

By: Representative Dedeaux

To: Public Health and Human Services; Ways and Means

HOUSE BILL NO. 87

1 AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF HEALTH ACCESS  
2 ACCOUNTS IN THE STATE OF MISSISSIPPI; TO DEFINE CERTAIN TERMS; TO  
3 PROVIDE FOR THE ADMINISTRATION OF THOSE ACCOUNTS; TO AMEND SECTION  
4 27-7-17, MISSISSIPPI CODE OF 1972, TO ALLOW ELIGIBLE EMPLOYERS TO  
5 DEDUCT CONTRIBUTIONS TO A HEALTH ACCESS ACCOUNT FROM INCOME TAXES;  
6 TO AMEND SECTION 27-7-15, MISSISSIPPI CODE OF 1972, TO EXCLUDE  
7 FROM AN ELIGIBLE EMPLOYEE'S GROSS INCOME EMPLOYER CONTRIBUTIONS TO  
8 A HEALTH ACCESS ACCOUNT; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** This act shall be known as the Health Access  
11 Account Act of 2007.

12 **SECTION 2.** The purpose of this act is to provide a means by  
13 which employers and lower income employees may jointly participate  
14 in the funding of health care service for those lower income  
15 persons, thereby assisting them in becoming independent of public  
16 medical assistance programs and uncompensated care.

17 **SECTION 3.** For purposes of this act, the following terms  
18 shall have the meanings ascribed to them in this section:

19 (a) "Health access account" means an account managed by  
20 an administrator created by an eligible employer for the benefit  
21 of an eligible employee.

22 (b) "Eligible employee" means:

23 (i) Any person who is employed for more than  
24 twenty (20) hours per week, who is compensated on an hourly basis  
25 per week, whose annual compensation is less than one hundred fifty  
26 percent (150%) of the federal poverty level for a family of two  
27 (2), and who has been employed in his job for three (3)  
28 consecutive months; or

29 (ii) Any salaried employee or self-employed person  
30 whose annual compensation is less than one hundred fifty percent



31 (150%) of the federal poverty level for a family of two (2), who  
32 has been employed in his job for three (3) consecutive months.

33 (c) "Eligible employer" means any employer who employs  
34 fewer than fifty (50) employees.

35 (d) "Eligible expenses" means any medical expenses of  
36 an eligible employee, his spouse or other dependents. These  
37 expenses shall be limited to costs associated with visits to  
38 physicians, dentists, optometrists, physical therapists,  
39 chiropractors, hospitals, clinics, prescription drugs and premium  
40 payments for health insurance.

41 (e) "Administrator" means any person, firm,  
42 corporation, partnership or other entity with which an eligible  
43 employer enters into a contract to administer a health access  
44 account program.

45 **SECTION 4.** (1) Any eligible employer may establish a health  
46 access program for eligible employees by complying with the  
47 requirements of this act.

48 (2) Health access accounts shall include monthly  
49 contributions from eligible employers and may include  
50 contributions from eligible employees that may be expended for the  
51 eligible expenses. However, any eligible employee who is salaried  
52 as defined in paragraph (b)(ii) of Section 3 of this act shall be  
53 eligible to contribute more than ten percent (10%) of his annual  
54 income to the account. No eligible employer shall be limited in  
55 the amount that he or she may contribute to those accounts, but  
56 shall insure that each eligible employee receives an equal amount  
57 for each hour worked each month. Employers shall not be required  
58 to provide any other form of health care insurance coverage for  
59 those employees.

60 (3) Each eligible employer choosing to establish health  
61 access accounts for employees shall contract with an administrator  
62 to receive and disburse funds in accordance with the requirements  
63 of this act. To be eligible to serve as an administrator, a



64 person, firm, corporation, partnership or other entity, domestic  
65 or foreign, must be authorized to do business in Mississippi or a  
66 health insurer authorized to do business in the State of  
67 Mississippi.

68 (4) An administrator shall be responsible for collecting and  
69 disbursing funds to eligible employees, and shall have the  
70 authority to establish criteria for documenting eligible expenses,  
71 and rules for administering those accounts. Administrators shall  
72 pay directly to eligible employees funds from accounts to  
73 reimburse them for their eligible expenses, or may establish other  
74 methods for paying providers. Only eligible expenses shall be  
75 reimbursed. Administrators may contract with eligible employers  
76 for reasonable fees necessary to administer accounts.

