

By: Representatives Gunn, Lamar, Stamps

To: Ways and Means

HOUSE BILL NO. 1685
(As Sent to Governor)

1 AN ACT TO CREATE THE PREGNANCY RESOURCE ACT; TO AUTHORIZE AN
2 INCOME TAX CREDIT, INSURANCE PREMIUM TAX CREDIT AND AD VALOREM TAX
3 CREDIT FOR VOLUNTARY CASH CONTRIBUTIONS BY CERTAIN TAXPAYERS TO
4 ELIGIBLE CHARITABLE ORGANIZATIONS; TO LIMIT THE AMOUNT OF THE TAX
5 CREDIT; TO PROVIDE THAT UNUSED PORTIONS OF A TAX CREDIT MAY BE
6 CARRIED FORWARD FOR FIVE CONSECUTIVE YEARS FROM THE CLOSE OF THE
7 TAX YEAR IN WHICH THE CREDIT WAS EARNED; TO PROVIDE THAT
8 CONTRIBUTIONS FOR WHICH TAX CREDITS ARE CLAIMED UNDER THIS ACT MAY
9 NOT BE USED AS DEDUCTIONS FOR STATE TAX PURPOSES; TO PROVIDE THE
10 CRITERIA THAT AN ELIGIBLE CHARITABLE ORGANIZATION MUST MEET IN
11 ORDER FOR A CONTRIBUTION TO THE ORGANIZATION TO QUALIFY FOR THE
12 TAX CREDIT AUTHORIZED BY THIS ACT; TO AMEND SECTION 27-7-22.41,
13 MISSISSIPPI CODE OF 1972, WHICH PROVIDES AN INCOME TAX CREDIT,
14 INSURANCE PREMIUM TAX CREDIT AND AD VALOREM TAX CREDIT FOR
15 CONTRIBUTIONS MADE BY CERTAIN TAXPAYERS TO CERTAIN ELIGIBLE
16 CHARITABLE ORGANIZATIONS, TO REVISE THE DEFINITION OF "ELIGIBLE
17 CHARITABLE ORGANIZATION"; TO ADD AS PART OF THE REQUIRED WRITTEN
18 CERTIFICATION A STATEMENT THAT THE FUNDS GENERATED FROM THE TAX
19 CREDIT SHALL BE USED FOR EDUCATIONAL RESOURCES, STAFF AND
20 EXPENDITURES AND/OR OTHER PURPOSES DESCRIBED IN THIS SECTION; TO
21 DELETE PROVISIONS THAT REQUIRE A CERTAIN PORTION OF TAX CREDITS
22 THAT MAY BE ALLOCATED UNDER THIS SECTION TO BE AVAILABLE SOLELY
23 FOR ALLOCATION FOR CONTRIBUTIONS TO CERTAIN ELIGIBLE CHARITABLE
24 ORGANIZATIONS; TO INCREASE THE AMOUNT OF CREDITS THAT MAY BE
25 ALLOCATED BY THE DEPARTMENT OF REVENUE UNDER THIS SECTION; TO
26 REVISE THE PERCENTAGE OF TAX CREDITS THAT MAY BE ALLOCATED DURING
27 A CALENDAR YEAR FOR CONTRIBUTIONS TO CERTAIN ELIGIBLE CHARITABLE
28 ORGANIZATIONS; TO AUTHORIZE AN INCOME TAX CREDIT FOR TAXPAYERS FOR
29 BLOOD DONATIONS MADE BY EMPLOYEES OF A TAXPAYER DURING A BLOOD
30 DRIVE; TO AMEND SECTION 27-7-17, MISSISSIPPI CODE OF 1972, AS
31 AMENDED BY SENATE BILL NO. 2095, 2022 REGULAR SESSION, AND HOUSE
32 BILL NO. 1529, 2022 REGULAR SESSION, TO CONFORM TO THE AMENDMENTS
33 MADE BY BOTH BILLS; AND FOR RELATED PURPOSES.



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

35 **SECTION 1.** (1) This section shall be known and may be cited
36 as the "Pregnancy Resource Act."

37 (2) For the purposes of this section, the following words
38 and phrases shall have the meanings ascribed in this section
39 unless the context clearly indicates otherwise:

40 (a) "Department" means the Department of Revenue.

41 (b) "Eligible charitable organization" means an
42 organization that is exempt from federal income taxation under
43 Section 501(c)(3) of the Internal Revenue Code and is a pregnancy
44 resource center or crisis pregnancy center eligible to receive
45 funding disbursed by the Choose Life Advisory Committee under
46 Section 27-19-56.70, 27-19-56.277 and/or 27-19-56.412.

47 (3) (a) The tax credit authorized in this section shall be
48 available only to a taxpayer who is a business enterprise engaged
49 in commercial, industrial or professional activities and operating
50 as a corporation, limited liability company, partnership or sole
51 proprietorship. Except as otherwise provided in this section, a
52 credit is allowed against the taxes imposed by Sections 27-7-5,
53 27-15-103, 27-15-109 and 27-15-123, for voluntary cash
54 contributions made by a taxpayer during the taxable year to an
55 eligible charitable organization. For a taxpayer that is not
56 operating as a corporation, a credit is also allowed against ad
57 valorem taxes assessed and levied on real property for voluntary
58 cash contributions made by the taxpayer during the taxable year to



59 an eligible charitable organization. The amount of credit that
60 may be utilized by a taxpayer in a taxable year shall be limited
61 to (i) an amount not to exceed fifty percent (50%) of the total
62 tax liability of the taxpayer for the taxes imposed by such
63 sections of law and (ii) an amount not to exceed fifty percent
64 (50%) of the total tax liability of the taxpayer for ad valorem
65 taxes assessed and levied on real property. Any tax credit
66 claimed under this section but not used in any taxable year may be
67 carried forward for five (5) consecutive years from the close of
68 the tax year in which the credits were earned.

69 (b) A contribution for which a credit is claimed under
70 this section may not be used as a deduction by the taxpayer for
71 state income tax purposes.

72 (4) Taxpayers taking a credit authorized by this section
73 shall provide the name of the eligible charitable organization and
74 the amount of the contribution to the department on forms provided
75 by the department.

