

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 (* * *d) 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, * * *
306 the aggregate amount of tax credits that may be allocated by the
307 department under this section during a calendar year shall not
308 exceed Sixteen Million Dollars (\$16,000,000.00), and for calendar
309 year 2023, and for each calendar year thereafter, the aggregate
310 amount of tax credits that may be allocated by the department
311 under this section during a calendar year shall not exceed
312 Eighteen Million Dollars (\$18,000,000.00). For calendar year
313 2021, and for each calendar year thereafter, fifty percent (50%)
314 of the tax credits allocated during a calendar year shall be
315 allocated for contributions to eligible charitable organizations
316 described in subsection (1)(b)(i) of this section and fifty
317 percent (50%) of the tax credits allocated during a calendar year
318 shall be allocated for contributions to eligible charitable
319 organizations described in subsection (1)(b)(ii) of this section.
320 * * * For calendar year 2021, and for each calendar year
321 thereafter, for credits allocated during a calendar year for
322 contributions to eligible charitable organizations described in
323 subsection (1)(b)(i) of this section, no more than twenty-five
324 percent (25%) of such credits may be allocated for contributions
325 to a single eligible charitable organization. Except as otherwise
326 provided in this section, for calendar year 2021, and for each
327 calendar year thereafter, for credits allocated during a calendar
328 year for contributions to eligible charitable organizations
329 described in subsection (1)(b)(ii) of this section, no more



330 than * * * four and one-half percent (4-1/2%) of such credits may
331 be allocated for contributions to a single eligible charitable
332 organization. * * *

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

336 (a) "Blood donation" means the voluntary and
337 uncompensated donation of whole blood, or specific components of
338 blood, by an employee, drawn for use by a nonprofit blood bank
339 organization as part of a blood drive.

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

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

346 (d) "Employer" means a sole proprietor, general
347 partnership, limited partnership, limited liability company,
348 corporation or other legally recognized business entity.

349 (e) "Verified donation" means a blood donation by an
350 employee, made during a blood drive, which can be documented by an
351 employer.

352 (2) Subject to the provisions of this section, for calendar
353 year 2022 and for calendar year 2023, a taxpayer that is an
354 employer shall be allowed a credit against the taxes imposed under



355 this chapter for each verified blood donation made by an employee
356 as part of a blood drive. The credit shall be for an amount equal
357 to Twenty Dollars (\$20.00) for each verified donation. However,
358 the tax credit shall not exceed the amount of tax imposed upon the
359 taxpayer for the taxable year reduced by the sum of all other
360 credits allowable to the taxpayer under this chapter, except
361 credit for tax payments made by or on behalf of the taxpayer. The
362 maximum aggregate amount of tax credits that may be claimed by all
363 taxpayers claiming a credit under this section in a taxable year
364 shall not exceed One Hundred Thousand Dollars (\$100,000.00). The
365 department shall annually calculate and publish a percentage by
366 which the tax credit authorized by this section shall be reduced
367 so the maximum aggregate amount of tax credits claimed by all
368 taxpayers claiming a credit in a taxable year does not exceed One
369 Hundred Thousand Dollars (\$100,000.00).

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

373 **[Through February 1, 2022, this section shall read as**
374 **follows:]**

375 27-7-17. In computing taxable income, there shall be allowed
376 as deductions:

377 (1) **Business deductions.**

378 (a) **Business expenses.** All the ordinary and necessary
379 expenses paid or incurred during the taxable year in carrying on



380 any trade or business, including a reasonable allowance for
381 salaries or other compensation for personal services actually
382 rendered; nonreimbursable traveling expenses incident to current
383 employment, including a reasonable amount expended for meals and
384 lodging while away from home in the pursuit of a trade or
385 business; and rentals or other payments required to be made as a
386 condition of the continued use or possession, for purposes of the
387 trade or business of property to which the taxpayer has not taken
388 or is not taking title or in which he had no equity. Expense
389 incurred in connection with earning and distributing nontaxable
390 income is not an allowable deduction. Limitations on
391 entertainment expenses shall conform to the provisions of the
392 Internal Revenue Code of 1986.

