
3022 the oil at the point of production for a period of five (5) years,
3023 provided that the average monthly sales price of such oil does not
3024 exceed Twenty-five Dollars (\$25.00) per barrel. The reduced rate
3025 of assessment of oil produced from a development well as described
3026 in this paragraph (a) and for which three-dimensional seismic was
3027 utilized shall be repealed from and after July 1, 2003, provided
3028 that any such production for which a permit was granted by the
3029 board before July 1, 2003, shall be assessed at the reduced rate
3030 for an entire period of five (5) years, notwithstanding that the
3031 repeal of this provision has become effective.

3032 (b) Oil produced from a development well for which
3033 drilling commenced on or after July 1, 1999, and for which
3034 three-dimensional seismic was utilized in connection with the
3035 drilling of such well shall be assessed at the rate of three
3036 percent (3%) until the effective date of this act and four and
3037 one-half percent (4.5%) thereafter, of the value of the oil at the
3038 point of production for a period of five (5) years, provided that
3039 the average monthly sales price of such oil does not exceed Twenty
3040 Dollars (\$20.00) per barrel. The reduced rate of assessment of
3041 oil produced from a development well as described in this
3042 paragraph (b) and for which three-dimensional seismic was utilized
3043 shall be repealed from and after July 1, 2003, provided that any
3044 such production for which a permit was granted by the board before
3045 July 1, 2003, shall be assessed at the reduced rate for an entire



3046 period of five (5) years, notwithstanding that the repeal of this
3047 provision has become effective.

3048 (5) (a) Oil produced before July 1, 1999, from a two-year
3049 inactive well as defined in Section 27-25-501 shall be exempt from
3050 the taxes levied under this section until the effective date of
3051 this act and taxed at the rate of three percent (3%) of the value
3052 of the oil at the point of production thereafter, for a period of
3053 three (3) years beginning on the date of first sale of production
3054 from such well, provided that the average monthly sales price of
3055 such oil does not exceed Twenty-five Dollars (\$25.00) per barrel.
3056 The exemption and reduced rate for oil produced from an inactive
3057 well shall be repealed from and after July 1, 2003, provided that
3058 any such production which began before July 1, 2003, shall be
3059 exempt or taxed at the reduced rate for an entire period of three
3060 (3) years, notwithstanding that the repeal of this provision has
3061 become effective.

3062 (b) Oil produced on or after July 1, 1999, from a
3063 two-year inactive well as defined in Section 27-25-501 shall be
3064 exempt from the taxes levied under this section until the
3065 effective date of this act and taxed at the rate of three percent
3066 (3%) of the value of the oil at the point of production
3067 thereafter, for a period of three (3) years beginning on the date
3068 of first sale of production from such well, provided that the
3069 average monthly sales price of such oil does not exceed Twenty
3070 Dollars (\$20.00) per barrel. The exemption or reduced rate for
3071 oil produced from an inactive well shall be repealed from and
3072 after July 1, 2003, provided that any such production which began
3073 before July 1, 2003, shall be exempt or taxed at the reduced rate
3074 for an entire period of three (3) years, notwithstanding that the
3075 repeal of this provision has become effective.

3076 (6) (a) As used in this subsection the term "marginal well"
3077 means:



3078 (i) A well producing a monthly average of twenty
3079 (20) barrels of oil a day or less from a depth of seven thousand
3080 five hundred (7,500) feet or less; or

3081 (ii) A well producing a monthly average of forty
3082 (40) barrels of oil a day or less from a depth that is more than
3083 seven thousand five hundred (7,500) feet.

3084 (b) The owner of a marginal well shall be entitled to a
3085 refund of two-thirds (2/3) of the taxes he pays monthly pursuant
3086 to this section on oil produced from such well if the average
3087 monthly sales price of oil he produces from such well does not
3088 exceed Twelve Dollars (\$12.00) per barrel. In order to receive
3089 the refund provided for in this subsection the owner shall present
3090 the State Tax Commission with a statement from the State Oil and
3091 Gas Board certifying that the well is a marginal well within the
3092 meaning of this subsection. The State Tax Commission shall then
3093 determine the average monthly sales price of the oil sold from
3094 such well and pay the refund to the owner if it determines that
3095 the owner is eligible for such refund. Funds for such refund
3096 shall come from the General Fund.

3097 (c) This subsection (6) shall stand repealed from and
3098 after July 1, 2003.

3099 (7) The State Oil and Gas Board shall have the exclusive
3100 authority to determine the qualification of wells defined in
3101 paragraphs (n) through (r) of Section 27-25-501.

3102 **SECTION 16.** Section 27-25-703, Mississippi Code of 1972, is
3103 amended as follows:

3104 **[Until July 1, 2004, this section shall read as follows:]**

3105 27-25-703. (1) Except as otherwise provided herein, there
3106 is hereby levied, to be collected hereafter, as provided herein,
3107 annual privilege taxes upon every person engaging or continuing
3108 within this state in the business of producing, or severing gas,
3109 as defined herein, from below the soil or water for sale,
3110 transport, storage, profit or for commercial use. The amount of



3111 such tax shall be measured by the value of the gas produced and
3112 shall be levied and assessed at a rate of six percent (6%) of the
3113 value thereof at the point of production, except as otherwise
3114 provided in subsection (4) of this section.

3115 (2) The tax is hereby levied upon the entire production in
3116 this state, regardless of the place of sale or to whom sold or by
3117 whom used, or the fact that the delivery may be made to points
3118 outside the state, but not levied upon that gas, lawfully injected
3119 into the earth for cycling, repressuring, lifting or enhancing the
3120 recovery of oil, nor upon gas lawfully vented or flared in
3121 connection with the production of oil, nor upon gas condensed into
3122 liquids on which the oil severance tax of six percent (6%) is
3123 paid; save and except, however, if any gas so injected into the
3124 earth is sold for such purposes, then the gas so sold shall not be
3125 excluded in computing the tax. The tax shall accrue at the time
3126 the gas is produced or severed from the soil or water, and in its
3127 natural, unrefined or unmanufactured state.

3128 (3) Natural gas and condensate produced from any wells for
3129 which drilling is commenced after March 15, 1987, and before July
3130 1, 1990, shall be exempt from the tax levied under this section
3131 for a period of two (2) years beginning on the date of first sale
3132 of production from such wells.

3133 (4) Any well which begins commercial production of occluded
3134 natural gas from coal seams on or after March 20, 1990, and before
3135 July 1, 1993, shall be taxed at the rate of three and one-half
3136 percent (3-1/2%) of the gross value of the occluded natural gas
3137 from coal seams at the point of production for a period of five
3138 (5) years after such well begins production.