77 (5) Eligible employees may make contributions to those  
78 accounts in an amount that they deem appropriate, and shall retain  
79 rights to any balances in their accounts for so long as the  
80 eligible employer who creates the account employs them. Eligible  
81 employees shall have no rights to any interest earned on their  
82 accounts.

83 (6) Following termination of employment, an eligible  
84 employee may continue to draw down on his account balances until  
85 they are exhausted, but no new contributions may be made to the  
86 account.

87 (7) If an eligible employee ceases to be eligible in any  
88 year because of an increase in income above the level established  
89 in Section 3 of this act, the eligible employee may continue to  
90 draw on any amounts already deposited to the account until the  
91 balance has been exhausted.

92 (8) Upon the death of an eligible employee, the  
93 administrator shall distribute the principal and accumulated  
94 interest of the health access account to the estate of the  
95 deceased.



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

98           27-7-17. In computing taxable income, there shall be allowed  
99 as deductions:

100           (1) **Business deductions.**

101           (a) **Business expenses.** All the ordinary and necessary  
102 expenses paid or incurred during the taxable year in carrying on  
103 any trade or business, including a reasonable allowance for  
104 salaries or other compensation for personal services actually  
105 rendered; nonreimbursable traveling expenses incident to current  
106 employment, including a reasonable amount expended for meals and  
107 lodging while away from home in the pursuit of a trade or  
108 business; and rentals or other payments required to be made as a  
109 condition of the continued use or possession, for purposes of the  
110 trade or business of property to which the taxpayer has not taken  
111 or is not taking title or in which he had no equity. Expense  
112 incurred in connection with earning and distributing nontaxable  
113 income is not an allowable deduction. Limitations on  
114 entertainment expenses shall conform to the provisions of the  
115 Internal Revenue Code of 1986.

116           (b) **Interest.** All interest paid or accrued during the  
117 taxable year on business indebtedness, except interest upon the  
118 indebtedness for the purchase of tax-free bonds, or any stocks,  
119 the dividends from which are nontaxable under the provisions of  
120 this article; provided, however, in the case of securities  
121 dealers, interest payments or accruals on loans, the proceeds of  
122 which are used to purchase tax-exempt securities, shall be  
123 deductible if income from otherwise tax-free securities is  
124 reported as income. Investment interest expense shall be limited  
125 to investment income. Interest expense incurred for the purchase  
126 of treasury stock, to pay dividends, or incurred as a result of an  
127 undercapitalized affiliated corporation may not be deducted unless  
128 an ordinary and necessary business purpose can be established to



129 the satisfaction of the commissioner. For the purposes of this  
130 paragraph, the phrase "interest upon the indebtedness for the  
131 purchase of tax-free bonds" applies only to the indebtedness  
132 incurred for the purpose of directly purchasing tax-free bonds and  
133 does not apply to any other indebtedness incurred in the regular  
134 course of the taxpayer's business. Any corporation, association,  
135 organization or other entity taxable under Section 27-7-23(c)  
136 shall allocate interest expense as provided in Section  
137 27-7-23(c)(3)(I).

138 (c) **Taxes.** Taxes paid or accrued within the taxable  
139 year, except state and federal income taxes, excise taxes based on  
140 or measured by net income, estate and inheritance taxes, gift  
141 taxes, cigar and cigarette taxes, gasoline taxes, and sales and  
142 use taxes unless incurred as an item of expense in a trade or  
143 business or in the production of taxable income. In the case of  
144 an individual, taxes permitted as an itemized deduction under the  
145 provisions of subsection (3)(a) of this section are to be claimed  
146 thereunder.

147 (d) **Business losses.**

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

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

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

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



162 business, or rental property, and depreciation upon buildings  
163 based upon their reasonable value as of March 16, 1912, if  
164 acquired prior thereto, and upon cost if acquired subsequent to  
165 that date.