393 (b) **Interest.** All interest paid or accrued during the
394 taxable year on business indebtedness, except interest upon the
395 indebtedness for the purchase of tax-free bonds, or any stocks,
396 the dividends from which are nontaxable under the provisions of
397 this article; provided, however, in the case of securities
398 dealers, interest payments or accruals on loans, the proceeds of
399 which are used to purchase tax-exempt securities, shall be
400 deductible if income from otherwise tax-free securities is
401 reported as income. Investment interest expense shall be limited
402 to investment income. Interest expense incurred for the purchase
403 of treasury stock, to pay dividends, or incurred as a result of an
404 undercapitalized affiliated corporation may not be deducted unless



405 an ordinary and necessary business purpose can be established to
406 the satisfaction of the commissioner. For the purposes of this
407 paragraph, the phrase "interest upon the indebtedness for the
408 purchase of tax-free bonds" applies only to the indebtedness
409 incurred for the purpose of directly purchasing tax-free bonds and
410 does not apply to any other indebtedness incurred in the regular
411 course of the taxpayer's business. Any corporation, association,
412 organization or other entity taxable under Section 27-7-23(c)
413 shall allocate interest expense as provided in Section
414 27-7-23(c) (3) (I).

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

424 (d) **Business losses.**

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



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

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

437 (f) **Depreciation.** A reasonable allowance for
438 exhaustion, wear and tear of property used in the trade or
439 business, or rental property, and depreciation upon buildings
440 based upon their reasonable value as of March 16, 1912, if
441 acquired prior thereto, and upon cost if acquired subsequent to
442 that date. In the case of new or used aircraft, equipment,
443 engines, or other parts and tools used for aviation, allowance for
444 bonus depreciation conforms with the federal bonus depreciation
445 rates and reasonable allowance for depreciation under this section
446 is no less than one hundred percent (100%).

447 (g) **Depletion.** In the case of mines, oil and gas
448 wells, other natural deposits and timber, a reasonable allowance
449 for depletion and for depreciation of improvements, based upon
450 cost, including cost of development, not otherwise deducted, or
451 fair market value as of March 16, 1912, if acquired prior to that



452 date, such allowance to be made upon regulations prescribed by the
453 commissioner, with the approval of the Governor.

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

472 (i) **Reserve funds - insurance companies.** In the case
473 of insurance companies the net additions required by law to be
474 made within the taxable year to reserve funds when such reserve
475 funds are maintained for the purpose of liquidating policies at
476 maturity.



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

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

492 (i) The plan or trust be irrevocable.

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



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

503 Contributions to all plans or to all trusts of real or
504 personal property (or real and personal property combined) or to
505 insured plans created under a retirement plan for which provision
506 has been made under the laws of the United States of America,
507 making such contributions deductible from income for federal
508 income tax purposes, shall be deductible only to the same extent
509 under the Income Tax Laws of the State of Mississippi.

510 (1) **Net operating loss carrybacks and carryovers.** A
511 net operating loss for any taxable year ending after December 31,
512 1993, and taxable years thereafter, shall be a net operating loss
513 carryback to each of the three (3) taxable years preceding the
514 taxable year of the loss. If the net operating loss for any
515 taxable year is not exhausted by carrybacks to the three (3)
516 taxable years preceding the taxable year of the loss, then there
517 shall be a net operating loss carryover to each of the fifteen
518 (15) taxable years following the taxable year of the loss
519 beginning with any taxable year after December 31, 1991.

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



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

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

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

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

541 (ii) No personal exemption deduction shall be
542 allowed.

543 (iii) Allowable deductions which are not
544 attributable to taxpayer's trade or business shall be allowed only
545 to the extent of the amount of gross income not derived from such
546 trade or business.

