

Am #1

AMENDMENT PROPOSED TO

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 11**

BY: Representatives Frierson, Staples, Eaton, Shows,

*Gadd, Horne, Davis, Pevanich, Watson, Read
Simpson, Janus, Baker, Rotenberry, Upshaw, Vance, Snowden
Formby, Moore, Dedeaux, PATTERSON
PARKER, Mims, ELLINGTON
Filligane, Lott, Bentz, Robinson 84, TURNER*

Dennis Read

1 **AMEND** by inserting the following section after line ___ and
2 renumbering the succeeding section:

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

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



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

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

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

31 (i) Prior to January 1, 2001, federal rules,
32 regulations and revenue procedures shall be followed with respect
33 to installment sales except they shall be applied and administered
34 as if H.R. 3594, the Installment Tax Correction Act of 2000 of the
35 106th Congress, had not been enacted. This provision will
36 generally affect taxpayers, reporting on the accrual method of
37 accounting, entering into installment note agreements on or after
38 December 17, 1999. Any gain or profit resulting from the casual
39 sale of property will be recognized in the year of sale.

40 (ii) From and after January 1, 2001, federal
41 rules, regulations and revenue procedures shall be followed with
42 respect to installment sales except as provided in this
43 subparagraph (ii). Gain or profit from the casual sale of
44 property shall be recognized in the year of sale. When a taxpayer
45 recognizes gain on the casual sale of property in which the gain
46 is deferred for federal income tax purposes, a taxpayer may elect
47 to defer the payment of tax resulting from the gain as allowed and
48 to the extent provided under regulations prescribed by the
49 commissioner. If the payment of the tax is made on a deferred
50 basis, the tax shall be computed based on the applicable rate for
51 the income reported in the year the payment is made. Except as
52 otherwise provided in subparagraph (iii) of this paragraph (b),
53 deferring the payment of the tax shall not affect the liability
54 for the tax. If at any time the installment note is sold,



55 contributed, transferred or disposed of in any manner and for any
56 purpose by the original note holder, or the original note holder
57 is merged, liquidated, dissolved or withdrawn from this state,
58 then all deferred tax payments under this section shall
59 immediately become due and payable.

60 (iii) If the selling price of the property is
61 reduced by any alteration in the terms of an installment note,
62 including default by the purchaser, the gain to be recognized is
63 recomputed based on the adjusted selling price in the same manner
64 as for federal income tax purposes. The tax on this amount, less
65 the previously paid tax on the recognized gain, is payable over
66 the period of the remaining installments. If the tax on the
67 previously recognized gain has been paid in full to this state,
68 the return on which the payment was made may be amended for this
69 purpose only. The statute of limitations in Section 27-7-49 shall
70 not bar an amended return for this purpose.

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

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

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



87 the deductibility and taxability of alimony payments shall be
88 followed in this state.

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

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

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

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

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

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

111 (d) Interest upon the obligations of the United States
112 or its possessions, or securities issued under the provisions of
113 the Federal Farm Loan Act of July 17, 1916, or bonds issued by the
114 War Finance Corporation, or obligations of the State of
115 Mississippi or political subdivisions thereof.

116 (e) The amounts received through accident or health
117 insurance as compensation for personal injuries or sickness, plus
118 the amount of any damages received for such injuries or such



119 sickness or injuries, or through the War Risk Insurance Act, or
120 any law for the benefit or relief of injured or disabled members
121 of the military or naval forces of the United States.

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

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

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

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

145 (j) Amounts paid by the United States to a person as
146 added compensation for hazardous duty pay as a member of the Armed
147 Forces of the United States in a combat zone designated by
148 Executive Order of the President of the United States.

149 (k) Amounts received as retirement allowances,
150 pensions, annuities or optional retirement allowances paid under



151 the federal Social Security Act, the Railroad Retirement Act, the
152 Federal Civil Service Retirement Act, or any other retirement
153 system of the United States government, retirement allowances paid
154 under the Mississippi Public Employees' Retirement System,
155 Mississippi Highway Safety Patrol Retirement System or any other
156 retirement system of the State of Mississippi or any political
157 subdivision thereof. The exemption allowed under this paragraph
158 (k) shall be available to the spouse or other beneficiary at the
159 death of the primary retiree.