76 (5) An eligible charitable organization shall provide the
77 department with a written certification that it meets all criteria
78 to be considered an eligible charitable organization. The
79 organization shall also notify the department of any changes that
80 may affect eligibility under this section.

81 (6) The eligible charitable organization's written
82 certification must be signed by an officer of the organization



83 under penalty of perjury. The written certification shall include
84 the following:

85 (a) Verification of the organization's status under
86 Section 501(c) (3) of the Internal Revenue Code;

87 (b) A statement that the organization does not provide,
88 pay for or provide coverage of abortions and does not financially
89 support any other entity that provides, pays for or provides
90 coverage of abortions;

91 (c) Any other information that the department requires
92 to administer this section.

93 (7) The department shall review each written certification
94 and determine whether the organization meets all the criteria to
95 be considered an eligible charitable organization and notify the
96 organization of its determination. The department may also
97 periodically request recertification from the organization. The
98 department shall compile and make available to the public a list
99 of eligible charitable organizations.

100 (8) Tax credits authorized by this section that are earned
101 by a partnership, limited liability company, S corporation or
102 other similar pass-through entity, shall be allocated among all
103 partners, members or shareholders, respectively, either in
104 proportion to their ownership interest in such entity or as the
105 partners, members or shareholders mutually agree as provided in an
106 executed document.



107 (9) (a) A taxpayer shall apply for credits with the
108 department on forms prescribed by the department. In the
109 application the taxpayer shall certify to the department the
110 dollar amount of the contributions made or to be made during the
111 calendar year. Within thirty (30) days after the receipt of an
112 application, the department shall allocate credits based on the
113 dollar amount of contributions as certified in the application.
114 However, if the department cannot allocate the full amount of
115 credits certified in the application due to the limit on the
116 aggregate amount of credits that may be awarded under this section
117 in a calendar year, the department shall so notify the applicant
118 within thirty (30) days with the amount of credits, if any, that
119 may be allocated to the applicant in the calendar year. Once the
120 department has allocated credits to a taxpayer, if the
121 contribution for which a credit is allocated has not been made as
122 of the date of the allocation, then the contribution must be made
123 not later than sixty (60) days from the date of the allocation.
124 If the contribution is not made within such time period, the
125 allocation shall be cancelled and returned to the department for
126 reallocation. Upon final documentation of the contributions, if
127 the actual dollar amount of the contributions is lower than the
128 amount estimated, the department shall adjust the tax credit
129 allowed under this section.

130 (b) For the purposes of using a tax credit against ad
131 valorem taxes assessed and levied on real property, a taxpayer



132 shall present to the appropriate tax collector the tax credit
133 documentation provided to the taxpayer by the Department of
134 Revenue, and the tax collector shall apply the tax credit against
135 such ad valorem taxes. The tax collector shall forward the tax
136 credit documentation to the Department of Revenue along with the
137 amount of the tax credit applied against ad valorem taxes, and the
138 department shall disburse funds to the tax collector for the
139 amount of the tax credit applied against ad valorem taxes. Such
140 payments by the Department of Revenue shall be made from current
141 tax collections.

142 (10) The aggregate amount of tax credits that may be
143 allocated by the department under this section during a calendar
144 year shall not exceed Three Million Five Hundred Thousand Dollars
145 (\$3,500,000.00). For credits allocated during a calendar year for
146 contributions to eligible charitable organizations, no more than
147 fifty percent (50%) of such credits may be allocated for
148 contributions to a single eligible charitable organization.

149 **SECTION 2.** Section 27-7-22.41, Mississippi Code of 1972, is
150 amended as follows:

151 27-7-22.41. (1) For the purposes of this section, the
152 following words and phrases shall have the meanings ascribed in
153 this section unless the context clearly indicates otherwise:

154 (a) "Department" means the Department of Revenue.



155 (b) "Eligible charitable organization" means an
156 organization that is exempt from federal income taxation under
157 Section 501(c) (3) of the Internal Revenue Code and is:

158 (i) Licensed by or under contract with the
159 Mississippi Department of Child Protection Services and provides
160 services for:

161 1. The prevention and diversion of children
162 from custody with the Department of Child Protection Services,

163 2. The safety, care and well-being of
164 children in custody with the Department of Child Protection
165 Services, or

166 3. The express purpose of creating permanency
167 for children through adoption; or

168 (ii) Certified by the department as an educational
169 services charitable organization that is accredited by a regional
170 accrediting organization and provides services to:

171 1. Children in a foster care placement
172 program established by the Department of Child Protection
173 Services, children placed under the Safe Families for Children
174 model, or children at significant risk of entering a foster care
175 placement program established by the Department of Child
176 Protection Services,

177 2. Children who have a chronic illness
178 or physical, intellectual, developmental or emotional disability,
179 or



180 3. Children eligible for free or reduced
181 price meals programs under Section 37-11-7, or selected for
182 participation in the Promise Neighborhoods Program sponsored by
183 the U.S. Department of Education.

184 (2) (a) The tax credit authorized in this section shall be
185 available only to a taxpayer who is a business enterprise engaged
186 in commercial, industrial or professional activities and operating
187 as a corporation, limited liability company, partnership or sole
188 proprietorship. Except as otherwise provided in this section, a
189 credit is allowed against the taxes imposed by Sections 27-7-5,
190 27-15-103, 27-15-109 and 27-15-123, for voluntary cash
191 contributions made by a taxpayer during the taxable year to an
192 eligible charitable organization. From and after January 1, 2022,
193 for a taxpayer that is not operating as a corporation, a credit is
194 also allowed against ad valorem taxes assessed and levied on real
195 property for voluntary cash contributions made by the taxpayer
196 during the taxable year to an eligible charitable organization.
197 The amount of credit that may be utilized by a taxpayer in a
198 taxable year shall be limited to (i) an amount not to exceed fifty
199 percent (50%) of the total tax liability of the taxpayer for the
200 taxes imposed by such sections of law and (ii) an amount not to
201 exceed fifty percent (50%) of the total tax liability of the
202 taxpayer for ad valorem taxes assessed and levied on real
203 property. Any tax credit claimed under this section but not used
204 in any taxable year may be carried forward for five (5)



205 consecutive years from the close of the tax year in which the
206 credits were earned.