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



549 with respect to a net operating loss for any taxable year ending
550 after December 31, 1991. The election shall be made in the manner
551 prescribed by the Department of Revenue and shall be made by the
552 due date, including extensions of time, for filing the taxpayer's
553 return for the taxable year of the net operating loss for which
554 the election is to be in effect. The election, once made for any
555 taxable year, shall be irrevocable for that taxable year.

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

562 (n) **Dividend distributions - real estate investment**
563 **trusts.** "Real estate investment trust" (hereinafter referred to
564 as REIT) shall have the meaning ascribed to such term in Section
565 856 of the federal Internal Revenue Code of 1986, as amended. A
566 REIT is allowed a dividend distributed deduction if the dividend
567 distributions meet the requirements of Section 857 or are
568 otherwise deductible under Section 858 or 860, federal Internal
569 Revenue Code of 1986, as amended. In addition:

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



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

579 (iii) A holding corporation receiving a dividend
580 from a REIT shall not be allowed the deduction in Section
581 27-7-15(4)(t).

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

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

590 (o) **Contributions to college savings trust fund**
591 **accounts.** Contributions or payments to a Mississippi Affordable
592 College Savings Program account are deductible as provided under
593 Section 37-155-113. Payments made under a prepaid tuition
594 contract entered into under the Mississippi Prepaid Affordable
595 College Tuition Program are deductible as provided under Section
596 37-155-17.

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



599 27-13-13(2) (d) contributes human pharmaceutical products in excess
600 of Two Hundred Fifty Million Dollars (\$250,000,000.00) as
601 determined under Section 170 of the Internal Revenue Code, the
602 charitable contribution limitation associated with those donations
603 shall follow the federal limitation but cannot result in the
604 Mississippi net income being reduced below zero.

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

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

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

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

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

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

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

622 3. Royalty, patent, technical and copyright
623 fees;



624 4. Licensing fees; and
625 5. Other similar expenses and costs.

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

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

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

642 (v) "Related entity" means:

643 1. A stockholder who is an individual or a
644 member of the stockholder's family, as defined in regulations
645 prescribed by the commissioner, if the stockholder and the members
646 of the stockholder's family own, directly, indirectly,
647 beneficially or constructively, in the aggregate, at least fifty
648 percent (50%) of the value of the taxpayer's outstanding stock;



649 2. A stockholder, or a stockholder's
650 partnership, limited liability company, estate, trust or
651 corporation, if the stockholder and the stockholder's
652 partnerships, limited liability companies, estates, trusts and
653 corporations own, directly, indirectly, beneficially or
654 constructively, in the aggregate, at least fifty percent (50%) of
655 the value of the taxpayer's outstanding stock;

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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

713 (i) Three Thousand Four Hundred Dollars
714 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred
715 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand
716 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter
717 in the case of married individuals filing a joint or combined
718 return;

719 (ii) One Thousand Seven Hundred Dollars
720 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred
721 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand



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

725 (iii) Three Thousand Four Hundred Dollars
726 (\$3,400.00) in the case of a head of family; or

727 (iv) Two Thousand Three Hundred Dollars
728 (\$2,300.00) in the case of an individual who is not married.

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

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

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



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

748 (a) The payment(s) for such deductible expenses are
749 made with the grant or loan program of the Paycheck Protection
750 Program as authorized under (i) the Coronavirus Aid, Relief, and
751 Economic Security (CARES) Act and the Consolidated Appropriations
752 Act of 2021, (ii) the COVID-19 Economic Injury Disaster Loan
753 Program, (iii) the 2020 COVID-19 Mississippi Business Assistance
754 Act, (iv) the Rental Assistance Grant Program, (v) the Shuttered
755 Venue Operators Grant Program and Restaurant Revitalization Fund
756 authorized by the Economic Aid to Hard-Hit Small Businesses,
757 Nonprofits, and Venues Act, and amended by the federal American
758 Rescue Plan Act, and/or (vi) the Mississippi Agriculture
759 Stabilization Act; and