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

173 (h) **Contributions or gifts.** Except as otherwise  
174 provided in subsection (3)(a) of this section for individuals,  
175 contributions or gifts made by corporations within the taxable  
176 year to corporations, organizations, associations or institutions,  
177 including Community Chest funds, foundations and trusts created  
178 solely and exclusively for religious, charitable, scientific or  
179 educational purposes, or for the prevention of cruelty to children  
180 or animals, no part of the net earnings of which inure to the  
181 benefit of any private stockholder or individual. This deduction  
182 shall be allowed in an amount not to exceed twenty percent (20%)  
183 of the net income. Such contributions or gifts shall be allowable  
184 as deductions only if verified under rules and regulations  
185 prescribed by the commissioner, with the approval of the Governor.  
186 Contributions made in any form other than cash shall be allowed as  
187 a deduction, subject to the limitations herein provided, in an  
188 amount equal to the actual market value of the contributions at  
189 the time the contribution is actually made and consummated.

190 (i) **Reserve funds - insurance companies.** In the case  
191 of insurance companies the net additions required by law to be  
192 made within the taxable year to reserve funds when such reserve  
193 funds are maintained for the purpose of liquidating policies at  
194 maturity.



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

198           (k) **Contributions to employee pension plans.**  
199 Contributions made by an employer to a plan or a trust forming  
200 part of a pension plan, stock bonus plan, disability or  
201 death-benefit plan, or profit-sharing plan of such employer for  
202 the exclusive benefit of some or all of his, their, or its  
203 employees, or their beneficiaries, shall be deductible from his,  
204 their, or its income only to the extent that, and for the taxable  
205 year in which, the contribution is deductible for federal income  
206 tax purposes under the Internal Revenue Code of 1986 and any other  
207 provisions of similar purport in the Internal Revenue Laws of the  
208 United States, and the rules, regulations, rulings and  
209 determinations promulgated thereunder, provided that:

210                   (i) The plan or trust be irrevocable.

211                   (ii) The plan or trust constitute a part of a  
212 pension plan, stock bonus plan, disability or death-benefit plan,  
213 or profit-sharing plan for the exclusive benefit of some or all of  
214 the employer's employees and/or officers, or their beneficiaries,  
215 for the purpose of distributing the corpus and income of the plan  
216 or trust to such employees and/or officers, or their  
217 beneficiaries.

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

221           Contributions to all plans or to all trusts of real or  
222 personal property (or real and personal property combined) or to  
223 insured plans created under a retirement plan for which provision  
224 has been made under the laws of the United States of America,  
225 making such contributions deductible from income for federal  
226 income tax purposes, shall be deductible only to the same extent  
227 under the Income Tax Laws of the State of Mississippi.



228           (1) **Net operating loss carrybacks and carryovers.** A  
229 net operating loss for any taxable year ending after December 31,  
230 1993, and taxable years thereafter, shall be a net operating loss  
231 carryback to each of the three (3) taxable years preceding the  
232 taxable year of the loss. If the net operating loss for any  
233 taxable year is not exhausted by carrybacks to the three (3)  
234 taxable years preceding the taxable year of the loss, then there  
235 shall be a net operating loss carryover to each of the fifteen  
236 (15) taxable years following the taxable year of the loss  
237 beginning with any taxable year after December 31, 1991.

238           For any taxable year ending after December 31, 1997, the  
239 period for net operating loss carrybacks and net operating loss  
240 carryovers shall be the same as those established by the Internal  
241 Revenue Code and the rules, regulations, rulings and  
242 determinations promulgated thereunder as in effect at the taxable  
243 year end or on December 31, 2000, whichever is earlier.

244           A net operating loss for any taxable year ending after  
245 December 31, 2001, and taxable years thereafter, shall be a net  
246 operating loss carryback to each of the two (2) taxable years  
247 preceding the taxable year of the loss. If the net operating loss  
248 for any taxable year is not exhausted by carrybacks to the two (2)  
249 taxable years preceding the taxable year of the loss, then there  
250 shall be a net operating loss carryover to each of the twenty (20)  
251 taxable years following the taxable year of the loss beginning  
252 with any taxable year after the taxable year of the loss.

253           The term "net operating loss," for the purposes of this  
254 paragraph, shall be the excess of the deductions allowed over the  
255 gross income; provided, however, the following deductions shall  
256 not be allowed in computing same:

257                   (i) No net operating loss deduction shall be  
258 allowed.

259                   (ii) No personal exemption deduction shall be  
260 allowed.





261 (iii) Allowable deductions which are not  
262 attributable to taxpayer's trade or business shall be allowed only  
263 to the extent of the amount of gross income not derived from such  
264 trade or business.