207 (b) A contribution to an eligible charitable
208 organization for which a credit is claimed under this section does
209 not qualify for and shall not be included in any credit that may
210 be claimed under Section 27-7-22.39.

211 (c) A contribution for which a credit is claimed under
212 this section may not be used as a deduction by the taxpayer for
213 state income tax purposes.

214 (3) Taxpayers taking a credit authorized by this section
215 shall provide the name of the eligible charitable organization and
216 the amount of the contribution to the department on forms provided
217 by the department.

218 (4) An eligible charitable organization shall provide the
219 department with a written certification that it meets all criteria
220 to be considered an eligible charitable organization. An eligible
221 charitable organization must also provide the department with
222 written documented proof of its license and/or written contract
223 with the Mississippi Department of Child Protection Services. The
224 organization shall also notify the department of any changes that
225 may affect eligibility under this section.

226 (5) The eligible charitable organization's written
227 certification must be signed by an officer of the organization
228 under penalty of perjury. The written certification shall include
229 the following:



230 (a) Verification of the organization's status under
231 Section 501(c) (3) of the Internal Revenue Code;

232 (b) A statement that the organization does not provide,
233 pay for or provide coverage of abortions and does not financially
234 support any other entity that provides, pays for or provides
235 coverage of abortions;

236 (c) A statement that the funds generated from the tax
237 credit shall be used for educational resources, staff and
238 expenditures and/or other purposes described in this section.

239 (* * *ed) Any other information that the department
240 requires to administer this section.

241 (6) The department shall review each written certification
242 and determine whether the organization meets all the criteria to
243 be considered an eligible charitable organization and notify the
244 organization of its determination. The department may also
245 periodically request recertification from the organization. The
246 department shall compile and make available to the public a list
247 of eligible charitable organizations.

248 (7) Tax credits authorized by this section that are earned
249 by a partnership, limited liability company, S corporation or
250 other similar pass-through entity, shall be allocated among all
251 partners, members or shareholders, respectively, either in
252 proportion to their ownership interest in such entity or as the
253 partners, members or shareholders mutually agree as provided in an
254 executed document.



255 (8) (a) A taxpayer shall apply for credits with the
256 department on forms prescribed by the department. In the
257 application the taxpayer shall certify to the department the
258 dollar amount of the contributions made or to be made during the
259 calendar year. Within thirty (30) days after the receipt of an
260 application, the department shall allocate credits based on the
261 dollar amount of contributions as certified in the application.
262 However, if the department cannot allocate the full amount of
263 credits certified in the application due to the limit on the
264 aggregate amount of credits that may be awarded under this section
265 in a calendar year, the department shall so notify the applicant
266 within thirty (30) days with the amount of credits, if any, that
267 may be allocated to the applicant in the calendar year. Once the
268 department has allocated credits to a taxpayer, if the
269 contribution for which a credit is allocated has not been made as
270 of the date of the allocation, then the contribution must be made
271 not later than sixty (60) days from the date of the allocation.
272 If the contribution is not made within such time period, the
273 allocation shall be cancelled and returned to the department for
274 reallocation. Upon final documentation of the contributions, if
275 the actual dollar amount of the contributions is lower than the
276 amount estimated, the department shall adjust the tax credit
277 allowed under this section.

278 (b) A taxpayer who applied for a tax credit under this
279 section during calendar year 2020, but who was unable to be



280 awarded the credit due to the limit on the aggregate amount of
281 credits authorized for calendar year 2020, shall be given priority
282 for tax credits authorized to be allocated to taxpayers under this
283 section by Section 27-7-22.39.

284 (c) For the purposes of using a tax credit against ad
285 valorem taxes assessed and levied on real property, a taxpayer
286 shall present to the appropriate tax collector the tax credit
287 documentation provided to the taxpayer by the Department of
288 Revenue, and the tax collector shall apply the tax credit against
289 such ad valorem taxes. The tax collector shall forward the tax
290 credit documentation to the Department of Revenue along with the
291 amount of the tax credit applied against ad valorem taxes, and the
292 department shall disburse funds to the tax collector for the
293 amount of the tax credit applied against ad valorem taxes. Such
294 payments by the Department of Revenue shall be made from current
295 tax collections.

296 (9) The aggregate amount of tax credits that may be
297 allocated by the department under this section during a calendar
298 year shall not exceed Five Million Dollars (\$5,000,000.00), and
299 not more than fifty percent (50%) of tax credits allocated during
300 a calendar year may be allocated for contributions to eligible
301 charitable organizations described in subsection (1)(b)(ii) of
302 this section. However, for calendar year 2021, the aggregate
303 amount of tax credits that may be allocated by the department
304 under this section during a calendar year shall not exceed Ten



305 Million Dollars (\$10,000,000.00), for calendar year 2022, * * *and
306 ~~for each calendar year thereafter,~~ the aggregate amount of tax
307 credits that may be allocated by the department under this section
308 during a calendar year shall not exceed Sixteen Million Dollars
309 (\$16,000,000.00), and for calendar year 2023, and for each
310 calendar year thereafter, the aggregate amount of tax credits that
311 may be allocated by the department under this section during a
312 calendar year shall not exceed Eighteen Million Dollars
313 (\$18,000,000.00). For calendar year 2021, and for each calendar
314 year thereafter, fifty percent (50%) of the tax credits allocated
315 during a calendar year shall be allocated for contributions to
316 eligible charitable organizations described in subsection
317 (1)(b)(i) of this section and fifty percent (50%) of the tax
318 credits allocated during a calendar year shall be allocated for
319 contributions to eligible charitable organizations described in
320 subsection (1)(b)(ii) of this section. * * *~~For calendar year~~
321 ~~2022, and for each calendar year thereafter, of the amount of tax~~
322 ~~credits that may be allocated for contributions to eligible~~
323 ~~charitable organizations described in subsection (1)(b)(ii) of~~
324 ~~this section, fifteen percent (15%) of the tax credits shall be~~
325 ~~available solely for allocation for contributions to eligible~~
326 ~~charitable organizations described in subsection (1)(b)(ii)2;~~
327 ~~however, any such tax credits not allocated before April 1 of a~~
328 ~~calendar year may be allocated for contributions to eligible~~
329 ~~charitable organizations described in subsection (1)(b)(ii)1 of~~