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

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

764 27-7-17. In computing taxable income, there shall be allowed
765 as deductions:

766 (1) **Business deductions.**

767 (a) **Business expenses.** All the ordinary and necessary
768 expenses paid or incurred during the taxable year in carrying on
769 any trade or business, including a reasonable allowance for



770 salaries or other compensation for personal services actually
771 rendered; nonreimbursable traveling expenses incident to current
772 employment, including a reasonable amount expended for meals and
773 lodging while away from home in the pursuit of a trade or
774 business; and rentals or other payments required to be made as a
775 condition of the continued use or possession, for purposes of the
776 trade or business of property to which the taxpayer has not taken
777 or is not taking title or in which he had no equity. Expense
778 incurred in connection with earning and distributing nontaxable
779 income is not an allowable deduction. Limitations on
780 entertainment expenses shall conform to the provisions of the
781 Internal Revenue Code of 1986. There shall also be allowed a
782 deduction for expenses as provided in Section 26 of Senate Bill
783 No. 2095, 2022 Regular Session.

784 (b) **Interest.** All interest paid or accrued during the
785 taxable year on business indebtedness, except interest upon the
786 indebtedness for the purchase of tax-free bonds, or any stocks,
787 the dividends from which are nontaxable under the provisions of
788 this article; provided, however, in the case of securities
789 dealers, interest payments or accruals on loans, the proceeds of
790 which are used to purchase tax-exempt securities, shall be
791 deductible if income from otherwise tax-free securities is
792 reported as income. Investment interest expense shall be limited
793 to investment income. Interest expense incurred for the purchase
794 of treasury stock, to pay dividends, or incurred as a result of an



795 undercapitalized affiliated corporation may not be deducted unless
796 an ordinary and necessary business purpose can be established to
797 the satisfaction of the commissioner. For the purposes of this
798 paragraph, the phrase "interest upon the indebtedness for the
799 purchase of tax-free bonds" applies only to the indebtedness
800 incurred for the purpose of directly purchasing tax-free bonds and
801 does not apply to any other indebtedness incurred in the regular
802 course of the taxpayer's business. Any corporation, association,
803 organization or other entity taxable under Section 27-7-23(c)
804 shall allocate interest expense as provided in Section
805 27-7-23(c) (3) (I).

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

815 (d) **Business losses.**

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



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

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

828 (f) **Depreciation.** A reasonable allowance for
829 exhaustion, wear and tear of property used in the trade or
830 business, or rental property, and depreciation upon buildings
831 based upon their reasonable value as of March 16, 1912, if
832 acquired prior thereto, and upon cost if acquired subsequent to
833 that date. In the case of new or used aircraft, equipment,
834 engines, or other parts and tools used for aviation, allowance for
835 bonus depreciation conforms with the federal bonus depreciation
836 rates and reasonable allowance for depreciation under this section
837 is no less than one hundred percent (100%).

838 (g) **Depletion.** In the case of mines, oil and gas
839 wells, other natural deposits and timber, a reasonable allowance
840 for depletion and for depreciation of improvements, based upon
841 cost, including cost of development, not otherwise deducted, or
842 fair market value as of March 16, 1912, if acquired prior to that



843 date, such allowance to be made upon regulations prescribed by the
844 commissioner, with the approval of the Governor.

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

863 (i) **Reserve funds - insurance companies.** In the case
864 of insurance companies the net additions required by law to be
865 made within the taxable year to reserve funds when such reserve
866 funds are maintained for the purpose of liquidating policies at
867 maturity.



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

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

883 (i) The plan or trust be irrevocable.

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



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

894 Contributions to all plans or to all trusts of real or
895 personal property (or real and personal property combined) or to
896 insured plans created under a retirement plan for which provision
897 has been made under the laws of the United States of America,
898 making such contributions deductible from income for federal
899 income tax purposes, shall be deductible only to the same extent
900 under the Income Tax Laws of the State of Mississippi.

