

By: Representative Reynolds

To: Ways and Means

HOUSE BILL NO. 378

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, IN CONFORMITY THERETO; AND FOR RELATED
 8 PURPOSES.

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

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

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

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



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

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

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

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



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

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

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

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

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



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

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



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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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



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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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



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

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

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

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

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

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



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

321 (iv) "Qualified housing expenses" means:

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

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

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

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



344 (hh) The amount deposited in a catastrophe savings
345 account established under Sections 27-7-1001 through 27-7-1007,
346 interest income earned on the catastrophe savings account, and
347 distributions from the catastrophe savings account; however, any
348 amount withdrawn from a catastrophe savings account for purposes
349 other than paying qualified catastrophe expenses shall be included
350 in gross income, except as otherwise provided by Sections
351 27-7-1001 through 27-7-1007.

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

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



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

371 (kk) Amounts paid by an agricultural disaster program
372 as compensation to an agricultural producer, cattle farmer or
373 cattle rancher who has suffered a loss as the result of a disaster
374 or emergency, including, but not limited to, the following United
375 States Department of Agriculture programs:

376 (i) Livestock Forage Disaster Program;

377 (ii) Livestock Indemnity Program;

378 (iii) Emergency Assistance for Livestock, Honey
379 Bees and Farm-raised Fish Program;

380 (iv) Emergency Conservation Program;

381 (v) Noninsured Crop Disaster Assistance Program;

382 (vi) Pasture, Rangeland, Forage Pilot Insurance
383 Program;

384 (vii) Annual Forage Pilot Program;

385 (viii) Livestock Risk Protection Insurance

386 Program; and

387 (ix) Livestock Gross Margin Insurance Plan.

388 (ll) Amounts received as advances and/or grants under
389 the federal Coronavirus Aid, Relief, and Economic Security Act.

390 (mm) Any and all cancelled indebtedness provided for
391 under the Coronavirus Aid, Relief, and Economic Security Act.

392 (nn) Amounts received as payments under Section
393 27-3-85.



394 (oo) Amounts received as grants under the 2020 COVID-19
395 Mississippi Business Assistance Act.

396 (pp) Amounts received as grants under Section 57-1-521.

397 (qq) Income not included in gross income and exempt
398 from taxation under this article by Section 1 of this act.

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

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

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

410 (c) **Period of conflict.** For the purpose of this
411 subsection, the Vietnam Conflict began February 28, 1961, and ends
412 on the date designated by the President by Executive Order as the
413 date of the termination of combatant activities in Vietnam. For
414 the purpose of this subsection, an individual is in a missing
415 status as a result of the Vietnam Conflict if immediately before
416 such status began he was performing service in Vietnam or was
417 performing service in Southeast Asia in direct support of military
418 operations in Vietnam. "Southeast Asia," as used in this



419 paragraph, is defined to include Cambodia, Laos, Thailand and
420 waters adjacent thereto.

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

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

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

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

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



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

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

451 (6) A shareholder of an S corporation, as defined in Section
452 27-8-3(1)(g), shall take into account the income, loss, deduction
453 or credit of the S corporation only to the extent provided in
454 Section 27-8-7(2).

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

457 **SECTION 4.** This act shall take effect and be in force from
458 and after January 1, 2022.

