

By: Representative Reynolds

To: Ways and Means

HOUSE BILL NO. 279

1 AN ACT TO PROVIDE THAT THE GROSS INCOME OF CERTAIN MENTAL
 2 HEALTH PROFESSIONALS PROVIDING MENTAL HEALTH SERVICES IN CRITICAL
 3 MENTAL HEALTH SERVICES SHORTAGE AREAS SHALL NOT INCLUDE INCOME
 4 DERIVED FROM PROVIDING SERVICES IN SUCH AREAS TO LOW-INCOME
 5 INDIVIDUALS FOR WHICH PAYMENT FOR SUCH SERVICES IS MADE UNDER THE
 6 PROVISIONS OF THE MEDICAID PROGRAM; TO AMEND SECTION 27-7-15,
 7 MISSISSIPPI CODE OF 1972; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** (1) As used in this section, the following words
 10 and phrases shall have the meanings ascribed herein unless the
 11 context clearly indicates otherwise:

12 (a) "Critical mental health services shortage areas"
 13 means those areas of the state designated annually by December 31,
 14 by the Department of Mental Health as underserved in the
 15 availability of mental health services provided by mental health
 16 professionals.

17 (b) "Mental health professional" means a board
 18 certified psychiatrist who is licensed to practice in this state
 19 or a psychologist who is licensed to practice in this state.



20 (2) The gross income of mental health professionals
21 providing mental health services in critical mental health
22 services shortage areas shall not include any income derived from
23 providing mental health services in critical mental health
24 services shortage areas to low-income individuals for which
25 payment for such services is made under the provisions of the
26 Medicaid program, and such income shall be exempt from taxation
27 under this article.

28 (3) The department shall have all powers necessary to
29 implement and administer the provisions of this section, and the
30 department shall promulgate rules and regulations, in accordance
31 with the Mississippi Administrative Procedures Law, necessary for
32 the implementation of this section.

33 **SECTION 2.** Section 27-7-15, Mississippi Code of 1972, is
34 amended as follows:

35 27-7-15. (1) For the purposes of this article, except as
36 otherwise provided, the term "gross income" means and includes the
37 income of a taxpayer derived from salaries, wages, fees or
38 compensation for service, of whatever kind and in whatever form
39 paid, including income from governmental agencies and subdivisions
40 thereof; or from professions, vocations, trades, businesses,
41 commerce or sales, or renting or dealing in property, or
42 reacquired property; also from annuities, interest, rents,
43 dividends, securities, insurance premiums, reinsurance premiums,
44 considerations for supplemental insurance contracts, or the



45 transaction of any business carried on for gain or profit, or
46 gains, or profits, and income derived from any source whatever and
47 in whatever form paid. The amount of all such items of income
48 shall be included in the gross income for the taxable year in
49 which received by the taxpayer. The amount by which an eligible
50 employee's salary is reduced pursuant to a salary reduction
51 agreement authorized under Section 25-17-5 shall be excluded from
52 the term "gross income" within the meaning of this article.

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

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

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

61 (i) Prior to January 1, 2001, federal rules,
62 regulations and revenue procedures shall be followed with respect
63 to installment sales except they shall be applied and administered
64 as if H.R. 3594, the Installment Tax Correction Act of 2000 of the
65 106th Congress, had not been enacted. This provision will
66 generally affect taxpayers, reporting on the accrual method of
67 accounting, entering into installment note agreements on or after
68 December 17, 1999. Any gain or profit resulting from the casual
69 sale of property will be recognized in the year of sale.



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

90 (iii) If the selling price of the property is
91 reduced by any alteration in the terms of an installment note,
92 including default by the purchaser, the gain to be recognized is
93 recomputed based on the adjusted selling price in the same manner
94 as for federal income tax purposes. The tax on this amount, less



95 the previously paid tax on the recognized gain, is payable over
96 the period of the remaining installments. If the tax on the
97 previously recognized gain has been paid in full to this state,
98 the return on which the payment was made may be amended for this
99 purpose only. The statute of limitations in Section 27-7-49 shall
100 not bar an amended return for this purpose.