3139 (5) (a) Natural gas produced from discovery wells for which
3140 drilling or re-entry commenced on or after April 1, 1994, but
3141 before July 1, 1999, shall be exempt from the tax levied under
3142 this section until the effective date of this act and taxed at the
3143 rate of three percent (3%) of the value thereof at the point of



3144 production thereafter, for a period of five (5) years beginning on
3145 the earlier of one (1) year from completion of the well or the
3146 date of first sale from such well, provided that the average
3147 monthly sales price of such gas does not exceed Three Dollars and
3148 Fifty Cents (\$3.50) per one thousand (1,000) cubic feet. The
3149 exemption or reduced rate for natural gas produced from discovery
3150 wells as described in this paragraph (a) shall be repealed from
3151 and after July 1, 2003, provided that any such production for
3152 which a permit was granted by the board before July 1, 2003, shall
3153 be exempt or taxed at the reduced rate for an entire period of
3154 five (5) years, notwithstanding that the repeal of this provision
3155 has become effective. Natural gas produced from development wells
3156 or replacement wells drilled in connection with discovery wells
3157 for which drilling commenced on or after January 1, 1994, shall be
3158 assessed at a rate of three percent (3%) until the effective date
3159 of this act and taxed at the rate of four and one-half percent
3160 (4.5%) thereafter, of the value thereof at the point of production
3161 for a period of three (3) years. The reduced rate of assessment
3162 of natural gas produced from development wells or replacement
3163 wells as described in this paragraph (a) shall be repealed from
3164 and after January 1, 2003, provided that any such production for
3165 which drilling commenced before January 1, 2003, shall be assessed
3166 at the reduced rate for an entire period of three (3) years,
3167 notwithstanding that the repeal of this provision has become
3168 effective.

3169 (b) Natural gas produced from discovery wells for which
3170 drilling or re-entry commenced on or after July 1, 1999, shall be
3171 assessed at a rate of three percent (3%) until the effective date
3172 of this act and taxed at the rate of four and one-half percent
3173 (4.5%) thereafter, of the value thereof at the point of production
3174 for a period of five (5) years beginning on the earlier of one (1)
3175 year from completion of the well or the date of first sale from
3176 such well, provided that the average monthly sales price of such



3177 gas does not exceed Two Dollars and Fifty Cents (\$2.50) per one
3178 thousand (1,000) cubic feet. The reduced rate of assessment of
3179 natural gas produced from discovery wells as described in this
3180 paragraph (b) shall be repealed from and after July 1, 2003,
3181 provided that any such production for which a permit was granted
3182 by the board before July 1, 2003, shall be assessed at the reduced
3183 rate for an entire period of five (5) years, notwithstanding that
3184 the repeal of this provision has become effective. Natural gas
3185 produced from development wells or replacement wells drilled in
3186 connection with discovery wells for which drilling commenced on or
3187 after July 1, 1999, shall be assessed at a rate of three percent
3188 (3%) until the effective date of this act and taxed at the rate of
3189 four and one-half percent (4.5%) thereafter, of the value thereof
3190 at the point of production for a period of three (3) years. The
3191 reduced rate of assessment of natural gas produced from
3192 development wells or replacement wells as described in this
3193 paragraph (b) shall be repealed from and after January 1, 2003,
3194 provided that any such production for which drilling commenced
3195 before January 1, 2003, shall be assessed at the reduced rate for
3196 an entire period of three (3) years, notwithstanding that the
3197 repeal of this provision has become effective.

3198 (6) (a) Gas produced from a development well for which
3199 drilling commenced on or after April 1, 1994, but before July 1,
3200 1999, and for which three-dimensional seismic was utilized in
3201 connection with the drilling of such well, shall be assessed at a
3202 rate of three percent (3%) until the effective date of this act
3203 and taxed at the rate of four and one-half percent (4.5%)
3204 thereafter, of the value of the gas at the point of production for
3205 a period of five (5) years, provided that the average monthly
3206 sales price of such gas does not exceed Three Dollars and Fifty
3207 Cents (\$3.50) per one thousand (1,000) cubic feet. The reduced
3208 rate of assessment of gas produced from a development well as
3209 described in this subsection and for which three-dimensional



3210 seismic was utilized shall be repealed from and after July 1,
3211 2003, provided that any such production for which a permit was
3212 granted by the board before July 1, 2003, shall be assessed at the
3213 reduced rate for an entire period of five (5) years,
3214 notwithstanding that the repeal of this provision has become
3215 effective.

3216 (b) Gas produced from a development well for which
3217 drilling commenced on or after July 1, 1999, and for which
3218 three-dimensional seismic was utilized in connection with the
3219 drilling of such well, shall be assessed at a rate of three
3220 percent (3%) until the effective date of this act and taxed at the
3221 rate of four and one-half percent (4.5%) thereafter, of the value
3222 of the gas at the point of production for a period of five (5)
3223 years, provided that the average monthly sales price of such gas
3224 does not exceed Two Dollars and Fifty Cents (\$2.50) per one
3225 thousand (1,000) cubic feet. The reduced rate of assessment of
3226 gas produced from a development well as described in this
3227 paragraph (b) and for which three-dimensional seismic was utilized
3228 shall be repealed from and after July 1, 2003, provided that any
3229 such production for which a permit was granted by the board before
3230 July 1, 2003, shall be assessed at the reduced rate for an entire
3231 period of five (5) years, notwithstanding that the repeal of this
3232 provision has become effective.

3233 (7) (a) Natural gas produced before July 1, 1999, from a
3234 two-year inactive well as defined in Section 27-25-701 shall be
3235 exempt from the taxes levied under this section until the
3236 effective date of this act and taxed at the rate of three percent
3237 (3%) thereafter, for a period of three (3) years beginning on the
3238 date of first sale of production from such well, provided that the
3239 average monthly sales price of such gas does not exceed Three
3240 Dollars and Fifty Cents (\$3.50) per one thousand (1,000) cubic
3241 feet. The exemption or reduced rate for natural gas produced from
3242 an inactive well as described in this subsection shall be repealed



3243 from and after July 1, 2003, provided that any such production
3244 which began before July 1, 2003, shall be exempt or taxed at the
3245 reduced rate for an entire period of three (3) years,
3246 notwithstanding that the repeal of this provision has become
3247 effective.

3248 (b) Natural gas produced on or after July 1, 1999, from
3249 a two-year inactive well as defined in Section 27-25-701 shall be
3250 exempt from the taxes levied under this section until the
3251 effective date of this act and taxed at the rate of three percent
3252 (3%) thereafter, for a period of three (3) years beginning on the
3253 date of first sale of production from such well, provided that the
3254 average monthly sales price of such gas does not exceed Two
3255 Dollars and Fifty Cents (\$2.50) per one thousand (1,000) cubic
3256 feet. The exemption or reduced rate for natural gas produced from
3257 an inactive well as described in this paragraph (b) shall be
3258 repealed from and after July 1, 2003, provided that any such
3259 production which began before July 1, 2003, shall be exempt or
3260 taxed at the reduced rate for an entire period of three (3) years,
3261 notwithstanding that the repeal of this provision has become
3262 effective.

3263 (8) The State Oil and Gas Board shall have the exclusive
3264 authority to determine the qualification of wells defined in
3265 paragraphs (n) through (r) of Section 27-15-701.

3266 **[From and after July 1, 2004, this section shall read as**
3267 **follows:]**

3268 27-25-703. (1) Except as otherwise provided herein, there
3269 is hereby levied, to be collected hereafter, as provided herein,
3270 annual privilege taxes upon every person engaging or continuing
3271 within this state in the business of producing, or severing gas,
3272 as defined herein, from below the soil or water for sale,
3273 transport, storage, profit or for commercial use. The amount of
3274 such tax shall be measured by the value of the gas produced and
3275 shall be levied and assessed at a rate of six percent (6%) of the



3276 value thereof at the point of production, except as otherwise
3277 provided in subsection (4) of this section.