160 (l) Amounts received as retirement allowances,
161 pensions, annuities or optional retirement allowances paid by any
162 public or governmental retirement system not designated in
163 paragraph (k) or any private retirement system or plan of which
164 the recipient was a member at any time during the period of his
165 employment. Amounts received as a distribution under a Roth
166 Individual Retirement Account shall be treated in the same manner
167 as provided under the Internal Revenue Code of 1986, as amended.
168 The exemption allowed under this paragraph (l) shall be available
169 to the spouse or other beneficiary at the death of the primary
170 retiree.

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

176 (n) Compensation received for active service as a
177 member below the grade of commissioned officer and so much of the
178 compensation as does not exceed the maximum enlisted amount
179 received for active service as a commissioned officer in the Armed
180 Forces of the United States for any month during any part of which
181 such members of the Armed Forces (i) served in a combat zone as
182 designated by Executive Order of the President of the United



183 States or a qualified hazardous duty area as defined by federal
184 law, or both; or (ii) was hospitalized as a result of wounds,
185 disease or injury incurred while serving in such combat zone. For
186 the purposes of this paragraph (n), the term "maximum enlisted
187 amount" means and has the same definition as that term has in 26
188 USCS 112.

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

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

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

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

212 (s) Amounts paid by the Mississippi Soil and Water
213 Conservation Commission from the Mississippi Soil and Water



214 Cost-Share Program for the installation of water quality best
215 management practices.

216 (t) Dividends received by a holding corporation, as
217 defined in Section 27-13-1, from a subsidiary corporation, as
218 defined in Section 27-13-1.

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

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

228 (w) Income resulting from transactions with a related
229 member where the related member subject to tax under this chapter
230 was required to, and did in fact, add back the expense of such
231 transactions as required by Section 27-7-17(2). Under no
232 circumstances may the exclusion from income exceed the deduction
233 add-back of the related member, nor shall the exclusion apply to
234 any income otherwise excluded under this chapter.

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

238 (y) Amounts that are subject to the tax levied pursuant
239 to Section 27-7-903, and are paid to patrons by gaming
240 establishments not licensed under the Mississippi Gaming Control
241 Act.

242 (z) Interest, dividends, gains or income of any kind on
243 any account in a qualified tuition program and amounts received as
244 distributions under a qualified tuition program shall be treated
245 in the same manner as provided under the United States Internal



246 Revenue Code, as amended. For the purposes of this paragraph (z),
247 the term "qualified tuition program" means and has the same
248 definition as that term has in 26 USCS 529.

249 (aa) The amount deposited in a health savings account,
250 and any interest accrued thereon, that is a part of a health
251 savings account program as specified in the Health Savings
252 Accounts Act created in Sections 83-62-1 through 83-62-9; however,
253 any amount withdrawn from such account for purposes other than
254 paying qualified medical expenses or to procure health coverage
255 shall be included in gross income, except as otherwise provided by
256 Sections 83-62-7 and 83-62-9.

257 (bb) Income from sales of timber damaged due to
258 Hurricane Katrina in those counties south of and traversed by
259 Interstate 20 for the period of August 29, 2005, through February
260 28, 2006.

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

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

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

272 (c) **Period of conflict.** For the purpose of this
273 subsection, the Vietnam Conflict began February 28, 1961, and ends
274 on the date designated by the President by Executive Order as the
275 date of the termination of combatant activities in Vietnam. For
276 the purpose of this subsection, an individual is in a missing
277 status as a result of the Vietnam Conflict if immediately before



278 such status began he was performing service in Vietnam or was
279 performing service in Southeast Asia in direct support of military
280 operations in Vietnam. "Southeast Asia," as used in this
281 paragraph, is defined to include Cambodia, Laos, Thailand and
282 waters adjacent thereto.

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

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

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

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

304 (h) If refund or credit of any overpayment of tax for
305 any taxable year resulting from the application of subsection (5)
306 of this section is prevented by the operation of any law or rule
307 of law, such refund or credit of such overpayment of tax may,
308 nevertheless, be made or allowed if claim therefor is filed with



309 the State Tax Commission within three (3) years after the date of
310 the enactment of this subsection.

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

313 (6) A shareholder of an S corporation, as defined in Section
314 27-8-3(1)(g), shall take into account the income, loss, deduction
315 or credit of the S corporation only to the extent provided in
316 Section 27-8-7(2)."

317 **AMEND** further the title to conform.

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