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

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

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



119 (f) **Reimbursement for expenses of moving.** There shall
120 be included in gross income (as compensation for services) any
121 amount received or accrued, directly or indirectly, by an
122 individual as a payment for or reimbursement of expenses of moving
123 from one (1) residence to another residence which is attributable
124 to employment or self-employment.

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

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

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

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

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

141 (d) Interest upon the obligations of the United States
142 or its possessions, or securities issued under the provisions of
143 the Federal Farm Loan Act of 1916, or bonds issued by the War



144 Finance Corporation, or obligations of the State of Mississippi or
145 political subdivisions thereof.

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

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

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

166 (h) In case of insurance companies, there shall be
167 excluded from gross income such portion of actual premiums
168 received from an individual policyholder as is paid back or



169 credited to or treated as an abatement of premiums of such
170 policyholder within the taxable year.

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

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

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

190 (l) Amounts received as retirement allowances,
191 pensions, annuities or optional retirement allowances paid by any
192 public or governmental retirement system not designated in
193 paragraph (k) or any private retirement system or plan of which



194 the recipient was a member at any time during the period of his
195 employment. Amounts received as a distribution under a Roth
196 Individual Retirement Account shall be treated in the same manner
197 as provided under the Internal Revenue Code of 1986, as amended.
198 The exemption allowed under this paragraph (l) shall be available
199 to the spouse or other beneficiary at the death of the primary
200 retiree.

201 (m) National Guard or Reserve Forces of the United
202 States compensation not to exceed the aggregate sum of Five
203 Thousand Dollars (\$5,000.00) for any taxable year through the 2005
204 taxable year, and not to exceed the aggregate sum of Fifteen
205 Thousand Dollars (\$15,000.00) for any taxable year thereafter.

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



219 (o) The proceeds received from federal and state
220 forestry incentive programs.

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

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

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

242 (s) Amounts paid by the Mississippi Soil and Water
243 Conservation Commission from the Mississippi Soil and Water



244 Cost-Share Program for the installation of water quality best
245 management practices.

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

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

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

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

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



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

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

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

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

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



293 (dd) Amounts received by an individual which may be
294 excluded from income as foreign earned income for federal income
295 tax purposes.

296 (ee) Amounts received by a qualified individual,
297 directly or indirectly, from an employer or nonprofit housing
298 organization that are qualified housing expenses associated with
299 an employer-assisted housing program. For purposes of this
300 paragraph (ee):

301 (i) "Qualified individual" means any individual
302 whose household income does not exceed one hundred twenty percent
303 (120%) of the area median gross income (as defined by the United
304 States Department of Housing and Urban Development), adjusted for
305 household size, for the area in which the housing is located.

306 (ii) "Nonprofit housing organization" means an
307 organization that is organized as a not-for-profit organization
308 under the laws of this state or another state and has as one of
309 its purposes:

310 1. Homeownership education or counseling;
311 2. The development of affordable housing; or
312 3. The development or administration of
313 employer-assisted housing programs.

314 (iii) "Employer-assisted housing program" means a
315 separate written plan of any employer (including, without
316 limitation, tax-exempt organizations and public employers) for the
317 exclusive benefit of the employer's employees to pay qualified



318 housing expenses to assist the employer's employees in securing
319 affordable housing.

320 (iv) "Qualified housing expenses" means:

321 1. With respect to rental assistance, an
322 amount not to exceed Two Thousand Dollars (\$2,000.00) paid for the
323 purpose of assisting employees with security deposits and rental
324 subsidies; and

325 2. With respect to homeownership assistance,
326 an amount not to exceed the lesser of Ten Thousand Dollars
327 (\$10,000.00) or six percent (6%) of the purchase price of the
328 employee's principal residence that is paid for the purpose of
329 assisting employees with down payments, payment of closing costs,
330 reduced interest mortgages, mortgage guarantee programs, mortgage
331 forgiveness programs, equity contribution programs, or
332 contributions to homebuyer education and/or homeownership
333 counseling of eligible employees.

