MISSISSIPPI LEGISLATURE
REGULAR SESSION 2007

By: Representative Dedeaux

To: Public Health and Human Services; Ways and Means

HOUSE BILL NO. 87

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

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

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

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

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

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

(b) "Eligible employee" means:

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

(ii) Any salaried employee or self-employed person whose annual compensation is less than one hundred fifty percent
(150%) of the federal poverty level for a family of two (2), who
has been employed in his job for three (3) consecutive months.

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

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

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

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

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

(3) Each eligible employer choosing to establish health
access accounts for employees shall contract with an administrator
to receive and disburse funds in accordance with the requirements
of this act. To be eligible to serve as an administrator, a
person, firm, corporation, partnership or other entity, domestic
or foreign, must be authorized to do business in Mississippi or a
health insurer authorized to do business in the State of
Mississippi.

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

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

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

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

(8) Upon the death of an eligible employee, the
administrator shall distribute the principal and accumulated
interest of the health access account to the estate of the
deceased.
SECTION 5. Section 27-7-17, Mississippi Code of 1972, is amended as follows:

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

(1) Business deductions.
   (a) Business expenses. All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered; nonreimbursable traveling expenses incident to current employment, including a reasonable amount expended for meals and lodging while away from home in the pursuit of a trade or business; and rentals or other payments required to be made as a condition of the continued use or possession, for purposes of the trade or business of property to which the taxpayer has not taken or is not taking title or in which he had no equity. Expense incurred in connection with earning and distributing nontaxable income is not an allowable deduction. Limitations on entertainment expenses shall conform to the provisions of the Internal Revenue Code of 1986.
   (b) Interest. All interest paid or accrued during the taxable year on business indebtedness, except interest upon the indebtedness for the purchase of tax-free bonds, or any stocks, the dividends from which are nontaxable under the provisions of this article; provided, however, in the case of securities dealers, interest payments or accruals on loans, the proceeds of which are used to purchase tax-exempt securities, shall be deductible if income from otherwise tax-free securities is reported as income. Investment interest expense shall be limited to investment income. Interest expense incurred for the purchase of treasury stock, to pay dividends, or incurred as a result of an undercapitalized affiliated corporation may not be deducted unless an ordinary and necessary business purpose can be established to
the satisfaction of the commissioner. For the purposes of this paragraph, the phrase "interest upon the indebtedness for the purchase of tax-free bonds" applies only to the indebtedness incurred for the purpose of directly purchasing tax-free bonds and does not apply to any other indebtedness incurred in the regular course of the taxpayer's business. Any corporation, association, organization or other entity taxable under Section 27-7-23(c) shall allocate interest expense as provided in Section 27-7-23(c)(3)(I).

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

(d) **Business losses.**

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

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

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

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

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

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

(i) Reserve funds - insurance companies. In the case
of insurance companies the net additions required by law to be
made within the taxable year to reserve funds when such reserve
funds are maintained for the purpose of liquidating policies at
maturity.
(j) **Annuity income.** The sums, other than dividends, paid within the taxpayer year on policy or annuity contracts when such income has been included in gross income.

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

(i) The plan or trust be irrevocable.

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

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

Contributions to all plans or to all trusts of real or personal property (or real and personal property combined) or to insured plans created under a retirement plan for which provision has been made under the laws of the United States of America, making such contributions deductible from income for federal income tax purposes, shall be deductible only to the same extent under the Income Tax Laws of the State of Mississippi.
(1) **Net operating loss carrybacks and carryovers.** A net operating loss for any taxable year ending after December 31, 1993, and taxable years thereafter, shall be a net operating loss carryback to each of the three (3) taxable years preceding the taxable year of the loss. If the net operating loss for any taxable year is not exhausted by carrybacks to the three (3) taxable years preceding the taxable year of the loss, then there shall be a net operating loss carryover to each of the fifteen (15) taxable years following the taxable year of the loss beginning with any taxable year after December 31, 1991.

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

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

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

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

(ii) No personal exemption deduction shall be allowed.
(iii) Allowable deductions which are not attributable to taxpayer's trade or business shall be allowed only to the extent of the amount of gross income not derived from such trade or business.