330 ~~this section.~~ For calendar year 2021, and for each calendar year
331 thereafter, for credits allocated during a calendar year for
332 contributions to eligible charitable organizations described in
333 subsection (1)(b)(i) of this section, no more than twenty-five
334 percent (25%) of such credits may be allocated for contributions
335 to a single eligible charitable organization. Except as otherwise
336 provided in this section, for calendar year 2021, and for each
337 calendar year thereafter, for credits allocated during a calendar
338 year for contributions to eligible charitable organizations
339 described in subsection (1)(b)(ii) of this section, no more
340 than * * * ~~five percent (5%)~~ four and one-half percent (4-1/2%) of
341 such credits may be allocated for contributions to a single
342 eligible charitable organization. * * * ~~However, for calendar year~~
343 ~~2022, of the additional amount of tax credits authorized under~~
344 ~~this section, as amended by Chapter 480, Laws of 2021, for~~
345 ~~allocation for contributions to eligible charitable organizations~~
346 ~~described in subsection (1)(b)(ii) of this section, Two Million~~
347 ~~Dollars (\$2,000,000.00) of the tax credits shall be available~~
348 ~~solely for allocation for contributions to Magnolia Speech School;~~
349 ~~however, any such tax credits not allocated before April 1, 2022,~~
350 ~~may be allocated for contributions to eligible charitable~~
351 ~~organizations described in subsection (1)(b)(ii) of this~~
352 ~~section. However, for calendar year 2022, of the additional amount~~
353 ~~of tax credits authorized under this section, as amended by~~
354 ~~Chapter 480, Laws of 2021, for allocation for contributions to~~



355 ~~eligible charitable organizations described in subsection~~
356 ~~(1)(b)(ii) of this section, Two Million Dollars (\$2,000,000.00) of~~
357 ~~the tax credits shall be available solely for allocation for~~
358 ~~contributions to Magnolia Speech School; however, any such tax~~
359 ~~credits not allocated before April 1, 2022, may be allocated for~~
360 ~~contributions to eligible charitable organizations described in~~
361 ~~subsection (1)(b)(ii) of this section.~~

362 **SECTION 3.** (1) As used in this section, the following words
363 shall have the meanings ascribed herein unless the context clearly
364 requires otherwise:

365 (a) "Blood donation" means the voluntary and
366 uncompensated donation of whole blood, or specific components of
367 blood, by an employee, drawn for use by a nonprofit blood bank
368 organization as part of a blood drive.

369 (b) "Blood drive" means a function held at a specific
370 date and time which is organized by a nonprofit blood bank
371 organization in coordination with an employer or group of
372 employers and is closed to nonemployees.

373 (c) "Employee" means an individual employed by an
374 employer authorized to claim a tax credit under this section.

375 (d) "Employer" means a sole proprietor, general
376 partnership, limited partnership, limited liability company,
377 corporation or other legally recognized business entity.



378 (e) "Verified donation" means a blood donation by an
379 employee, made during a blood drive, which can be documented by an
380 employer.

381 (2) Subject to the provisions of this section, for calendar
382 year 2022 and for calendar year 2023, a taxpayer that is an
383 employer shall be allowed a credit against the taxes imposed under
384 this chapter for each verified blood donation made by an employee
385 as part of a blood drive. The credit shall be for an amount equal
386 to Twenty Dollars (\$20.00) for each verified donation. However,
387 the tax credit shall not exceed the amount of tax imposed upon the
388 taxpayer for the taxable year reduced by the sum of all other
389 credits allowable to the taxpayer under this chapter, except
390 credit for tax payments made by or on behalf of the taxpayer. The
391 maximum aggregate amount of tax credits that may be claimed by all
392 taxpayers claiming a credit under this section in a taxable year
393 shall not exceed One Hundred Thousand Dollars (\$100,000.00). The
394 department shall annually calculate and publish a percentage by
395 which the tax credit authorized by this section shall be reduced
396 so the maximum aggregate amount of tax credits claimed by all
397 taxpayers claiming a credit in a taxable year does not exceed One
398 Hundred Thousand Dollars (\$100,000.00).

399 **SECTION 4.** Section 27-7-17, Mississippi Code of 1972, as
400 amended by Senate Bill No. 2095, 2022 Regular Session, and House
401 Bill No. 1529, 2022 Regular Session, is amended as follows:



402 **[Through February 1, 2022, this section shall read as**
403 **follows:]**

404 27-7-17. In computing taxable income, there shall be allowed
405 as deductions:

406 (1) **Business deductions.**

407 (a) **Business expenses.** All the ordinary and necessary
408 expenses paid or incurred during the taxable year in carrying on
409 any trade or business, including a reasonable allowance for
410 salaries or other compensation for personal services actually
411 rendered; nonreimbursable traveling expenses incident to current
412 employment, including a reasonable amount expended for meals and
413 lodging while away from home in the pursuit of a trade or
414 business; and rentals or other payments required to be made as a
415 condition of the continued use or possession, for purposes of the
416 trade or business of property to which the taxpayer has not taken
417 or is not taking title or in which he had no equity. Expense
418 incurred in connection with earning and distributing nontaxable
419 income is not an allowable deduction. Limitations on
420 entertainment expenses shall conform to the provisions of the
421 Internal Revenue Code of 1986.

422 (b) **Interest.** All interest paid or accrued during the
423 taxable year on business indebtedness, except interest upon the
424 indebtedness for the purchase of tax-free bonds, or any stocks,
425 the dividends from which are nontaxable under the provisions of
426 this article; provided, however, in the case of securities



427 dealers, interest payments or accruals on loans, the proceeds of
428 which are used to purchase tax-exempt securities, shall be
429 deductible if income from otherwise tax-free securities is
430 reported as income. Investment interest expense shall be limited
431 to investment income. Interest expense incurred for the purchase
432 of treasury stock, to pay dividends, or incurred as a result of an
433 undercapitalized affiliated corporation may not be deducted unless
434 an ordinary and necessary business purpose can be established to
435 the satisfaction of the commissioner. For the purposes of this
436 paragraph, the phrase "interest upon the indebtedness for the
437 purchase of tax-free bonds" applies only to the indebtedness
438 incurred for the purpose of directly purchasing tax-free bonds and
439 does not apply to any other indebtedness incurred in the regular
440 course of the taxpayer's business. Any corporation, association,
441 organization or other entity taxable under Section 27-7-23(c)
442 shall allocate interest expense as provided in Section
443 27-7-23(c) (3) (I).