3278 (2) The tax is hereby levied upon the entire production in
3279 this state, regardless of the place of sale or to whom sold or by
3280 whom used, or the fact that the delivery may be made to points
3281 outside the state, but not levied upon that gas, including carbon
3282 dioxide, lawfully injected into the earth for cycling,
3283 repressuring, lifting or enhancing the recovery of oil, nor upon
3284 gas lawfully vented or flared in connection with the production of
3285 oil, nor upon gas condensed into liquids on which the oil
3286 severance tax of six percent (6%) is paid; save and except,
3287 however, if any gas so injected into the earth is sold for such
3288 purposes, then the gas so sold shall not be excluded in computing
3289 the tax, unless such gas is carbon dioxide which is sold to be
3290 used and is used in Mississippi in an enhanced oil recovery
3291 method, in which event there shall be no severance tax levied on
3292 carbon dioxide so sold and used. The tax shall accrue at the time
3293 the gas is produced or severed from the soil or water, and in its
3294 natural, unrefined or unmanufactured state.

3295 (3) Natural gas and condensate produced from any wells for
3296 which drilling is commenced after March 15, 1987, and before July
3297 1, 1990, shall be exempt from the tax levied under this section
3298 for a period of two (2) years beginning on the date of first sale
3299 of production from such wells.

3300 (4) Any well which begins commercial production of occluded
3301 natural gas from coal seams on or after March 20, 1990, and before
3302 July 1, 1993, shall be taxed at the rate of three and one-half
3303 percent (3-1/2%) of the gross value of the occluded natural gas
3304 from coal seams at the point of production for a period of five
3305 (5) years after such well begins production.

3306 (5) (a) Natural gas produced from discovery wells for which
3307 drilling or re-entry commenced on or after April 1, 1994, but
3308 before July 1, 1999, shall be exempt from the tax levied under



3309 this section until the effective date of this act and taxed at the
3310 rate of three percent (3%) of the value of the oil at the point of
3311 production, for a period of five (5) years beginning on the
3312 earlier of one (1) year from completion of the well or the date of
3313 first sale from such well, provided that the average monthly sales
3314 price of such gas does not exceed Three Dollars and Fifty Cents
3315 (\$3.50) per one thousand (1,000) cubic feet. The exemption or
3316 reduced rate for natural gas produced from discovery wells as
3317 described in this paragraph (a) shall be repealed from and after
3318 July 1, 2003, provided that any such production for which a permit
3319 was granted by the board before July 1, 2003, shall be exempt or
3320 taxed at the reduced rate for an entire period of five (5) years,
3321 notwithstanding that the repeal of this provision has become
3322 effective. Natural gas produced from development wells or
3323 replacement wells drilled in connection with discovery wells for
3324 which drilling commenced on or after January 1, 1994, shall be
3325 assessed at a rate of three percent (3%) until the effective date
3326 of this act and four and one-half percent (4.5%) thereafter, of
3327 the value thereof at the point of production for a period of three
3328 (3) years. The reduced rate of assessment of natural gas produced
3329 from development wells or replacement wells as described in this
3330 paragraph (a) shall be repealed from and after January 1, 2003,
3331 provided that any such production for which drilling commenced
3332 before January 1, 2003, shall be assessed at the reduced rate for
3333 an entire period of three (3) years, notwithstanding that the
3334 repeal of this provision has become effective.

3335 (b) Natural gas produced from discovery wells for which
3336 drilling or re-entry commenced on or after July 1, 1999, shall be
3337 assessed at a rate of three percent (3%) until the effective date
3338 of this act and four and one-half percent (4.5%) thereafter, of
3339 the value thereof at the point of production for a period of five
3340 (5) years beginning on the earlier of one (1) year from completion
3341 of the well or the date of first sale from such well, provided



3342 that the average monthly sales price of such gas does not exceed
3343 Two Dollars and Fifty Cents (\$2.50) per one thousand (1,000) cubic
3344 feet. The reduced rate of assessment of natural gas produced from
3345 discovery wells as described in this paragraph (b) shall be
3346 repealed from and after July 1, 2003, provided that any such
3347 production for which a permit was granted by the board before July
3348 1, 2003, shall be assessed at the reduced rate for an entire
3349 period of five (5) years, notwithstanding that the repeal of this
3350 provision has become effective. Natural gas produced from
3351 development wells or replacement wells drilled in connection with
3352 discovery wells for which drilling commenced on or after July 1,
3353 1999, shall be assessed at a rate of three percent (3%) until the
3354 effective date of this act and four and one-half percent (4.5%)
3355 thereafter, of the value thereof at the point of production for a
3356 period of three (3) years. The reduced rate of assessment of
3357 natural gas produced from development wells or replacement wells
3358 as described in this paragraph (b) shall be repealed from and
3359 after January 1, 2003, provided that any such production for which
3360 drilling commenced before January 1, 2003, shall be assessed at
3361 the reduced rate for an entire period of three (3) years,
3362 notwithstanding that the repeal of this provision has become
3363 effective.

3364 (6) (a) Gas produced from a development well for which
3365 drilling commenced on or after April 1, 1994, but before July 1,
3366 1999, and for which three-dimensional seismic was utilized in
3367 connection with the drilling of such well, shall be assessed at a
3368 rate of three percent (3%) until the effective date of this act
3369 and four and one-half percent (4.5%) thereafter, of the value of
3370 the gas at the point of production for a period of five (5) years,
3371 provided that the average monthly sales price of such gas does not
3372 exceed Three Dollars and Fifty Cents (\$3.50) per one thousand
3373 (1,000) cubic feet. The reduced rate of assessment of gas
3374 produced from a development well as described in this subsection



3375 and for which three-dimensional seismic was utilized shall be
3376 repealed from and after July 1, 2003, provided that any such
3377 production for which a permit was granted by the board before July
3378 1, 2003, shall be assessed at the reduced rate for an entire
3379 period of five (5) years, notwithstanding that the repeal of this
3380 provision has become effective.

3381 (b) Gas produced from a development well for which
3382 drilling commenced on or after July 1, 1999, and for which
3383 three-dimensional seismic was utilized in connection with the
3384 drilling of such well, shall be assessed at a rate of three
3385 percent (3%) until the effective date of this act and four and
3386 one-half percent (4.5%) thereafter, of the value of the gas at the
3387 point of production for a period of five (5) years, provided that
3388 the average monthly sales price of such gas does not exceed Two
3389 Dollars and Fifty Cents (\$2.50) per one thousand (1,000) cubic
3390 feet. The reduced rate of assessment of gas produced from a
3391 development well as described in this paragraph (b) and for which
3392 three-dimensional seismic was utilized shall be repealed from and
3393 after July 1, 2003, provided that any such production for which a
3394 permit was granted by the board before July 1, 2003, shall be
3395 assessed at the reduced rate for an entire period of five (5)
3396 years, notwithstanding that the repeal of this provision has
3397 become effective.