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

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

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

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

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

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

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

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

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

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

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

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

(i) "Intangible expenses and costs" include:

1. Expenses, losses and costs for, related to, or in connection directly or indirectly with the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange or any other disposition of intangible property to
the extent such amounts are allowed as deductions or costs in
determining taxable income under this chapter;

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

3. Royalty, patent, technical and copyright
fees;

4. Licensing fees; and

5. Other similar expenses and costs.

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

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

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

(v) "Related entity" means:

1. A stockholder who is an individual or a
member of the stockholder's family, as defined in regulations
prescribed by the commissioner, if the stockholder and the members
of the stockholder's family own, directly, indirectly,
beneficially or constructively, in the aggregate, at least fifty
percent (50%) of the value of the taxpayer's outstanding stock;
2. A stockholder, or a stockholder's partnership, limited liability company, estate, trust or corporation, if the stockholder and the stockholder's partnerships, limited liability companies, estates, trusts and corporations own, directly, indirectly, beneficially or constructively, in the aggregate, at least fifty percent (50%) of the value of the taxpayer's outstanding stock;

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

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

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

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

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

   (ii) The transaction giving rise to the interest expenses and costs or intangible expenses and costs between the taxpayer and related member was done primarily for a valid business purpose other than the avoidance of taxes, and the
related member is not primarily engaged in the acquisition, use, maintenance or management, ownership, sale, exchange or any other disposition of intangible property.

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

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

(3) **Individual nonbusiness deductions.**

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 6. Section 27-7-15, Mississippi Code of 1972, is
amended as follows:
27-7-15. (1) For the purposes of this article, except as otherwise provided, the term "gross income" means and includes the income of a taxpayer derived from salaries, wages, fees or compensation for service, of whatever kind and in whatever form paid, including income from governmental agencies and subdivisions thereof; or from professions, vocations, trades, businesses, commerce or sales, or renting or dealing in property, or reacquired property; also from annuities, interest, rents, dividends, securities, insurance premiums, reinsurance premiums, considerations for supplemental insurance contracts, or the transaction of any business carried on for gain or profit, or gains, or profits, and income derived from any source whatever and in whatever form paid. The amount of all such items of income shall be included in the gross income for the taxable year in which received by the taxpayer. The amount by which an eligible employee's salary is reduced pursuant to a salary reduction agreement authorized under Section 25-17-5 shall be excluded from the term "gross income" within the meaning of this article.

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

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

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

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

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

(iii) If the selling price of the property is reduced by any alteration in the terms of an installment note, including default by the purchaser, the gain to be recognized is recomputed based on the adjusted selling price in the same manner as for federal income tax purposes. The tax on this amount, less the previously paid tax on the recognized gain, is payable over the period of the remaining installments. If the tax on the previously recognized gain has been paid in full to this state, the return on which the payment was made may be amended for this purpose only. The statute of limitations in Section 27-7-49 shall not bar an amended return for this purpose.
(c) **Reserves of insurance companies.** In the case of insurance companies, any amounts in excess of the legally required reserves shall be included as gross income.

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

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

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

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

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

(a) The proceeds of life insurance policies and contracts paid upon the death of the insured. However, the income from the proceeds of such policies or contracts shall be included in the gross income.
(b) The amount received by the insured as a return of premium or premiums paid by him under life insurance policies, endowment, or annuity contracts, either during the term or at maturity or upon surrender of the contract.

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

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

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

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

(g) Income received by a domestic corporation which is "taxable in another state" as this term is defined in this article, derived from business activity conducted outside this state. Domestic corporations taxable both within and without the state shall determine Mississippi income on the same basis as provided for foreign corporations under the provisions of this article.
(h) In case of insurance companies, there shall be excluded from gross income such portion of actual premiums received from an individual policyholder as is paid back or credited to or treated as an abatement of premiums of such policyholder within the taxable year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(dd) Employer contributions made to an eligible employee’s health access account established under Sections 1
through 4 of this act shall be excludable from the employee’s gross income.

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

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

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

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

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

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

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

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

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

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

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