

By: Representative Busby

To: Ways and Means

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1691

1 AN ACT TO ALLOW PARTNERSHIPS, S CORPORATIONS OR SIMILAR
2 PASS-THROUGH ENTITIES TO ELECT TO BE TAXED AS AN ELECTING
3 PASS-THROUGH ENTITIES FOR STATE INCOME TAX PURPOSES AND PAY INCOME
4 TAX AT THE ENTITY LEVEL; TO PROVIDE THE MANNER BY WHICH A
5 PARTNERSHIP, S CORPORATION OR SIMILAR PASS-THROUGH ENTITY MAY
6 ELECT TO BE TAXED AS AN ELECTING PASS-THROUGH ENTITY; TO PROVIDE
7 THAT EACH OWNER, MEMBER, PARTNER OR SHAREHOLDER OF AN ELECTING
8 PASS-THROUGH ENTITY SHALL REPORT HIS OR HER PRO RATA OR
9 DISTRIBUTIVE SHARE OF THE INCOME OF THE ELECTING PASS-THROUGH
10 ENTITY BUT SHALL NOT BE LIABLE FOR INCOME TAX IMPOSED ON SUCH PRO
11 RATA OR DISTRIBUTIVE SHARE; TO PROVIDE THAT EACH OWNER, MEMBER,
12 PARTNER OR SHAREHOLDER OF AN ELECTING PASS-THROUGH ENTITY SHALL BE
13 ALLOWED A CREDIT AGAINST INCOME TAXES IN AN AMOUNT EQUAL TO HIS OR
14 HER PRO RATA OR DISTRIBUTIVE SHARE OF INCOME TAX PAID BY THE
15 ELECTING PASS-THROUGH ENTITY WITH RESPECT TO THE CORRESPONDING
16 TAXABLE YEAR; TO AMEND SECTION 27-7-25, MISSISSIPPI CODE OF 1972,
17 TO CONFORM TO THE PROVISIONS OF THIS ACT; TO BRING FORWARD
18 SECTIONS 27-7-5, 27-7-15, 27-7-27, 27-7-29, 27-7-33 AND 27-7-41,
19 MISSISSIPPI CODE OF 1972, WHICH ARE SECTIONS OF THE INCOME TAX LAW
20 OF 1952, FOR THE PURPOSES OF POSSIBLE AMENDMENT; TO AMEND SECTION
21 27-8-7, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS OF
22 THIS ACT; TO BRING FORWARD SECTIONS 27-8-3, 27-8-11, 27-8-15,
23 27-8-19 AND 27-8-21, MISSISSIPPI CODE OF 1972, WHICH ARE SECTIONS
24 OF THE MISSISSIPPI S CORPORATION INCOME TAX ACT, FOR THE PURPOSES
25 OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 79-29-127,
26 MISSISSIPPI CODE OF 1972, WHICH IS A SECTION OF THE REVISED
27 MISSISSIPPI LIMITED LIABILITY COMPANY ACT, FOR THE PURPOSES OF
28 POSSIBLE AMENDMENT; TO AMEND SECTION 25-11-109, MISSISSIPPI CODE
29 OF 1972, TO AUTHORIZE CERTAIN MEMBERS OF THE PUBLIC EMPLOYEES'
30 RETIREMENT SYSTEM TO RECEIVE NOT MORE THAN FIVE YEARS OF
31 CREDITABLE SERVICE FOR SERVICE RENDERED AS AN EMPLOYEE OF ANY
32 PUBLIC OR PRIVATE EMPLOYER THAT DOES NOT PARTICIPATE IN THE
33 RETIREMENT SYSTEM; TO PROVIDE THAT IN ORDER TO BE ABLE TO RECEIVE
34 THAT SERVICE, THE MEMBER CANNOT BE RECEIVING AND WILL NOT BE