3398 (7) (a) Natural gas produced before July 1, 1999, from a
3399 two-year inactive well as defined in Section 27-25-701 shall be
3400 exempt until the effective date of this act and taxed at the rate
3401 of three percent (3%) of the value of the oil at the point of
3402 production, from the taxes levied under this section for a period
3403 of three (3) years beginning on the date of first sale of
3404 production from such well, provided that the average monthly sales
3405 price of such gas does not exceed Three Dollars and Fifty Cents
3406 (\$3.50) per one thousand (1,000) cubic feet. The exemption or
3407 reduced rate for natural gas produced from an inactive well as



3408 described in this subsection shall be repealed from and after July
3409 1, 2003, provided that any such production which began before July
3410 1, 2003, shall be exempt or taxed at the reduced rate for an
3411 entire period of three (3) years, notwithstanding that the repeal
3412 of this provision has become effective.

3413 (b) Natural gas produced on or after July 1, 1999, from
3414 a two-year inactive well as defined in Section 27-25-701 shall be
3415 exempt from the taxes levied under this section until the
3416 effective date of this act and taxed at the rate of three percent
3417 (3%) of the value of the oil at the point of production, for a
3418 period of three (3) years beginning on the date of first sale of
3419 production from such well, provided that the average monthly sales
3420 price of such gas does not exceed Two Dollars and Fifty Cents
3421 (\$2.50) per one thousand (1,000) cubic feet. The exemption or
3422 reduced rate for natural gas produced from an inactive well as
3423 described in this paragraph (b) shall be repealed from and after
3424 July 1, 2003, provided that any such production which began before
3425 July 1, 2003, shall be exempt or taxed at the reduced rate for an
3426 entire period of three (3) years, notwithstanding that the repeal
3427 of this provision has become effective.

3428 (8) The State Oil and Gas Board shall have the exclusive
3429 authority to determine the qualification of wells defined in
3430 paragraphs (n) through (r) of Section 27-15-701.

3431 **SECTION 17.** Section 27-65-103, Mississippi Code of 1972, is
3432 amended as follows:

3433 **[Through December 31, 2003, this section shall read as**
3434 **follows:]**

3435 27-65-103. The exemptions from the provisions of this
3436 chapter which are of an agricultural nature or which are more
3437 properly classified as agricultural exemptions than any other
3438 exemption classification of this chapter shall be confined to
3439 those persons or property exempted by this section or by
3440 provisions of the Constitution of the United States or the State



3441 of Mississippi. No agricultural exemption as now provided by any
3442 other section shall be valid as against the tax herein levied.
3443 Any subsequent agricultural exemption from the tax levied
3444 hereunder shall be provided by amendment to this section.

3445 No exemption provided in this section shall apply to taxes
3446 levied by Section 27-65-15 or 27-65-21, Mississippi Code of 1972.

3447 The tax levied by this chapter shall not apply to the
3448 following:

3449 (a) The gross proceeds of sales of lint cotton, seed
3450 cotton, baled cotton, whether compressed or not, and cottonseed
3451 and soybeans in their original condition. Retail sales of seeds,
3452 livestock feed, poultry feed, fish feed and fertilizers. Sales of
3453 defoliants, insecticides, fungicides, herbicides and baby chicks
3454 used in growing agricultural products for market. Bagging and
3455 ties for baling cotton, hay baling wire and twine, boxes, bags and
3456 cans used in growing or preparing agricultural products for market
3457 when possession thereof will pass to the customer at the time of
3458 sale of the product contained therein. Sales of ice to commercial
3459 fishermen purchased for use in the preservation of seafood or to
3460 producers for use in the refrigeration of vegetables for market.

3461 (b) The sales by producers of livestock, poultry, fish
3462 or other products of farm, grove or garden when such products are
3463 sold in the original state or condition of preparation for sale
3464 before such products are subjected to any other process within a
3465 class of business or sold by a producer through an established
3466 store, as defined in the Privilege Tax Law. Provided, however,
3467 that this exemption shall not apply to ornamental plants which
3468 bear no fruit of commercial value. All sales by agricultural
3469 cooperative associations organized under Article 9 of Chapter 7 of
3470 Title 69, or under Chapters 17 or 19 of Title 79, Mississippi Code
3471 of 1972, of agricultural products produced by members for market
3472 before such products are subjected to any manufacturing process.



3473 (c) The gross proceeds of retail sales of mules, horses
3474 and other livestock.

3475 (d) Income from grading, excavating, ditching, dredging
3476 or landscaping activities performed for a farmer on a farm for
3477 agricultural or soil erosion purposes.

3478 (e) Fifty percent (50%) of the gross proceeds of sales
3479 of all antibiotics, hormones and hormone preparations, drugs,
3480 medicines and other medications including serums and vaccines,
3481 vitamins, minerals or other nutrients for use in the production
3482 and growing of fish, livestock and poultry by whomever sold. Such
3483 exemption shall be in addition to the exemption provided in this
3484 section for feed for fish, livestock and poultry.

3485 **[From and after January 1, 2004, this section shall read as**
3486 **follows:]**

3487 27-65-103. The exemptions from the provisions of this
3488 chapter which are of an agricultural nature or which are more
3489 properly classified as agricultural exemptions than any other
3490 exemption classification of this chapter shall be confined to
3491 those persons or property exempted by this section or by
3492 provisions of the Constitution of the United States or the State
3493 of Mississippi. No agricultural exemption as now provided by any
3494 other section shall be valid as against the tax herein levied.
3495 Any subsequent agricultural exemption from the tax levied
3496 hereunder shall be provided by amendment to this section.

3497 No exemption provided in this section shall apply to taxes
3498 levied by Section 27-65-15 or 27-65-21, Mississippi Code of 1972.

3499 The tax levied by this chapter shall not apply to the
3500 following:

3501 (a) The gross proceeds of sales of lint cotton, seed
3502 cotton, baled cotton, whether compressed or not, and cottonseed
3503 and soybeans in their original condition. Retail sales of seeds,
3504 livestock feed, poultry feed, fish feed and fertilizers. Sales of
3505 defoliants, insecticides, fungicides, herbicides and baby chicks



3506 used in growing agricultural products for market. Bagging and
3507 ties for baling cotton, hay baling wire and twine, boxes, bags and
3508 cans used in growing or preparing agricultural products for market
3509 when possession thereof will pass to the customer at the time of
3510 sale of the product contained therein. Sales of ice to commercial
3511 fishermen purchased for use in the preservation of seafood or to
3512 producers for use in the refrigeration of vegetables for market.

3513 (b) The sales by producers of livestock, poultry, fish
3514 or other products of farm, grove or garden when such products are
3515 sold in the original state or condition of preparation for sale
3516 before such products are subjected to any other process within a
3517 class of business or sold by a producer through an established
3518 store, as defined in the Privilege Tax Law. Provided, however,
3519 that this exemption shall not apply to ornamental plants which
3520 bear no fruit of commercial value. All sales by agricultural
3521 cooperative associations organized under Article 9 of Chapter 7 of
3522 Title 69, or under Chapters 17 or 19 of Title 79, Mississippi Code
3523 of 1972, of agricultural products produced by members for market
3524 before such products are subjected to any manufacturing process.

3525 (c) The gross proceeds of retail sales of mules, horses
3526 and other livestock.

3527 (d) Income from grading, excavating, ditching, dredging
3528 or landscaping activities performed for a farmer on a farm for
3529 agricultural or soil erosion purposes.