444 (c) **Taxes.** Taxes paid or accrued within the taxable
445 year, except state and federal income taxes, excise taxes based on
446 or measured by net income, estate and inheritance taxes, gift
447 taxes, cigar and cigarette taxes, gasoline taxes, and sales and
448 use taxes unless incurred as an item of expense in a trade or
449 business or in the production of taxable income. In the case of
450 an individual, taxes permitted as an itemized deduction under the



451 provisions of subsection (3)(a) of this section are to be claimed
452 thereunder.

453 (d) **Business losses.**

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

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

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

466 (f) **Depreciation.** A reasonable allowance for
467 exhaustion, wear and tear of property used in the trade or
468 business, or rental property, and depreciation upon buildings
469 based upon their reasonable value as of March 16, 1912, if
470 acquired prior thereto, and upon cost if acquired subsequent to
471 that date. In the case of new or used aircraft, equipment,
472 engines, or other parts and tools used for aviation, allowance for
473 bonus depreciation conforms with the federal bonus depreciation
474 rates and reasonable allowance for depreciation under this section
475 is no less than one hundred percent (100%).



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

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



501 (i) **Reserve funds - insurance companies.** In the case
502 of insurance companies the net additions required by law to be
503 made within the taxable year to reserve funds when such reserve
504 funds are maintained for the purpose of liquidating policies at
505 maturity.

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

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

521 (i) The plan or trust be irrevocable.

522 (ii) The plan or trust constitute a part of a
523 pension plan, stock bonus plan, disability or death-benefit plan,
524 or profit-sharing plan for the exclusive benefit of some or all of
525 the employer's employees and/or officers, or their beneficiaries,



526 for the purpose of distributing the corpus and income of the plan
527 or trust to such employees and/or officers, or their
528 beneficiaries.

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

532 Contributions to all plans or to all trusts of real or
533 personal property (or real and personal property combined) or to
534 insured plans created under a retirement plan for which provision
535 has been made under the laws of the United States of America,
536 making such contributions deductible from income for federal
537 income tax purposes, shall be deductible only to the same extent
538 under the Income Tax Laws of the State of Mississippi.

539 (1) **Net operating loss carrybacks and carryovers.** A
540 net operating loss for any taxable year ending after December 31,
541 1993, and taxable years thereafter, shall be a net operating loss
542 carryback to each of the three (3) taxable years preceding the
543 taxable year of the loss. If the net operating loss for any
544 taxable year is not exhausted by carrybacks to the three (3)
545 taxable years preceding the taxable year of the loss, then there
546 shall be a net operating loss carryover to each of the fifteen
547 (15) taxable years following the taxable year of the loss
548 beginning with any taxable year after December 31, 1991.

549 For any taxable year ending after December 31, 1997, the
550 period for net operating loss carrybacks and net operating loss



551 carryovers shall be the same as those established by the Internal
552 Revenue Code and the rules, regulations, rulings and
553 determinations promulgated thereunder as in effect at the taxable
554 year end or on December 31, 2000, whichever is earlier.

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

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

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

570 (ii) No personal exemption deduction shall be
571 allowed.

572 (iii) Allowable deductions which are not
573 attributable to taxpayer's trade or business shall be allowed only
574 to the extent of the amount of gross income not derived from such
575 trade or business.



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

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

591 (n) **Dividend distributions - real estate investment**
592 **trusts.** "Real estate investment trust" (hereinafter referred to
593 as REIT) shall have the meaning ascribed to such term in Section
594 856 of the federal Internal Revenue Code of 1986, as amended. A
595 REIT is allowed a dividend distributed deduction if the dividend
596 distributions meet the requirements of Section 857 or are
597 otherwise deductible under Section 858 or 860, federal Internal
598 Revenue Code of 1986, as amended. In addition:

599 (i) A dividend distributed deduction shall only be
600 allowed for dividends paid by a publicly traded REIT. A qualified



601 REIT subsidiary shall be allowed a dividend distributed deduction
602 if its owner is a publicly traded REIT.

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

608 (iii) A holding corporation receiving a dividend
609 from a REIT shall not be allowed the deduction in Section
610 27-7-15(4)(t).

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

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

619 (o) **Contributions to college savings trust fund**
620 **accounts.** Contributions or payments to a Mississippi Affordable
621 College Savings Program account are deductible as provided under
622 Section 37-155-113. Payments made under a prepaid tuition
623 contract entered into under the Mississippi Prepaid Affordable
624 College Tuition Program are deductible as provided under Section
625 37-155-17.



626 (p) **Contributions of human pharmaceutical products.** To
627 the extent that a "major supplier" as defined in Section
628 27-13-13(2) (d) contributes human pharmaceutical products in excess
629 of Two Hundred Fifty Million Dollars (\$250,000,000.00) as
630 determined under Section 170 of the Internal Revenue Code, the
631 charitable contribution limitation associated with those donations
632 shall follow the federal limitation but cannot result in the
633 Mississippi net income being reduced below zero.

634 (q) **Contributions to ABLE trust fund accounts.**
635 Contributions or payments to a Mississippi Achieving a Better Life
636 Experience (ABLE) Program account are deductible as provided under
637 Section 43-28-13.

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

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

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

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

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



651 3. Royalty, patent, technical and copyright
652 fees;

653 4. Licensing fees; and

654 5. Other similar expenses and costs.