334 (ff) For the 2010 taxable year and any taxable year
335 thereafter, amounts converted in accordance with the United States
336 Internal Revenue Code, as amended, from a traditional Individual
337 Retirement Account to a Roth Individual Retirement Account. The
338 exemption allowed under this paragraph (ff) shall be available to
339 the spouse or other beneficiary at the death of the primary
340 retiree.

341 (gg) Amounts received for the performance of disaster
342 or emergency-related work as defined in Section 27-113-5.



343 (hh) The amount deposited in a catastrophe savings
344 account established under Sections 27-7-1001 through 27-7-1007,
345 interest income earned on the catastrophe savings account, and
346 distributions from the catastrophe savings account; however, any
347 amount withdrawn from a catastrophe savings account for purposes
348 other than paying qualified catastrophe expenses shall be included
349 in gross income, except as otherwise provided by Sections
350 27-7-1001 through 27-7-1007.

351 (ii) Interest, dividends, gains or income of any kind
352 on any account in the Mississippi Achieving a Better Life
353 Experience (ABLE) Trust Fund, as established in Chapter 28, Title
354 43, to the extent that such amounts remain on deposit in the ABLE
355 Trust Fund or are withdrawn pursuant to a qualified withdrawal, as
356 defined in Section 43-28-11.

357 (jj) Subject to the limitations provided under Section
358 27-7-1103, amounts deposited into a first-time homebuyer savings
359 account and any interest or other income earned attributable to an
360 account and monies or funds withdrawn or distributed from an
361 account for the payment of eligible costs by or on behalf of a
362 qualified beneficiary; however, any monies or funds withdrawn or
363 distributed from a first-time homebuyer savings account for any
364 purpose other than the payment of eligible costs by or on behalf
365 of a qualified beneficiary shall be included in gross income. For
366 the purpose of this paragraph (jj), the terms "first-time
367 homebuyer savings account," "eligible costs" and "qualified



368 beneficiary" mean and have the same definitions as such terms have
369 in Section 27-7-1101.

370 (kk) Income not included in gross income and exempt
371 from taxation under this article by Section 1 of this act.

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

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

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

383 (c) **Period of conflict.** For the purpose of this
384 subsection, the Vietnam Conflict began February 28, 1961, and ends
385 on the date designated by the President by Executive Order as the
386 date of the termination of combatant activities in Vietnam. For
387 the purpose of this subsection, an individual is in a missing
388 status as a result of the Vietnam Conflict if immediately before
389 such status began he was performing service in Vietnam or was
390 performing service in Southeast Asia in direct support of military
391 operations in Vietnam. "Southeast Asia," as used in this



392 paragraph, is defined to include Cambodia, Laos, Thailand and
393 waters adjacent thereto.

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

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

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

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

415 (h) If refund or credit of any overpayment of tax for
416 any taxable year resulting from the application of this subsection



417 (5) is prevented by the operation of any law or rule of law, such
418 refund or credit of such overpayment of tax may, nevertheless, be
419 made or allowed if claim therefor is filed with the Department of
420 Revenue within three (3) years after the date of the enactment of
421 this subsection.

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

424 (6) A shareholder of an S corporation, as defined in Section
425 27-8-3(1)(g), shall take into account the income, loss, deduction
426 or credit of the S corporation only to the extent provided in
427 Section 27-8-7(2).

428 **SECTION 3.** Section 1 of this act shall be codified as a new
429 section in Chapter 7, Title 27, Mississippi Code of 1972.

430 **SECTION 4.** This act shall take effect and be in force from
431 and after January 1, 2018.