3530 (e) The gross proceeds of sales of all antibiotics,
3531 hormones and hormone preparations, drugs, medicines and other
3532 medications including serums and vaccines, vitamins, minerals or
3533 other nutrients for use in the production and growing of fish,
3534 livestock and poultry by whomever sold. Such exemption shall be
3535 in addition to the exemption provided in this section for feed for
3536 fish, livestock and poultry.

3537 **SECTION 18.** Section 27-65-105, Mississippi Code of 1972, is
3538 amended as follows:



3539 [Through December 31, 2003, this section shall read as
3540 follows:]

3541 27-65-105. The exemption from the provisions of this chapter
3542 which are of a governmental nature or which are more properly
3543 classified as governmental exemptions than any other exemption
3544 classification of this chapter shall be confined to those persons
3545 or property exempted by this section or by provisions of the
3546 Constitutions of the United States or the State of Mississippi.
3547 No governmental exemption as now provided by any other section
3548 shall be valid as against the tax herein levied. Any subsequent
3549 governmental exemption from the tax levied hereunder shall be
3550 provided by amendment to this section.

3551 No exemption provided in this section shall apply to taxes
3552 levied by Section 27-65-15 or 27-65-21, Mississippi Code of 1972,
3553 except as provided by subsection (f) of this section.

3554 The tax levied by this chapter shall not apply to the
3555 following:

3556 (a) Sales of property, labor or services taxable under
3557 Sections 27-65-17, 27-65-19 and 27-65-23, when sold to and billed
3558 directly to and payment therefor is made directly by the United
3559 States government, the State of Mississippi and its departments,
3560 institutions, counties and municipalities or departments or school
3561 districts of said counties and municipalities.

3562 The exemption from the tax imposed under this chapter shall
3563 not apply to sales of tangible personal property, labor or
3564 services to contractors purchasing in the performance of contracts
3565 with the United States, the State of Mississippi, counties and
3566 municipalities.

3567 (b) Sales to schools, when such schools are supported
3568 wholly or in part by funds provided by the State of Mississippi,
3569 provided that this exemption does not apply to sales of property
3570 which is not to be used in the ordinary operation of the school,
3571 or which is to be resold to the students or the public.



3572 (c) Amounts received from the sale of school textbooks
3573 to students.

3574 (d) Sales to the Mississippi Band of Choctaw Indians,
3575 but not to Indians individually.

3576 (e) Sales of fire fighting equipment to governmental
3577 fire departments or volunteer fire departments for their use.

3578 (f) Sales of any gas from any project, as defined in
3579 the Municipal Gas Authority of Mississippi Law, to any
3580 municipality shall not be subject to sales, use or other tax.

3581 (g) Sales of home medical equipment and home medical
3582 supplies listed as eligible for payment under Title XVIII of the
3583 Social Security Act or under the state plan for medical assistance
3584 under Title XIX of the Social Security Act, prosthetics,
3585 orthotics, hearing aids, hearing devices, prescription eyeglasses,
3586 oxygen and oxygen equipment, when ordered or prescribed by a
3587 licensed physician for medical purposes of a patient, and when
3588 payment for such equipment or supplies, or both, is made under the
3589 provisions of the Medicare or Medicaid program. This exemption
3590 shall only apply to fifty percent (50%) of the portion of the
3591 sales price of such equipment or supplies, or both, paid for under
3592 the provisions of the Medicare or Medicaid program.

3593 **[From and after January 1, 2004, this section shall read as**
3594 **follows:]**

3595 27-65-105. The exemption from the provisions of this chapter
3596 which are of a governmental nature or which are more properly
3597 classified as governmental exemptions than any other exemption
3598 classification of this chapter shall be confined to those persons
3599 or property exempted by this section or by provisions of the
3600 Constitutions of the United States or the State of Mississippi.
3601 No governmental exemption as now provided by any other section
3602 shall be valid as against the tax herein levied. Any subsequent
3603 governmental exemption from the tax levied hereunder shall be
3604 provided by amendment to this section.



3605 No exemption provided in this section shall apply to taxes
3606 levied by Section 27-65-15 or 27-65-21, Mississippi Code of 1972,
3607 except as provided by subsection (f) of this section.

3608 The tax levied by this chapter shall not apply to the
3609 following:

3610 (a) Sales of property, labor or services taxable under
3611 Sections 27-65-17, 27-65-19 and 27-65-23, when sold to and billed
3612 directly to and payment therefor is made directly by the United
3613 States government, the State of Mississippi and its departments,
3614 institutions, counties and municipalities or departments or school
3615 districts of said counties and municipalities.

3616 The exemption from the tax imposed under this chapter shall
3617 not apply to sales of tangible personal property, labor or
3618 services to contractors purchasing in the performance of contracts
3619 with the United States, the State of Mississippi, counties and
3620 municipalities.

3621 (b) Sales to schools, when such schools are supported
3622 wholly or in part by funds provided by the State of Mississippi,
3623 provided that this exemption does not apply to sales of property
3624 which is not to be used in the ordinary operation of the school,
3625 or which is to be resold to the students or the public.

3626 (c) Amounts received from the sale of school textbooks
3627 to students.

3628 (d) Sales to the Mississippi Band of Choctaw Indians,
3629 but not to Indians individually.

3630 (e) Sales of fire fighting equipment to governmental
3631 fire departments or volunteer fire departments for their use.

3632 (f) Sales of any gas from any project, as defined in
3633 the Municipal Gas Authority of Mississippi Law, to any
3634 municipality shall not be subject to sales, use or other tax.

3635 (g) Sales of home medical equipment and home medical
3636 supplies listed as eligible for payment under Title XVIII of the
3637 Social Security Act or under the state plan for medical assistance



3638 under Title XIX of the Social Security Act, prosthetics,
3639 orthotics, hearing aids, hearing devices, prescription eyeglasses,
3640 oxygen and oxygen equipment, when ordered or prescribed by a
3641 licensed physician for medical purposes of a patient, and when
3642 payment for such equipment or supplies, or both, is made under the
3643 provisions of the Medicare or Medicaid program. This exemption
3644 shall only apply to the portion of the sales price of such
3645 equipment or supplies, or both, paid for under the provisions of
3646 the Medicare or Medicaid program.

3647 **SECTION 19.** Section 57-73-21, Mississippi Code of 1972, is
3648 amended as follows:

3649 57-73-21. (1) Annually by December 31, using the most
3650 current data available from the University Research Center,
3651 Mississippi State Employment Security Commission and the United
3652 States Department of Commerce, the State Tax Commission shall rank
3653 and designate the state's counties as provided in this section.
3654 The twenty-eight (28) counties in this state having a combination
3655 of the highest unemployment rate and lowest per capita income for
3656 the most recent thirty-six-month period, with equal weight being
3657 given to each category, are designated Tier Three areas. The
3658 twenty-seven (27) counties in the state with a combination of the
3659 next highest unemployment rate and next lowest per capita income
3660 for the most recent thirty-six-month period, with equal weight
3661 being given to each category, are designated Tier Two areas. The
3662 twenty-seven (27) counties in the state with a combination of the
3663 lowest unemployment rate and the highest per capita income for the
3664 most recent thirty-six-month period, with equal weight being given
3665 to each category, are designated Tier One areas. Counties
3666 designated by the Tax Commission qualify for the appropriate tax
3667 credit for jobs as provided in subsections (2), (3) and (4) of
3668 this section. The designation by the Tax Commission is effective
3669 for the tax years of permanent business enterprises which begin
3670 after the date of designation. For companies which plan an



3671 expansion in their labor forces, the Tax Commission shall
3672 prescribe certification procedures to ensure that the companies
3673 can claim credits in future years without regard to whether or not
3674 a particular county is removed from the list of Tier Three or Tier
3675 Two areas.