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

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

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

671 (v) "Related entity" means:

672 1. A stockholder who is an individual or a
673 member of the stockholder's family, as defined in regulations
674 prescribed by the commissioner, if the stockholder and the members
675 of the stockholder's family own, directly, indirectly,



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

678 2. A stockholder, or a stockholder's
679 partnership, limited liability company, estate, trust or
680 corporation, if the stockholder and the stockholder's
681 partnerships, limited liability companies, estates, trusts and
682 corporations own, directly, indirectly, beneficially or
683 constructively, in the aggregate, at least fifty percent (50%) of
684 the value of the taxpayer's outstanding stock;

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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

742 (i) Three Thousand Four Hundred Dollars
743 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred
744 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand
745 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter
746 in the case of married individuals filing a joint or combined
747 return;



748 (ii) One Thousand Seven Hundred Dollars
749 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred
750 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand
751 Three Hundred Dollars (\$2,300.00) for each calendar year
752 thereafter in the case of married individuals filing separate
753 returns;

754 (iii) Three Thousand Four Hundred Dollars
755 (\$3,400.00) in the case of a head of family; or

756 (iv) Two Thousand Three Hundred Dollars
757 (\$2,300.00) in the case of an individual who is not married.

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

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



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

774 (5) Notwithstanding any other provision in Title 27,
775 Mississippi Code of 1972, there shall be allowed an income tax
776 deduction for otherwise deductible expenses if:

777 (a) The payment(s) for such deductible expenses are
778 made with the grant or loan program of the Paycheck Protection
779 Program as authorized under (i) the Coronavirus Aid, Relief, and
780 Economic Security (CARES) Act and the Consolidated Appropriations
781 Act of 2021, (ii) the COVID-19 Economic Injury Disaster Loan
782 Program, (iii) the 2020 COVID-19 Mississippi Business Assistance
783 Act, (iv) the Rental Assistance Grant Program, (v) the Shuttered
784 Venue Operators Grant Program and Restaurant Revitalization Fund
785 authorized by the Economic Aid to Hard-Hit Small Businesses,
786 Nonprofits, and Venues Act, and amended by the federal American
787 Rescue Plan Act, and/or (vi) the Mississippi Agriculture
788 Stabilization Act; and

789 (b) Such deductible expenses shall be allowed as
790 deductions for federal income tax purposes.

791 **[From and after February 2, 2022, this section shall read as**
792 **follows:]**

793 27-7-17. In computing taxable income, there shall be allowed
794 as deductions:

795 (1) **Business deductions.**



796 (a) **Business expenses.** All the ordinary and necessary
797 expenses paid or incurred during the taxable year in carrying on
798 any trade or business, including a reasonable allowance for
799 salaries or other compensation for personal services actually
800 rendered; nonreimbursable traveling expenses incident to current
801 employment, including a reasonable amount expended for meals and
802 lodging while away from home in the pursuit of a trade or
803 business; and rentals or other payments required to be made as a
804 condition of the continued use or possession, for purposes of the
805 trade or business of property to which the taxpayer has not taken
806 or is not taking title or in which he had no equity. Expense
807 incurred in connection with earning and distributing nontaxable
808 income is not an allowable deduction. Limitations on
809 entertainment expenses shall conform to the provisions of the
810 Internal Revenue Code of 1986. There shall also be allowed a
811 deduction for expenses as provided in Section 26 of Senate Bill
812 No. 2095, 2022 Regular Session.

813 (b) **Interest.** All interest paid or accrued during the
814 taxable year on business indebtedness, except interest upon the
815 indebtedness for the purchase of tax-free bonds, or any stocks,
816 the dividends from which are nontaxable under the provisions of
817 this article; provided, however, in the case of securities
818 dealers, interest payments or accruals on loans, the proceeds of
819 which are used to purchase tax-exempt securities, shall be
820 deductible if income from otherwise tax-free securities is



821 reported as income. Investment interest expense shall be limited
822 to investment income. Interest expense incurred for the purchase
823 of treasury stock, to pay dividends, or incurred as a result of an
824 undercapitalized affiliated corporation may not be deducted unless
825 an ordinary and necessary business purpose can be established to
826 the satisfaction of the commissioner. For the purposes of this
827 paragraph, the phrase "interest upon the indebtedness for the
828 purchase of tax-free bonds" applies only to the indebtedness
829 incurred for the purpose of directly purchasing tax-free bonds and
830 does not apply to any other indebtedness incurred in the regular
831 course of the taxpayer's business. Any corporation, association,
832 organization or other entity taxable under Section 27-7-23(c)
833 shall allocate interest expense as provided in Section
834 27-7-23(c) (3) (I).

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

844 (d) **Business losses.**



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

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

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

857 (f) **Depreciation.** A reasonable allowance for
858 exhaustion, wear and tear of property used in the trade or
859 business, or rental property, and depreciation upon buildings
860 based upon their reasonable value as of March 16, 1912, if
861 acquired prior thereto, and upon cost if acquired subsequent to
862 that date. In the case of new or used aircraft, equipment,
863 engines, or other parts and tools used for aviation, allowance for
864 bonus depreciation conforms with the federal bonus depreciation
865 rates and reasonable allowance for depreciation under this section
866 is no less than one hundred percent (100%).

867 (g) **Depletion.** In the case of mines, oil and gas
868 wells, other natural deposits and timber, a reasonable allowance
869 for depletion and for depreciation of improvements, based upon



870 cost, including cost of development, not otherwise deducted, or
871 fair market value as of March 16, 1912, if acquired prior to that
872 date, such allowance to be made upon regulations prescribed by the
873 commissioner, with the approval of the Governor.

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

892 (i) **Reserve funds - insurance companies.** In the case
893 of insurance companies the net additions required by law to be
894 made within the taxable year to reserve funds when such reserve



895 funds are maintained for the purpose of liquidating policies at
896 maturity.

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

900 (k) **Contributions to employee pension plans.**

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

912 (i) The plan or trust be irrevocable.

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



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

923 Contributions to all plans or to all trusts of real or
924 personal property (or real and personal property combined) or to
925 insured plans created under a retirement plan for which provision
926 has been made under the laws of the United States of America,
927 making such contributions deductible from income for federal
928 income tax purposes, shall be deductible only to the same extent
929 under the Income Tax Laws of the State of Mississippi.

930 (1) **Net operating loss carrybacks and carryovers.** A
931 net operating loss for any taxable year ending after December 31,
932 1993, and taxable years thereafter, shall be a net operating loss
933 carryback to each of the three (3) taxable years preceding the
934 taxable year of the loss. If the net operating loss for any
935 taxable year is not exhausted by carrybacks to the three (3)
936 taxable years preceding the taxable year of the loss, then there
937 shall be a net operating loss carryover to each of the fifteen
938 (15) taxable years following the taxable year of the loss
939 beginning with any taxable year after December 31, 1991.