901 (1) **Net operating loss carrybacks and carryovers.** A
902 net operating loss for any taxable year ending after December 31,
903 1993, and taxable years thereafter, shall be a net operating loss
904 carryback to each of the three (3) taxable years preceding the
905 taxable year of the loss. If the net operating loss for any
906 taxable year is not exhausted by carrybacks to the three (3)
907 taxable years preceding the taxable year of the loss, then there
908 shall be a net operating loss carryover to each of the fifteen
909 (15) taxable years following the taxable year of the loss
910 beginning with any taxable year after December 31, 1991.

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



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

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

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

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

932 (ii) No personal exemption deduction shall be
933 allowed.

934 (iii) Allowable deductions which are not
935 attributable to taxpayer's trade or business shall be allowed only
936 to the extent of the amount of gross income not derived from such
937 trade or business.

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



940 with respect to a net operating loss for any taxable year ending
941 after December 31, 1991. The election shall be made in the manner
942 prescribed by the Department of Revenue and shall be made by the
943 due date, including extensions of time, for filing the taxpayer's
944 return for the taxable year of the net operating loss for which
945 the election is to be in effect. The election, once made for any
946 taxable year, shall be irrevocable for that taxable year.

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

953 (n) **Dividend distributions - real estate investment**
954 **trusts.** "Real estate investment trust" (hereinafter referred to
955 as REIT) shall have the meaning ascribed to such term in Section
956 856 of the federal Internal Revenue Code of 1986, as amended. A
957 REIT is allowed a dividend distributed deduction if the dividend
958 distributions meet the requirements of Section 857 or are
959 otherwise deductible under Section 858 or 860, federal Internal
960 Revenue Code of 1986, as amended. In addition:

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



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

970 (iii) A holding corporation receiving a dividend
971 from a REIT shall not be allowed the deduction in Section
972 27-7-15(4)(t).

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

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

981 (o) **Contributions to college savings trust fund**
982 **accounts.** Contributions or payments to a Mississippi Affordable
983 College Savings Program account are deductible as provided under
984 Section 37-155-113. Payments made under a prepaid tuition
985 contract entered into under the Mississippi Prepaid Affordable
986 College Tuition Program are deductible as provided under Section
987 37-155-17.

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



990 27-13-13(2) (d) contributes human pharmaceutical products in excess
991 of Two Hundred Fifty Million Dollars (\$250,000,000.00) as
992 determined under Section 170 of the Internal Revenue Code, the
993 charitable contribution limitation associated with those donations
994 shall follow the federal limitation but cannot result in the
995 Mississippi net income being reduced below zero.

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

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

1000 (2) **Restrictions on the deductibility of certain intangible**
1001 **expenses and interest expenses with a related member.**

1002 (a) As used in this subsection (2):

1003 (i) "Intangible expenses and costs" include:

1004 1. Expenses, losses and costs for, related
1005 to, or in connection directly or indirectly with the direct or
1006 indirect acquisition, use, maintenance or management, ownership,
1007 sale, exchange or any other disposition of intangible property to
1008 the extent such amounts are allowed as deductions or costs in
1009 determining taxable income under this chapter;

1010 2. Expenses or losses related to or incurred
1011 in connection directly or indirectly with factoring transactions
1012 or discounting transactions;

1013 3. Royalty, patent, technical and copyright
1014 fees;



1015 4. Licensing fees; and
1016 5. Other similar expenses and costs.

1017 (ii) "Intangible property" means patents, patent
1018 applications, trade names, trademarks, service marks, copyrights
1019 and similar types of intangible assets.

1020 (iii) "Interest expenses and cost" means amounts
1021 directly or indirectly allowed as deductions for purposes of
1022 determining taxable income under this chapter to the extent such
1023 interest expenses and costs are directly or indirectly for,
1024 related to, or in connection with the direct or indirect
1025 acquisition, maintenance, management, ownership, sale, exchange or
1026 disposition of intangible property.