3676 (2) Permanent business enterprises primarily engaged in
3677 manufacturing, processing, warehousing, distribution, wholesaling
3678 and research and development, or permanent business enterprises
3679 designated by rule and regulation of the Mississippi Development
3680 Authority as air transportation and maintenance facilities, final
3681 destination or resort hotels having a minimum of one hundred fifty
3682 (150) guest rooms, recreational facilities that impact tourism,
3683 movie industry studios, telecommunications enterprises, data or
3684 information processing enterprises or computer software
3685 development enterprises or any technology intensive facility or
3686 enterprise, in counties designated by the Tax Commission as Tier
3687 Three areas are allowed a job tax credit for taxes imposed by
3688 Section 27-7-5 equal to Two Thousand Dollars (\$2,000.00) annually
3689 through taxable year 2001, One Thousand Dollars (\$1,000.00)
3690 annually for taxable years 2002 and 2003, and Two Thousand Dollars
3691 (\$2,000.00) for taxable years 2004 and thereafter, for each net
3692 new full-time employee job for five (5) years beginning with years
3693 two (2) through six (6) after the creation of the job. The number
3694 of new full-time jobs must be determined by comparing the monthly
3695 average number of full-time employees subject to the Mississippi
3696 income tax withholding for the taxable year with the corresponding
3697 period of the prior taxable year. Only those permanent businesses
3698 that increase employment by ten (10) or more in a Tier Three area
3699 are eligible for the credit. Credit is not allowed during any of
3700 the five (5) years if the net employment increase falls below ten
3701 (10). The Tax Commission shall adjust the credit allowed each
3702 year for the net new employment fluctuations above the minimum
3703 level of ten (10).



3704 (3) Permanent business enterprises primarily engaged in
3705 manufacturing, processing, warehousing, distribution, wholesaling
3706 and research and development, or permanent business enterprises
3707 designated by rule and regulation of the Mississippi Development
3708 Authority as air transportation and maintenance facilities, final
3709 destination or resort hotels having a minimum of one hundred fifty
3710 (150) guest rooms, recreational facilities that impact tourism,
3711 movie industry studios, telecommunications enterprises, data or
3712 information processing enterprises or computer software
3713 development enterprises or any technology intensive facility or
3714 enterprise, in counties that have been designated by the Tax
3715 Commission as Tier Two areas are allowed a job tax credit for
3716 taxes imposed by Section 27-7-5 equal to One Thousand Dollars
3717 (\$1,000.00) annually through taxable year 2001, Five Hundred
3718 Dollars (\$500.00) annually for taxable years 2002 and 2003 and One
3719 Thousand Dollars (\$1,000.00) annually for taxable years 2004 and
3720 thereafter, for each net new full-time employee job for five (5)
3721 years beginning with years two (2) through six (6) after the
3722 creation of the job. The number of new full-time jobs must be
3723 determined by comparing the monthly average number of full-time
3724 employees subject to Mississippi income tax withholding for the
3725 taxable year with the corresponding period of the prior taxable
3726 year. Only those permanent businesses that increase employment by
3727 fifteen (15) or more in Tier Two areas are eligible for the
3728 credit. The credit is not allowed during any of the five (5)
3729 years if the net employment increase falls below fifteen (15).
3730 The Tax Commission shall adjust the credit allowed each year for
3731 the net new employment fluctuations above the minimum level of
3732 fifteen (15).

3733 (4) Permanent business enterprises primarily engaged in
3734 manufacturing, processing, warehousing, distribution, wholesaling
3735 and research and development, or permanent business enterprises
3736 designated by rule and regulation of the Mississippi Development



3737 Authority as air transportation and maintenance facilities, final
3738 destination or resort hotels having a minimum of one hundred fifty
3739 (150) guest rooms, recreational facilities that impact tourism,
3740 movie industry studios, telecommunications enterprises, data or
3741 information processing enterprises or computer software
3742 development enterprises or any technology intensive facility or
3743 enterprise, in counties designated by the Tax Commission as Tier
3744 One areas are allowed a job tax credit for taxes imposed by
3745 Section 27-7-5 equal to Five Hundred Dollars (\$500.00) annually
3746 through taxable year 2001, Two Hundred Fifty Dollars (\$250.00)
3747 annually for taxable years 2002 and 2003, and Five Hundred Dollars
3748 (\$500.00) for taxable year 2004 and thereafter, for each net new
3749 full-time employee job for five (5) years beginning with years two
3750 (2) through six (6) after the creation of the job. The number of
3751 new full-time jobs must be determined by comparing the monthly
3752 average number of full-time employees subject to Mississippi
3753 income tax withholding for the taxable year with the corresponding
3754 period of the prior taxable year. Only those permanent businesses
3755 that increase employment by twenty (20) or more in Tier One areas
3756 are eligible for the credit. The credit is not allowed during any
3757 of the five (5) years if the net employment increase falls below
3758 twenty (20). The Tax Commission shall adjust the credit allowed
3759 each year for the net new employment fluctuations above the
3760 minimum level of twenty (20).

3761 (5) In addition to the credits authorized in subsections
3762 (2), (3) and (4), an additional Five Hundred Dollars (\$500.00)
3763 credit through taxable year 2001, Two Hundred Fifty Dollars
3764 (\$250.00) credit for taxable years 2002 and 2003, and Five Hundred
3765 Dollars (\$500.00) credit for taxable year 2004 and thereafter, for
3766 each net new full-time employee or an additional One Thousand
3767 Dollars (\$1,000.00) credit through taxable year 2001, Two Hundred
3768 Fifty Dollars (\$250.00) credit for taxable years 2002 and 2003,
3769 and Five Hundred Dollars (\$500.00) credit for taxable year 2004



3770 and thereafter, for each net new full-time employee who is paid a
3771 salary, excluding benefits which are not subject to Mississippi
3772 income taxation, of at least one hundred twenty-five percent
3773 (125%) of the average annual wage of the state or an additional
3774 Two Thousand Dollars (\$2,000.00) credit through taxable year 2001,
3775 One Thousand Dollars (\$1,000.00) credit for taxable years 2002 and
3776 2003, and Two Thousand Dollars (\$2,000.00) credit for taxable year
3777 2004 and thereafter, for each net new full-time employee who is
3778 paid a salary, excluding benefits which are not subject to
3779 Mississippi income taxation, of at least two hundred percent
3780 (200%) of the average annual wage of the state, shall be allowed
3781 for any company establishing or transferring its national or
3782 regional headquarters from within or outside the State of
3783 Mississippi. A minimum of thirty-five (35) jobs must be created
3784 to qualify for the additional credit. The State Tax Commission
3785 shall establish criteria and prescribe procedures to determine if
3786 a company qualifies as a national or regional headquarters for
3787 purposes of receiving the credit awarded in this subsection. As
3788 used in this subsection, the average annual wage of the state is
3789 the most recently published average annual wage as determined by
3790 the Mississippi Employment Security Commission.