940 For any taxable year ending after December 31, 1997, the
941 period for net operating loss carrybacks and net operating loss
942 carryovers shall be the same as those established by the Internal
943 Revenue Code and the rules, regulations, rulings and



944 determinations promulgated thereunder as in effect at the taxable
945 year end or on December 31, 2000, whichever is earlier.

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

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

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

961 (ii) No personal exemption deduction shall be
962 allowed.

963 (iii) Allowable deductions which are not
964 attributable to taxpayer's trade or business shall be allowed only
965 to the extent of the amount of gross income not derived from such
966 trade or business.

967 Any taxpayer entitled to a carryback period as provided by
968 this paragraph may elect to relinquish the entire carryback period



969 with respect to a net operating loss for any taxable year ending
970 after December 31, 1991. The election shall be made in the manner
971 prescribed by the Department of Revenue and shall be made by the
972 due date, including extensions of time, for filing the taxpayer's
973 return for the taxable year of the net operating loss for which
974 the election is to be in effect. The election, once made for any
975 taxable year, shall be irrevocable for that taxable year.

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

982 (n) **Dividend distributions - real estate investment**
983 **trusts.** "Real estate investment trust" (hereinafter referred to
984 as REIT) shall have the meaning ascribed to such term in Section
985 856 of the federal Internal Revenue Code of 1986, as amended. A
986 REIT is allowed a dividend distributed deduction if the dividend
987 distributions meet the requirements of Section 857 or are
988 otherwise deductible under Section 858 or 860, federal Internal
989 Revenue Code of 1986, as amended. In addition:

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



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

999 (iii) A holding corporation receiving a dividend
1000 from a REIT shall not be allowed the deduction in Section
1001 27-7-15(4)(t).

1002 (iv) Any REIT not allowed the dividend distributed
1003 deduction in the federal Internal Revenue Code of 1986, as
1004 amended, shall not be allowed a dividend distributed deduction
1005 under this chapter.

1006 The commissioner is authorized to promulgate rules and
1007 regulations consistent with the provisions in Section 269 of the
1008 federal Internal Revenue Code of 1986, as amended, so as to
1009 prevent the evasion or avoidance of state income tax.

1010 (o) **Contributions to college savings trust fund**
1011 **accounts.** Contributions or payments to a Mississippi Affordable
1012 College Savings Program account are deductible as provided under
1013 Section 37-155-113. Payments made under a prepaid tuition
1014 contract entered into under the Mississippi Prepaid Affordable
1015 College Tuition Program are deductible as provided under Section
1016 37-155-17.

1017 (p) **Contributions of human pharmaceutical products.** To
1018 the extent that a "major supplier" as defined in Section



1019 27-13-13(2) (d) contributes human pharmaceutical products in excess
1020 of Two Hundred Fifty Million Dollars (\$250,000,000.00) as
1021 determined under Section 170 of the Internal Revenue Code, the
1022 charitable contribution limitation associated with those donations
1023 shall follow the federal limitation but cannot result in the
1024 Mississippi net income being reduced below zero.

1025 (q) **Contributions to ABLE trust fund accounts.**

1026 Contributions or payments to a Mississippi Achieving a Better Life
1027 Experience (ABLE) Program account are deductible as provided under
1028 Section 43-28-13.

1029 (2) **Restrictions on the deductibility of certain intangible
1030 expenses and interest expenses with a related member.**

1031 (a) As used in this subsection (2):

1032 (i) "Intangible expenses and costs" include:

1033 1. Expenses, losses and costs for, related
1034 to, or in connection directly or indirectly with the direct or
1035 indirect acquisition, use, maintenance or management, ownership,
1036 sale, exchange or any other disposition of intangible property to
1037 the extent such amounts are allowed as deductions or costs in
1038 determining taxable income under this chapter;

1039 2. Expenses or losses related to or incurred
1040 in connection directly or indirectly with factoring transactions
1041 or discounting transactions;

1042 3. Royalty, patent, technical and copyright
1043 fees;



1044 4. Licensing fees; and
1045 5. Other similar expenses and costs.

1046 (ii) "Intangible property" means patents, patent
1047 applications, trade names, trademarks, service marks, copyrights
1048 and similar types of intangible assets.

1049 (iii) "Interest expenses and cost" means amounts
1050 directly or indirectly allowed as deductions for purposes of
1051 determining taxable income under this chapter to the extent such
1052 interest expenses and costs are directly or indirectly for,
1053 related to, or in connection with the direct or indirect
1054 acquisition, maintenance, management, ownership, sale, exchange or
1055 disposition of intangible property.

1056 (iv) "Related member" means an entity or person
1057 that, with respect to the taxpayer during all or any portion of
1058 the taxable year, is a related entity, a component member as
1059 defined in the Internal Revenue Code, or is an entity or a person
1060 to or from whom there is attribution of stock ownership in
1061 accordance with Section 1563(e) of the Internal Revenue Code.

1062 (v) "Related entity" means:

1063 1. A stockholder who is an individual or a
1064 member of the stockholder's family, as defined in regulations
1065 prescribed by the commissioner, if the stockholder and the members
1066 of the stockholder's family own, directly, indirectly,
1067 beneficially or constructively, in the aggregate, at least fifty
1068 percent (50%) of the value of the taxpayer's outstanding stock;



1069 2. A stockholder, or a stockholder's
1070 partnership, limited liability company, estate, trust or
1071 corporation, if the stockholder and the stockholder's
1072 partnerships, limited liability companies, estates, trusts and
1073 corporations own, directly, indirectly, beneficially or
1074 constructively, in the aggregate, at least fifty percent (50%) of
1075 the value of the taxpayer's outstanding stock;

1076 3. A corporation, or a party related to the
1077 corporation in a manner that would require an attribution of stock
1078 from the corporation to the party or from the party to the
1079 corporation, if the taxpayer owns, directly, indirectly,
1080 beneficially or constructively, at least fifty percent (50%) of
1081 the value of the corporation's outstanding stock under regulation
1082 prescribed by the commissioner;

1083 4. Any entity or person which would be a
1084 related member under this section if the taxpayer were considered
1085 a corporation for purposes of this section.