1027 (iv) "Related member" means an entity or person
1028 that, with respect to the taxpayer during all or any portion of
1029 the taxable year, is a related entity, a component member as
1030 defined in the Internal Revenue Code, or is an entity or a person
1031 to or from whom there is attribution of stock ownership in
1032 accordance with Section 1563(e) of the Internal Revenue Code.

1033 (v) "Related entity" means:

1034 1. A stockholder who is an individual or a
1035 member of the stockholder's family, as defined in regulations
1036 prescribed by the commissioner, if the stockholder and the members
1037 of the stockholder's family own, directly, indirectly,
1038 beneficially or constructively, in the aggregate, at least fifty
1039 percent (50%) of the value of the taxpayer's outstanding stock;



1040 2. A stockholder, or a stockholder's
1041 partnership, limited liability company, estate, trust or
1042 corporation, if the stockholder and the stockholder's
1043 partnerships, limited liability companies, estates, trusts and
1044 corporations own, directly, indirectly, beneficially or
1045 constructively, in the aggregate, at least fifty percent (50%) of
1046 the value of the taxpayer's outstanding stock;

1047 3. A corporation, or a party related to the
1048 corporation in a manner that would require an attribution of stock
1049 from the corporation to the party or from the party to the
1050 corporation, if the taxpayer owns, directly, indirectly,
1051 beneficially or constructively, at least fifty percent (50%) of
1052 the value of the corporation's outstanding stock under regulation
1053 prescribed by the commissioner;

1054 4. Any entity or person which would be a
1055 related member under this section if the taxpayer were considered
1056 a corporation for purposes of this section.

1057 (b) In computing net income, a taxpayer shall add back
1058 otherwise deductible interest expenses and costs and intangible
1059 expenses and costs directly or indirectly paid, accrued to or
1060 incurred, in connection directly or indirectly with one or more
1061 direct or indirect transactions with one or more related members.

1062 (c) The adjustments required by this subsection shall
1063 not apply to such portion of interest expenses and costs and



1064 intangible expenses and costs that the taxpayer can establish
1065 meets one (1) of the following:

1066 (i) The related member directly or indirectly
1067 paid, accrued or incurred such portion to a person during the same
1068 income year who is not a related member; or

1069 (ii) The transaction giving rise to the interest
1070 expenses and costs or intangible expenses and costs between the
1071 taxpayer and related member was done primarily for a valid
1072 business purpose other than the avoidance of taxes, and the
1073 related member is not primarily engaged in the acquisition, use,
1074 maintenance or management, ownership, sale, exchange or any other
1075 disposition of intangible property.

1076 (d) Nothing in this subsection shall require a taxpayer
1077 to add to its net income more than once any amount of interest
1078 expenses and costs or intangible expenses and costs that the
1079 taxpayer pays, accrues or incurs to a related member.

1080 (e) The commissioner may prescribe such regulations as
1081 necessary or appropriate to carry out the purposes of this
1082 subsection, including, but not limited to, clarifying definitions
1083 of terms, rules of stock attribution, factoring and discount
1084 transactions.

1085 (3) **Individual nonbusiness deductions.**

1086 (a) The amount allowable for individual nonbusiness
1087 itemized deductions for federal income tax purposes where the



1088 individual is eligible to elect, for the taxable year, to itemize
1089 deductions on his federal return except the following:

1090 (i) The deduction for state income taxes paid or
1091 other taxes allowed for federal purposes in lieu of state income
1092 taxes paid;

1093 (ii) The deduction for gaming losses from gaming
1094 establishments;

1095 (iii) The deduction for taxes collected by
1096 licensed gaming establishments pursuant to Section 27-7-901;

1097 (iv) The deduction for taxes collected by gaming
1098 establishments pursuant to Section 27-7-903.