265 Any taxpayer entitled to a carryback period as provided by  
266 this paragraph may elect to relinquish the entire carryback period  
267 with respect to a net operating loss for any taxable year ending  
268 after December 31, 1991. The election shall be made in the manner  
269 prescribed by the State Tax Commission and shall be made by the  
270 due date, including extensions of time, for filing the taxpayer's  
271 return for the taxable year of the net operating loss for which  
272 the election is to be in effect. The election, once made for any  
273 taxable year, shall be irrevocable for that taxable year.

274 (m) **Amortization of pollution or environmental control**  
275 **facilities.** Allowance of deduction. Every taxpayer, at his  
276 election, shall be entitled to a deduction for pollution or  
277 environmental control facilities to the same extent as that  
278 allowed under the Internal Revenue Code and the rules,  
279 regulations, rulings and determinations promulgated thereunder.

280 (n) **Dividend distributions - real estate investment**  
281 **trusts.** "Real estate investment trust" (hereinafter referred to  
282 as REIT) shall have the meaning ascribed to such term in Section  
283 856 of the federal Internal Revenue Code of 1986, as amended. A  
284 REIT is allowed a dividend distributed deduction if the dividend  
285 distributions meet the requirements of Section 857 or are  
286 otherwise deductible under Section 858 or 860, federal Internal  
287 Revenue Code of 1986, as amended. In addition:

288 (i) A dividend distributed deduction shall only be  
289 allowed for dividends paid by a publicly traded REIT. A qualified  
290 REIT subsidiary shall be allowed a dividend distributed deduction  
291 if its owner is a publicly traded REIT.

292 (ii) Income generated from real estate contributed  
293 or sold to a REIT by a shareholder or related party shall not give



294 rise to a dividend distributed deduction, unless the shareholder  
295 or related party would have received the dividend distributed  
296 deduction under this chapter.

297 (iii) A holding corporation receiving a dividend  
298 from a REIT shall not be allowed the deduction in Section  
299 27-7-15(4)(t).

300 (iv) Any REIT not allowed the dividend distributed  
301 deduction in the federal Internal Revenue Code of 1986, as  
302 amended, shall not be allowed a dividend distributed deduction  
303 under this chapter.

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

308 (o) **Contributions to college savings trust fund**  
309 **accounts.** Contributions or payments to a Mississippi Affordable  
310 College Savings Program account are deductible as provided under  
311 Section 37-155-113. Payments made under a prepaid tuition  
312 contract entered into under the Mississippi Prepaid Affordable  
313 College Tuition Program are deductible as provided under Section  
314 37-155-17.

315 (p) **Employer contributions to health access accounts.**  
316 Eligible employers as defined in Section 3 of this act may deduct  
317 all contributions made to health access accounts for the benefit  
318 of eligible employees.

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

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

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

323 1. Expenses, losses and costs for, related  
324 to, or in connection directly or indirectly with the direct or  
325 indirect acquisition, use, maintenance or management, ownership,  
326 sale, exchange or any other disposition of intangible property to



327 the extent such amounts are allowed as deductions or costs in  
328 determining taxable income under this chapter;

329           2. Expenses or losses related to or incurred  
330 in connection directly or indirectly with factoring transactions  
331 or discounting transactions;

332           3. Royalty, patent, technical and copyright  
333 fees;

334           4. Licensing fees; and

335           5. Other similar expenses and costs.

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

339           (iii) "Interest expenses and cost" means amounts  
340 directly or indirectly allowed as deductions for purposes of  
341 determining taxable income under this chapter to the extent such  
342 interest expenses and costs are directly or indirectly for,  
343 related to, or in connection with the direct or indirect  
344 acquisition, maintenance, management, ownership, sale, exchange or  
345 disposition of intangible property.

346           (iv) "Related member" means an entity or person  
347 that, with respect to the taxpayer during all or any portion of  
348 the taxable year, is a related entity, a component member as  
349 defined in the Internal Revenue Code, or is an entity or a person  
350 to or from whom there is attribution of stock ownership in  
351 accordance with Section 1563(e) of the Internal Revenue Code.