1086 (b) In computing net income, a taxpayer shall add back
1087 otherwise deductible interest expenses and costs and intangible
1088 expenses and costs directly or indirectly paid, accrued to or
1089 incurred, in connection directly or indirectly with one or more
1090 direct or indirect transactions with one or more related members.

1091 (c) The adjustments required by this subsection shall
1092 not apply to such portion of interest expenses and costs and



1093 intangible expenses and costs that the taxpayer can establish
1094 meets one (1) of the following:

1095 (i) The related member directly or indirectly
1096 paid, accrued or incurred such portion to a person during the same
1097 income year who is not a related member; or

1098 (ii) The transaction giving rise to the interest
1099 expenses and costs or intangible expenses and costs between the
1100 taxpayer and related member was done primarily for a valid
1101 business purpose other than the avoidance of taxes, and the
1102 related member is not primarily engaged in the acquisition, use,
1103 maintenance or management, ownership, sale, exchange or any other
1104 disposition of intangible property.

1105 (d) Nothing in this subsection shall require a taxpayer
1106 to add to its net income more than once any amount of interest
1107 expenses and costs or intangible expenses and costs that the
1108 taxpayer pays, accrues or incurs to a related member.

1109 (e) The commissioner may prescribe such regulations as
1110 necessary or appropriate to carry out the purposes of this
1111 subsection, including, but not limited to, clarifying definitions
1112 of terms, rules of stock attribution, factoring and discount
1113 transactions.

1114 (3) **Individual nonbusiness deductions.**

1115 (a) The amount allowable for individual nonbusiness
1116 itemized deductions for federal income tax purposes where the



1117 individual is eligible to elect, for the taxable year, to itemize
1118 deductions on his federal return except the following:

1119 (i) The deduction for state income taxes paid or
1120 other taxes allowed for federal purposes in lieu of state income
1121 taxes paid;

1122 (ii) The deduction for gaming losses from gaming
1123 establishments;

1124 (iii) The deduction for taxes collected by
1125 licensed gaming establishments pursuant to Section 27-7-901;

1126 (iv) The deduction for taxes collected by gaming
1127 establishments pursuant to Section 27-7-903.

1128 (b) In lieu of the individual nonbusiness itemized
1129 deductions authorized in paragraph (a), for all purposes other
1130 than ordinary and necessary expenses paid or incurred during the
1131 taxable year in carrying on any trade or business, an optional
1132 standard deduction of:

1133 (i) Three Thousand Four Hundred Dollars
1134 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred
1135 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand
1136 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter
1137 in the case of married individuals filing a joint or combined
1138 return;

1139 (ii) One Thousand Seven Hundred Dollars
1140 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred
1141 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand



1142 Three Hundred Dollars (\$2,300.00) for each calendar year
1143 thereafter in the case of married individuals filing separate
1144 returns;

1145 (iii) Three Thousand Four Hundred Dollars
1146 (\$3,400.00) in the case of a head of family; or

1147 (iv) Two Thousand Three Hundred Dollars
1148 (\$2,300.00) in the case of an individual who is not married.

1149 In the case of a husband and wife living together, having
1150 separate incomes, and filing combined returns, the standard
1151 deduction authorized may be divided in any manner they choose. In
1152 the case of separate returns by a husband and wife, the standard
1153 deduction shall not be allowed to either if the taxable income of
1154 one of the spouses is determined without regard to the standard
1155 deduction.

1156 (c) A nonresident individual shall be allowed the same
1157 individual nonbusiness deductions as are authorized for resident
1158 individuals in paragraph (a) or (b) of this subsection; however,
1159 the nonresident individual is entitled only to that proportion of
1160 the individual nonbusiness deductions as his net income from
1161 sources within the State of Mississippi bears to his total or
1162 entire net income from all sources.

1163 (4) Nothing in this section shall permit the same item to be
1164 deducted more than once, either in fact or in effect.



1165 (5) Notwithstanding any other provision in Title 27,
1166 Mississippi Code of 1972, there shall be allowed an income tax
1167 deduction for otherwise deductible expenses if:

1168 (a) The payment(s) for such deductible expenses are
1169 made with the grant or loan program of the Paycheck Protection
1170 Program as authorized under (i) the Coronavirus Aid, Relief, and
1171 Economic Security (CARES) Act and the Consolidated Appropriations
1172 Act of 2021, (ii) the COVID-19 Economic Injury Disaster Loan
1173 Program, (iii) the 2020 COVID-19 Mississippi Business Assistance
1174 Act, (iv) the Rental Assistance Grant Program, (v) the Shuttered
1175 Venue Operators Grant Program and Restaurant Revitalization Fund
1176 authorized by the Economic Aid to Hard-Hit Small Businesses,
1177 Nonprofits, and Venues Act, and amended by the federal American
1178 Rescue Plan Act, and/or (vi) the Mississippi Agriculture
1179 Stabilization Act; and

1180 (b) Such deductible expenses shall be allowed as
1181 deductions for federal income tax purposes.

1182 **SECTION 5.** Sections 1 and 3 of this act shall be codified as
1183 new sections in Chapter 7, Title 27, Mississippi Code of 1972.

1184 **SECTION 6.** Nothing in this act shall affect or defeat any
1185 claim, assessment, appeal, suit, right or cause of action for
1186 taxes due or accrued under the income tax laws, insurance premium
1187 tax laws or ad valorem tax laws before the date on which this act
1188 becomes effective, whether such claims, assessments, appeals,
1189 suits or actions have been begun before the date on which this act



1190 becomes effective or are begun thereafter; and the provisions of
1191 the income tax laws, insurance premium tax laws and ad valorem tax
1192 laws are expressly continued in full force, effect and operation
1193 for the purpose of the assessment, collection and enrollment of
1194 liens for any taxes due or accrued and the execution of any
1195 warrant under such laws before the date on which this act becomes
1196 effective, and for the imposition of any penalties, forfeitures or
1197 claims for failure to comply with such laws.

1198 **SECTION 7.** Section 4 of this act shall take effect and be in
1199 force from and after January 1, 2020. Section 2 of this act shall
1200 take effect and be in force from and after January 1, 2023. The
1201 remainder of this act shall take effect and be in force from and
1202 after January 1, 2022.