1099 (b) In lieu of the individual nonbusiness itemized
1100 deductions authorized in paragraph (a), for all purposes other
1101 than ordinary and necessary expenses paid or incurred during the
1102 taxable year in carrying on any trade or business, an optional
1103 standard deduction of:

1104 (i) Three Thousand Four Hundred Dollars
1105 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred
1106 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand
1107 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter
1108 in the case of married individuals filing a joint or combined
1109 return;

1110 (ii) One Thousand Seven Hundred Dollars
1111 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred
1112 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand



1113 Three Hundred Dollars (\$2,300.00) for each calendar year
1114 thereafter in the case of married individuals filing separate
1115 returns;

1116 (iii) Three Thousand Four Hundred Dollars
1117 (\$3,400.00) in the case of a head of family; or

1118 (iv) Two Thousand Three Hundred Dollars
1119 (\$2,300.00) in the case of an individual who is not married.

1120 In the case of a husband and wife living together, having
1121 separate incomes, and filing combined returns, the standard
1122 deduction authorized may be divided in any manner they choose. In
1123 the case of separate returns by a husband and wife, the standard
1124 deduction shall not be allowed to either if the taxable income of
1125 one of the spouses is determined without regard to the standard
1126 deduction.

1127 (c) A nonresident individual shall be allowed the same
1128 individual nonbusiness deductions as are authorized for resident
1129 individuals in paragraph (a) or (b) of this subsection; however,
1130 the nonresident individual is entitled only to that proportion of
1131 the individual nonbusiness deductions as his net income from
1132 sources within the State of Mississippi bears to his total or
1133 entire net income from all sources.

1134 (4) Nothing in this section shall permit the same item to be
1135 deducted more than once, either in fact or in effect.



1136 (5) Notwithstanding any other provision in Title 27,
1137 Mississippi Code of 1972, there shall be allowed an income tax
1138 deduction for otherwise deductible expenses if:

1139 (a) The payment(s) for such deductible expenses are
1140 made with the grant or loan program of the Paycheck Protection
1141 Program as authorized under (i) the Coronavirus Aid, Relief, and
1142 Economic Security (CARES) Act and the Consolidated Appropriations
1143 Act of 2021, (ii) the COVID-19 Economic Injury Disaster Loan
1144 Program, (iii) the 2020 COVID-19 Mississippi Business Assistance
1145 Act, (iv) the Rental Assistance Grant Program, (v) the Shuttered
1146 Venue Operators Grant Program and Restaurant Revitalization Fund
1147 authorized by the Economic Aid to Hard-Hit Small Businesses,
1148 Nonprofits, and Venues Act, and amended by the federal American
1149 Rescue Plan Act, and/or (vi) the Mississippi Agriculture
1150 Stabilization Act; and

1151 (b) Such deductible expenses shall be allowed as
1152 deductions for federal income tax purposes.

1153 **SECTION 5.** Sections 1 and 3 of this act shall be codified as
1154 new sections in Chapter 7, Title 27, Mississippi Code of 1972.

1155 **SECTION 6.** Nothing in this act shall affect or defeat any
1156 claim, assessment, appeal, suit, right or cause of action for
1157 taxes due or accrued under the income tax laws, insurance premium
1158 tax laws or ad valorem tax laws before the date on which this act
1159 becomes effective, whether such claims, assessments, appeals,
1160 suits or actions have been begun before the date on which this act



1161 becomes effective or are begun thereafter; and the provisions of
1162 the income tax laws, insurance premium tax laws and ad valorem tax
1163 laws are expressly continued in full force, effect and operation
1164 for the purpose of the assessment, collection and enrollment of
1165 liens for any taxes due or accrued and the execution of any
1166 warrant under such laws before the date on which this act becomes
1167 effective, and for the imposition of any penalties, forfeitures or
1168 claims for failure to comply with such laws.

1169 **SECTION 7.** Section 4 of this act shall take effect and be in
1170 force from and after January 1, 2020. Section 2 of this act shall
1171 take effect and be in force from and after January 1, 2023. The
1172 remainder of this act shall take effect and be in force from and
1173 after January 1, 2022.