352           (v) "Related entity" means:

353           1. A stockholder who is an individual or a  
354 member of the stockholder's family, as defined in regulations  
355 prescribed by the commissioner, if the stockholder and the members  
356 of the stockholder's family own, directly, indirectly,  
357 beneficially or constructively, in the aggregate, at least fifty  
358 percent (50%) of the value of the taxpayer's outstanding stock;



359                   2. A stockholder, or a stockholder's  
360 partnership, limited liability company, estate, trust or  
361 corporation, if the stockholder and the stockholder's  
362 partnerships, limited liability companies, estates, trusts and  
363 corporations own, directly, indirectly, beneficially or  
364 constructively, in the aggregate, at least fifty percent (50%) of  
365 the value of the taxpayer's outstanding stock;

366                   3. A corporation, or a party related to the  
367 corporation in a manner that would require an attribution of stock  
368 from the corporation to the party or from the party to the  
369 corporation, if the taxpayer owns, directly, indirectly,  
370 beneficially or constructively, at least fifty percent (50%) of  
371 the value of the corporation's outstanding stock under regulation  
372 prescribed by the commissioner;

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

376                   (b) In computing net income, a taxpayer shall add back  
377 otherwise deductible interest expenses and costs and intangible  
378 expenses and costs directly or indirectly paid, accrued to or  
379 incurred, in connection directly or indirectly with one or more  
380 direct or indirect transactions with one or more related members.

381                   (c) The adjustments required by this subsection shall  
382 not apply to such portion of interest expenses and costs and  
383 intangible expenses and costs that the taxpayer can establish  
384 meets one (1) of the following:

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

388                   (ii) The transaction giving rise to the interest  
389 expenses and costs or intangible expenses and costs between the  
390 taxpayer and related member was done primarily for a valid  
391 business purpose other than the avoidance of taxes, and the



392 related member is not primarily engaged in the acquisition, use,  
393 maintenance or management, ownership, sale, exchange or any other  
394 disposition of intangible property.

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

399 (e) The commissioner may prescribe such regulations as  
400 necessary or appropriate to carry out the purposes of this  
401 subsection, including, but not limited to, clarifying definitions  
402 of terms, rules of stock attribution, factoring and discount  
403 transactions.

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

405 (a) The amount allowable for individual nonbusiness  
406 itemized deductions for federal income tax purposes where the  
407 individual is eligible to elect, for the taxable year, to itemize  
408 deductions on his federal return except the following:

409 (i) The deduction for state income taxes paid or  
410 other taxes allowed for federal purposes in lieu of state income  
411 taxes paid;

412 (ii) The deduction for gaming losses from gaming  
413 establishments;

414 (iii) The deduction for taxes collected by  
415 licensed gaming establishments pursuant to Section 27-7-901;

416 (iv) The deduction for taxes collected by gaming  
417 establishments pursuant to Section 27-7-903.

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

423 (i) Three Thousand Four Hundred Dollars  
424 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred



425 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand  
426 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter  
427 in the case of married individuals filing a joint or combined  
428 return;

429                   (ii) One Thousand Seven Hundred Dollars  
430 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred  
431 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand  
432 Three Hundred Dollars (\$2,300.00) for each calendar year  
433 thereafter in the case of married individuals filing separate  
434 returns;

435                   (iii) Three Thousand Four Hundred Dollars  
436 (\$3,400.00) in the case of a head of family; or

437                   (iv) Two Thousand Three Hundred Dollars  
438 (\$2,300.00) in the case of an individual who is not married.

439           In the case of a husband and wife living together, having  
440 separate incomes, and filing combined returns, the standard  
441 deduction authorized may be divided in any manner they choose. In  
442 the case of separate returns by a husband and wife, the standard  
443 deduction shall not be allowed to either if the taxable income of  
444 one of the spouses is determined without regard to the standard  
445 deduction.

446                   (c) A nonresident individual shall be allowed the same  
447 individual nonbusiness deductions as are authorized for resident  
448 individuals in paragraph (a) or (b) of this subsection; however,  
449 the nonresident individual is entitled only to that proportion of  
450 the individual nonbusiness deductions as his net income from  
451 sources within the State of Mississippi bears to his total or  
452 entire net income from all sources.

453           (4) Nothing in this section shall permit the same item to be  
454 deducted more than once, either in fact or in effect.