3791 (6) In addition to the credits authorized in subsections
3792 (2), (3), (4) and (5), any job requiring research and development
3793 skills (chemist, engineer, etc.) shall qualify for an additional
3794 One Thousand Dollars (\$1,000.00) credit through taxable year 2001,
3795 Two Hundred Fifty Dollars (\$250.00) credit for taxable years 2002
3796 and 2003, and Five Hundred Dollars (\$500.00) credit for taxable
3797 year 2004 and thereafter, for each net new full-time employee.

3798 (7) Tax credits for five (5) years for the taxes imposed by
3799 Section 27-7-5 shall be awarded for additional net new full-time
3800 jobs created by business enterprises qualified under subsections
3801 (2), (3), (4), (5) and (6) of this section. The Tax Commission



3802 shall adjust the credit allowed in the event of employment
3803 fluctuations during the additional five (5) years of credit.

3804 (8) The sale, merger, acquisition, reorganization,
3805 bankruptcy or relocation from one county to another county within
3806 the state of any business enterprise may not create new
3807 eligibility in any succeeding business entity, but any unused job
3808 tax credit may be transferred and continued by any transferee of
3809 the business enterprise. The Tax Commission shall determine
3810 whether or not qualifying net increases or decreases have occurred
3811 or proper transfers of credit have been made and may require
3812 reports, promulgate regulations, and hold hearings as needed for
3813 substantiation and qualification.

3814 (9) Any tax credit claimed under this section but not used
3815 in any taxable year may be carried forward for five (5) years from
3816 the close of the tax year in which the qualified jobs were
3817 established but the credit established by this section taken in
3818 any one (1) tax year must be limited to an amount not greater than
3819 fifty percent (50%) of the taxpayer's state income tax liability
3820 which is attributable to income derived from operations in the
3821 state for that year.

3822 (10) No business enterprise for the transportation,
3823 handling, storage, processing or disposal of hazardous waste is
3824 eligible to receive the tax credits provided in this section.

3825 (11) The credits allowed under this section shall not be
3826 used by any business enterprise or corporation other than the
3827 business enterprise actually qualifying for the credits.

3828 (12) The tax credits provided for in this section shall be
3829 in addition to any tax credits described in Sections 57-51-13(b),
3830 57-53-1(1)(a) and 57-54-9(b) and granted pursuant to official
3831 action by the Department of Economic Development prior to July 1,
3832 1989, to any business enterprise determined prior to July 1, 1989,
3833 by the Department of Economic Development to be a qualified
3834 business as defined in Section 57-51-5(f) or Section 57-54-5(d) or



3835 a qualified company as described in Section 57-53-1, as the case
3836 may be; however, from and after July 1, 1989, tax credits shall be
3837 allowed only under either this section or Sections 57-51-13(b),
3838 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time
3839 employee.

3840 (13) As used in this section, the term "telecommunications
3841 enterprises" means entities engaged in the creation, display,
3842 management, storage, processing, transmission or distribution for
3843 compensation of images, text, voice, video or data by wire or by
3844 wireless means, or entities engaged in the construction, design,
3845 development, manufacture, maintenance or distribution for
3846 compensation of devices, products, software or structures used in
3847 the above activities. Companies organized to do business as
3848 commercial broadcast radio stations, television stations or news
3849 organizations primarily serving in-state markets shall not be
3850 included within the definition of the term "telecommunications
3851 enterprises."

3852 **SECTION 20.** Section 57-73-25, Mississippi Code of 1972, is
3853 amended as follows:

3854 **[Through December 31, 2003, this section shall read as**
3855 **follows:]**

3856 57-73-25. (1) A twenty-five percent (25%) income tax credit
3857 shall be granted to any employer (as defined in subsection (4) of
3858 this section) sponsoring basic skills training. The twenty-five
3859 percent (25%) credit shall be granted to employers that
3860 participate in employer-sponsored retraining programs through any
3861 community/junior college in the district within which the employer
3862 is located or training approved by such community/junior college.
3863 The retraining must be designed to increase opportunities for
3864 employee advancement or retention with the employer. The credit
3865 is applied to qualified training or retraining expenses, which are
3866 expenses related to instructors, instructional materials and
3867 equipment, and the construction and maintenance of facilities by



3868 such employer designated for training purposes which is
3869 attributable to training or retraining provided through such
3870 community/junior college or training approved by such
3871 community/junior college. The credits allowed under this section
3872 shall only be used by the actual employer qualifying for the
3873 credits. The credit shall not exceed fifty percent (50%) of the
3874 income tax liability in a tax year and may be carried forward for
3875 the five (5) successive years if the amount allowable as credit
3876 exceeds the income tax liability in a tax year; however,
3877 thereafter, if the amount allowable as a credit exceeds the tax
3878 liability, the amount of excess shall not be refundable or carried
3879 forward to any other taxable year. The credit authorized under
3880 this section shall not exceed Two Thousand Five Hundred Dollars
3881 (\$2,500.00), in the aggregate, per employee, over a three-year
3882 period. Nothing in this section shall be interpreted in any
3883 manner as to prevent the continuing operation of state-supported
3884 university programs.

3885 (2) Employer-sponsored training shall include an evaluation
3886 by the local community or junior college that serves the employer
3887 to ensure that the training provided is job related and conforms
3888 to the definitions of "basic skills training" and "retraining
3889 programs" as hereinafter defined.

3890 (3) Employers shall be certified as eligible for the tax
3891 credit by the local community or junior college that serves the
3892 employer and the State Tax Commission.

3893 (4) For the purposes of this section:

3894 (a) "Basic skills training" means any
3895 employer-sponsored training by an appropriate community/junior
3896 college or training approved by such community/junior college that
3897 enhances reading, writing or math skills, up to the twelfth grade
3898 level, of employees who are unable to function effectively on the
3899 job due to deficiencies in these areas or who would be displaced



3900 because such skill deficiencies will inhibit their training for
3901 new technology.

3902 (b) "Retraining programs" means employer-sponsored
3903 training by an appropriate community/junior college or training
3904 approved by such community/junior college for hourly paid
3905 employees that have been employed a minimum of one (1) year with
3906 the employer applying the tax credit that, upon successful
3907 completion, increases the employee's opportunity for consideration
3908 for promotion or retention with the employer.

3909 (c) "Employer-sponsored training" means training
3910 purchased by the employer from an appropriate community/junior
3911 college in the district within which the employer is located or
3912 training approved by such community/junior college.

3913 (d) "Employer" means those permanent business
3914 enterprises as defined and set out in Section 57-73-21(2), (3),
3915 (4) and (5).

3916 (5) The tax credits provided for in this section shall be in
3917 addition to all other tax credits heretofore granted by the laws
3918 of the state.

3919 (6) A community/junior college may commit to provide
3920 employer-sponsored basic skills training or retraining programs
3921 for an employer for a multiple number of years, not to exceed five
3922 (5) years.