35 ENTITLED TO RECEIVE A RETIREMENT ALLOWANCE THAT INCLUDES THAT
36 SERVICE FROM ANY PUBLIC OR PRIVATE RETIREMENT SYSTEM OR PLAN
37 SPONSORED BY THE EMPLOYER, AND THE MEMBER MUST PAY TO THE
38 RETIREMENT SYSTEM BEFORE THE DATE OF RETIREMENT THE ACTUARIAL COST
39 AS DETERMINED BY THE ACTUARY FOR EACH YEAR, OR PORTION THEREOF, OF
40 CREDITABLE SERVICE; TO PROVIDE THAT IF THE MEMBER MAKES PAYMENT TO
41 THE RETIREMENT SYSTEM FOR ANY PORTION OF THAT SERVICE WITHIN ONE
42 MONTH AFTER THE SERVICE IS RENDERED, THE AMOUNT OF THE PAYMENT BY
43 THE MEMBER SHALL BE THE SUM OF THE CONTRIBUTION RATES FOR THE
44 EMPLOYER AND THE EMPLOYEE TIMES THE MEMBER'S EARNED COMPENSATION
45 FOR THE LAST FISCAL YEAR THAT THE MEMBER WAS AN ACTIVE MEMBER OF
46 THE RETIREMENT SYSTEM, AND NOT THE ACTUARIAL COST FOR THAT
47 SERVICE; AND FOR RELATED PURPOSES.

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

49 **SECTION 1.** (1) (a) For calendar year 2022, and for each
50 calendar year thereafter, any partnership, S corporation or
51 similar pass-through entity may elect to be taxed as an electing
52 pass-through entity and pay the tax imposed under this chapter at
53 the entity level. For the purposes of this section, the term
54 "electing pass-through entity" means a partnership, S corporation
55 or similar pass-through entity that has made an election pursuant
56 to this section.

57 (b) A partnership, S corporation or similar
58 pass-through entity desiring to be taxed as an electing
59 pass-through entity shall submit the appropriate form to the
60 Department of Revenue at any time during the tax year or on or
61 before the fifteenth day of the third month following the close of
62 that taxable year for which the entity elects to be taxed as an
63 electing pass-through entity. This election shall be binding for
64 that taxable year and all taxable years thereafter and shall not
65 be revoked unless the electing pass-through entity submits the
66 appropriate form to the department at any time during a subsequent



67 taxable year or on or before the fifteenth day of the third month
68 following the close of that taxable year for which the entity
69 elects to no longer be taxed as an electing pass-through entity.
70 Both the election to become an electing pass-through entity and
71 the revocation of that election shall be accomplished by a vote by
72 or written consent of the members of the governing body of the
73 entity as well as a vote by or written consent of the owners,
74 members, partners or shareholders holding greater than fifty
75 percent (50%) percent of the voting control of the entity, within
76 the time prescribed in this subsection.

77 (c) Each owner, member, partner or shareholder of an
78 electing pass-through entity shall report his or her pro rata or
79 distributive share of the income of the electing pass-through
80 entity but shall not be liable for the tax imposed under this
81 chapter on such pro rata or distributive share of the income of
82 the electing pass-through entity. Each owner, member, partner or
83 shareholder of an electing pass-through entity shall be allowed a
84 credit against the taxes imposed under this chapter in an amount
85 equal to his or her pro rata or distributive share of tax paid by
86 the electing pass-through entity with respect to the corresponding
87 taxable year.

88 (2) The adjusted basis of the owners, members or partners of
89 an electing pass-through entity in their ownership interests in
90 the electing pass-through entity shall be calculated without
91 regard to the election under this section.



92 **SECTION 2.** Section 27-7-25, Mississippi Code of 1972, is
93 amended as follows:

94 27-7-25. (1) Individuals carrying on businesses in
95 partnerships shall be liable for income tax only in their
96 individual capacity, unless for federal purposes the partnership
97 is taxable as a corporation. If so, then the partnership is also
98 taxable as a corporation for state purposes and is subject to all
99 of the corporate tax laws and regulations. The gross income of an
100 individual partner shall be the gross income the partnership
101 distributed on the same basis as net income or earnings may be
102 distributed. If the preceding exception applies, then the partner
103 will be treated as a shareholder in a corporation.