455           **SECTION 6.** Section 27-7-15, Mississippi Code of 1972, is  
456 amended as follows:



457           27-7-15. (1) For the purposes of this article, except as  
458 otherwise provided, the term "gross income" means and includes the  
459 income of a taxpayer derived from salaries, wages, fees or  
460 compensation for service, of whatever kind and in whatever form  
461 paid, including income from governmental agencies and subdivisions  
462 thereof; or from professions, vocations, trades, businesses,  
463 commerce or sales, or renting or dealing in property, or  
464 reacquired property; also from annuities, interest, rents,  
465 dividends, securities, insurance premiums, reinsurance premiums,  
466 considerations for supplemental insurance contracts, or the  
467 transaction of any business carried on for gain or profit, or  
468 gains, or profits, and income derived from any source whatever and  
469 in whatever form paid. The amount of all such items of income  
470 shall be included in the gross income for the taxable year in  
471 which received by the taxpayer. The amount by which an eligible  
472 employee's salary is reduced pursuant to a salary reduction  
473 agreement authorized under Section 25-17-5 shall be excluded from  
474 the term "gross income" within the meaning of this article.

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

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

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

483                         (i) Prior to January 1, 2001, federal rules,  
484 regulations and revenue procedures shall be followed with respect  
485 to installment sales except they shall be applied and administered  
486 as if H.R. 3594, the Installment Tax Correction Act of 2000 of the  
487 106th Congress, had not been enacted. This provision will  
488 generally affect taxpayers, reporting on the accrual method of  
489 accounting, entering into installment note agreements on or after



490 December 17, 1999. Any gain or profit resulting from the casual  
491 sale of property will be recognized in the year of sale.

492 (ii) From and after January 1, 2001, federal  
493 rules, regulations and revenue procedures shall be followed with  
494 respect to installment sales except as provided in this  
495 subparagraph (ii). Gain or profit from the casual sale of  
496 property shall be recognized in the year of sale. When a taxpayer  
497 recognizes gain on the casual sale of property in which the gain  
498 is deferred for federal income tax purposes, a taxpayer may elect  
499 to defer the payment of tax resulting from the gain as allowed and  
500 to the extent provided under regulations prescribed by the  
501 commissioner. If the payment of the tax is made on a deferred  
502 basis, the tax shall be computed based on the applicable rate for  
503 the income reported in the year the payment is made. Except as  
504 otherwise provided in subparagraph (iii) of this paragraph (b),  
505 deferring the payment of the tax shall not affect the liability  
506 for the tax. If at any time the installment note is sold,  
507 contributed, transferred or disposed of in any manner and for any  
508 purpose by the original note holder, or the original note holder  
509 is merged, liquidated, dissolved or withdrawn from this state,  
510 then all deferred tax payments under this section shall  
511 immediately become due and payable.

512 (iii) If the selling price of the property is  
513 reduced by any alteration in the terms of an installment note,  
514 including default by the purchaser, the gain to be recognized is  
515 recomputed based on the adjusted selling price in the same manner  
516 as for federal income tax purposes. The tax on this amount, less  
517 the previously paid tax on the recognized gain, is payable over  
518 the period of the remaining installments. If the tax on the  
519 previously recognized gain has been paid in full to this state,  
520 the return on which the payment was made may be amended for this  
521 purpose only. The statute of limitations in Section 27-7-49 shall  
522 not bar an amended return for this purpose.





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

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

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

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

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

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

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



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

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

563           (d) Interest upon the obligations of the United States  
564 or its possessions, or securities issued under the provisions of  
565 the Federal Farm Loan Act of July 17, 1916, or bonds issued by the  
566 War Finance Corporation, or obligations of the State of  
567 Mississippi or political subdivisions thereof.

568           (e) The amounts received through accident or health  
569 insurance as compensation for personal injuries or sickness, plus  
570 the amount of any damages received for such injuries or such  
571 sickness or injuries, or through the War Risk Insurance Act, or  
572 any law for the benefit or relief of injured or disabled members  
573 of the military or naval forces of the United States.

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

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



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

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

597           (j) Amounts paid by the United States to a person as  
598 added compensation for hazardous duty pay as a member of the Armed  
599 Forces of the United States in a combat zone designated by  
600 Executive Order of the President of the United States.