3923 (7) The State Board for Community and Junior Colleges shall
3924 make a report to the Legislature by January 30 of each year
3925 summarizing the number of participants, the junior or community
3926 college through which said training was offered and the type
3927 training offered.

3928 * * *

3929 **[From and after January 1, 2004, this section shall read as**
3930 **follows:]**

3931 57-73-25. (1) A fifty percent (50%) income tax credit shall
3932 be granted to any employer (as defined in subsection (4) of this



3933 section) sponsoring basic skills training. The fifty percent
3934 (50%) credit shall be granted to employers that participate in
3935 employer-sponsored retraining programs through any
3936 community/junior college in the district within which the employer
3937 is located or training approved by such community/junior college.
3938 The retraining must be designed to increase opportunities for
3939 employee advancement or retention with the employer. The credit
3940 is applied to qualified training or retraining expenses, which are
3941 expenses related to instructors, instructional materials and
3942 equipment, and the construction and maintenance of facilities by
3943 such employer designated for training purposes which is
3944 attributable to training or retraining provided through such
3945 community/junior college or training approved by such
3946 community/junior college. The credits allowed under this section
3947 shall only be used by the actual employer qualifying for the
3948 credits. The credit shall not exceed fifty percent (50%) of the
3949 income tax liability in a tax year and may be carried forward for
3950 the five (5) successive years if the amount allowable as credit
3951 exceeds the income tax liability in a tax year; however,
3952 thereafter, if the amount allowable as a credit exceeds the tax
3953 liability, the amount of excess shall not be refundable or carried
3954 forward to any other taxable year. The credit authorized under
3955 this section shall not exceed Two Thousand Five Hundred Dollars
3956 (\$2,500.00), in the aggregate, per employee, over a three-year
3957 period. Nothing in this section shall be interpreted in any
3958 manner as to prevent the continuing operation of state-supported
3959 university programs.

3960 (2) Employer-sponsored training shall include an evaluation
3961 by the local community or junior college that serves the employer
3962 to ensure that the training provided is job related and conforms
3963 to the definitions of "basic skills training" and "retraining
3964 programs" as hereinafter defined.



3965 (3) Employers shall be certified as eligible for the tax
3966 credit by the local community or junior college that serves the
3967 employer and the State Tax Commission.

3968 (4) For the purposes of this section:

3969 (a) "Basic skills training" means any
3970 employer-sponsored training by an appropriate community/junior
3971 college or training approved by such community/junior college that
3972 enhances reading, writing or math skills, up to the twelfth grade
3973 level, of employees who are unable to function effectively on the
3974 job due to deficiencies in these areas or who would be displaced
3975 because such skill deficiencies will inhibit their training for
3976 new technology.

3977 (b) "Retraining programs" means employer-sponsored
3978 training by an appropriate community/junior college or training
3979 approved by such community/junior college for hourly paid
3980 employees that have been employed a minimum of one (1) year with
3981 the employer applying the tax credit that, upon successful
3982 completion, increases the employee's opportunity for consideration
3983 for promotion or retention with the employer.

3984 (c) "Employer-sponsored training" means training
3985 purchased by the employer from an appropriate community/junior
3986 college in the district within which the employer is located or
3987 training approved by such community/junior college.

3988 (d) "Employer" means those permanent business
3989 enterprises as defined and set out in Section 57-73-21(2), (3),
3990 (4) and (5).

3991 (5) The tax credits provided for in this section shall be in
3992 addition to all other tax credits heretofore granted by the laws
3993 of the state.

3994 (6) A community/junior college may commit to provide
3995 employer-sponsored basic skills training or retraining programs
3996 for an employer for a multiple number of years, not to exceed five
3997 (5) years.



3998 (7) The State Board for Community and Junior Colleges shall
3999 make a report to the Legislature by January 30 of each year
4000 summarizing the number of participants, the junior or community
4001 college through which said training was offered and the type
4002 training offered.

4003 **SECTION 21.** Section 75-76-179, Mississippi Code of 1972, is
4004 amended as follows:

4005 75-76-179. (1) License fees paid under Section 75-76-177 in
4006 any taxable year through the 2001 taxable year shall be allowed as
4007 credit against the income tax liability of the licensee for that
4008 taxable year.

4009 (2) Fifty percent (50%) of the license fees paid under
4010 Section 75-76-177 in the 2002 and 2003 taxable years shall be
4011 allowed as credit against the income tax liability of the licensee
4012 for that taxable year.

4013 (3) License fees paid under Section 75-76-177 in the 2004
4014 taxable year and taxable years thereafter shall be allowed as
4015 credit against the income tax liability of the licensee for that
4016 taxable year.

4017 **SECTION 22.** Section 83-23-218, Mississippi Code of 1972, is
4018 amended as follows:

4019 83-23-218. (1) From and after July 1, 1993 through taxable
4020 year 2001, a member insurer may offset against its (premium,
4021 franchise or income) tax liability (or liabilities) to this state
4022 an assessment described in Section 83-23-217(8) to the extent of
4023 twenty percent (20%) of the amount of such assessment, if any, for
4024 each year over the next five (5) succeeding years. However, if
4025 the offset is less than twenty percent (20%), any unused balance
4026 may be carried over to any succeeding year until such time as the
4027 offset provided herein is fully used. In the event a member
4028 insurer should cease doing business, all uncredited assessments
4029 may be credited against its (premium, franchise or income) tax
4030 liability (or liabilities) for the year it ceases doing business.



4031 (a) For taxable years 2002 and 2003, a member insurer
4032 may offset against its (premium, franchise or income) tax
4033 liability (or liabilities) to this state an assessment described
4034 in Section 83-23-217(8) to the extent of ten percent (10%) of the
4035 amount of such assessment, if any, for each year over the next
4036 five (5) succeeding years. However, if the offset is less than
4037 ten percent (10%), any unused balance may be carried over to any
4038 succeeding year until such time as the offset provided herein is
4039 fully used. In the event a member insurer should cease doing
4040 business, all uncredited assessments may be credited against its
4041 (premium, franchise or income) tax liability (or liabilities) for
4042 the year it ceases doing business.

4043 (b) For taxable year 2004 and taxable years thereafter,
4044 a member insurer may offset against its (premium, franchise or
4045 income) tax liability (or liabilities) to this state an assessment
4046 described in Section 83-23-217(8) to the extent of twenty percent
4047 (20%) of the amount of such assessment, if any, for each year over
4048 the next five (5) succeeding years. However, if the offset is
4049 less than twenty percent (20%), any unused balance may be carried
4050 over to any succeeding year until such time as the offset provided
4051 herein is fully used. In the event a member insurer should cease
4052 doing business, all uncredited assessments may be credited against
4053 its (premium, franchise or income) tax liability (or liabilities)
4054 for the year it ceases doing business.

4055 (2) Any sums which are acquired by refund, pursuant to
4056 Section 83-23-217(6), from the association by member insurers, and
4057 which have theretofore been offset against (premium, franchise or
4058 income) taxes as provided in subsection (1) of this section, shall
4059 be paid by such insurers to this state in such manner as the tax
4060 authorities may require. The association shall notify the
4061 commissioner that such refunds have been made.

4062 **SECTION 23.** This act shall take effect and be in force from
4063 and after its passage.