601           (k) Amounts received as retirement allowances,  
602 pensions, annuities or optional retirement allowances paid under  
603 the federal Social Security Act, the Railroad Retirement Act, the  
604 Federal Civil Service Retirement Act, or any other retirement  
605 system of the United States government, retirement allowances paid  
606 under the Mississippi Public Employees' Retirement System,  
607 Mississippi Highway Safety Patrol Retirement System or any other  
608 retirement system of the State of Mississippi or any political  
609 subdivision thereof. The exemption allowed under this paragraph  
610 (k) shall be available to the spouse or other beneficiary at the  
611 death of the primary retiree.

612           (l) Amounts received as retirement allowances,  
613 pensions, annuities or optional retirement allowances paid by any  
614 public or governmental retirement system not designated in  
615 paragraph (k) or any private retirement system or plan of which  
616 the recipient was a member at any time during the period of his  
617 employment. Amounts received as a distribution under a Roth  
618 Individual Retirement Account shall be treated in the same manner  
619 as provided under the Internal Revenue Code of 1986, as amended.  
620 The exemption allowed under this paragraph (l) shall be available



621 to the spouse or other beneficiary at the death of the primary  
622 retiree.

623 (m) Compensation not to exceed the aggregate sum of  
624 Five Thousand Dollars (\$5,000.00) for any taxable year through the  
625 2005 taxable year, and not to exceed the aggregate sum of Fifteen  
626 Thousand Dollars (\$15,000.00) for any taxable year thereafter,  
627 received by a member of the National Guard or Reserve Forces of  
628 the United States as payment for inactive duty training, active  
629 duty training and state active duty.

630 (n) Compensation received for active service as a  
631 member below the grade of commissioned officer and so much of the  
632 compensation as does not exceed the maximum enlisted amount  
633 received for active service as a commissioned officer in the Armed  
634 Forces of the United States for any month during any part of which  
635 such members of the Armed Forces (i) served in a combat zone as  
636 designated by Executive Order of the President of the United  
637 States or a qualified hazardous duty area as defined by federal  
638 law, or both; or (ii) was hospitalized as a result of wounds,  
639 disease or injury incurred while serving in such combat zone. For  
640 the purposes of this paragraph (n), the term "maximum enlisted  
641 amount" means and has the same definition as that term has in 26  
642 USCS 112.

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

645 (p) The amount representing the difference between the  
646 increase of gross income derived from sales for export outside the  
647 United States as compared to the preceding tax year wherein gross  
648 income from export sales was highest, and the net increase in  
649 expenses attributable to such increased exports. In the absence  
650 of direct accounting the ratio of net profits to total sales may  
651 be applied to the increase in export sales. This paragraph (p)  
652 shall only apply to businesses located in this state engaging in  
653 the international export of Mississippi goods and services. Such



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

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

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

666 (s) Amounts paid by the Mississippi Soil and Water  
667 Conservation Commission from the Mississippi Soil and Water  
668 Cost-Share Program for the installation of water quality best  
669 management practices.

670 (t) Dividends received by a holding corporation, as  
671 defined in Section 27-13-1, from a subsidiary corporation, as  
672 defined in Section 27-13-1.

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

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

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



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

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

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

696 (z) Interest, dividends, gains or income of any kind on  
697 any account in a qualified tuition program and amounts received as  
698 distributions under a qualified tuition program shall be treated  
699 in the same manner as provided under the United States Internal  
700 Revenue Code, as amended. For the purposes of this paragraph (z),  
701 the term "qualified tuition program" means and has the same  
702 definition as that term has in 26 USCS 529.

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

711 (bb) Amounts received as qualified disaster relief  
712 payments shall be treated in the same manner as provided under the  
713 United States Internal Revenue Code, as amended.

714 (cc) Amounts received as a "qualified Hurricane Katrina  
715 distribution" as defined in the United States Internal Revenue  
716 Code, as amended.

717 (dd) Employer contributions made to an eligible  
718 employee's health access account established under Sections 1



719 through 4 of this act shall be excludable from the employee's  
720 gross income.

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

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

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

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

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



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

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

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

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

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

773 (6) A shareholder of an S corporation, as defined in Section  
774 27-8-3(1)(g), shall take into account the income, loss, deduction  
775 or credit of the S corporation only to the extent provided in  
776 Section 27-8-7(2).

777 **SECTION 7.** This act shall take effect and be in force from  
778 and after January 1, 2008.