104 There shall be included in computing the net income of each
105 partner his distributive share, whether distributed or not, of the
106 net income of the partnership for the taxable year.

107 The net income of the partnership shall be computed in the
108 same manner and on the same basis as provided for individuals,
109 provided no personal exemption shall be granted and, provided
110 further, that husband and wife partnerships shall not be
111 recognized for the purpose of this article, unless it can be
112 proven that husband and wife have each contributed capital out of
113 their separate estates, and not by gift, from one to the other.

114 In the case of partnerships, each partner that would
115 otherwise be required to include more than twelve (12) months of
116 income in a single taxable year may elect to include such excess



117 in income in one (1) year or ratably over a period of four (4)
118 taxable years.

119 In the event the individual partners fail to report and pay
120 the taxes imposed according to this section, then the partnership
121 and the general partners shall be jointly and severally liable for
122 said tax liability and shall be assessed accordingly. However,
123 the partnership and/or general partner shall not be liable if the
124 partnership withholds five percent (5%) of the net gain or profit
125 of the partnership for the tax year and remits the same to the
126 commissioner. Such amounts paid to the commissioner shall be
127 deemed to be payments of estimated tax of the partners and shall
128 be allocated pro rata to the partners' taxpayer accounts. The
129 commissioner may allow, or require, block or composite filing by a
130 partnership, or withholding on a nonresident partner.

131 Magnetic media reporting may be required in a manner to be
132 determined by the commissioner.

133 Partnership returns shall be filed in such manner and at such
134 time as prescribed by law.

135 (2) For a partnership that has made an election under
136 Section 1 of this act to be taxed as an electing pass-through
137 entity, the partnership shall pay income tax as provided for in
138 Section 1 of this act.

139 **SECTION 3.** Section 27-7-5, Mississippi Code of 1972, is
140 brought forward as follows:



141 27-7-5. (1) There is hereby assessed and levied, to be
142 collected and paid as hereinafter provided, for the calendar year
143 1983 and fiscal years ending during the calendar year 1983 and all
144 taxable years thereafter, upon the entire net income of every
145 resident individual, corporation, association, trust or estate, in
146 excess of the credits provided, a tax at the following rates:

147 (a) (i) Through calendar year 2017, on the first Five
148 Thousand Dollars (\$5,000.00) of taxable income, or any part
149 thereof, the rate shall be three percent (3%);

150 (ii) For calendar year 2018, on the first One
151 Thousand Dollars (\$1,000.00) of taxable income there shall be no
152 tax levied, and on the next Four Thousand Dollars (\$4,000.00) of
153 taxable income, or any part thereof, the rate shall be three
154 percent (3%);

155 (iii) For calendar year 2019, on the first Two
156 Thousand Dollars (\$2,000.00) of taxable income there shall be no
157 tax levied, and on the next Three Thousand Dollars (\$3,000.00) of
158 taxable income, or any part thereof, the rate shall be three
159 percent (3%);

160 (iv) For calendar year 2020, on the first Three
161 Thousand Dollars (\$3,000.00) of taxable income there shall be no
162 tax levied, and on the next Two Thousand Dollars (\$2,000.00) of
163 taxable income, or any part thereof, the rate shall be three
164 percent (3%);



165 (v) For calendar year 2021, on the first Four
166 Thousand Dollars (\$4,000.00) of taxable income there shall be no
167 tax levied, and on the next One Thousand Dollars (\$1,000.00) of
168 taxable income, or any part thereof, the rate shall be three
169 percent (3%);

170 (vi) For calendar year 2022 and all taxable years
171 thereafter, there shall be no tax levied on the first Five
172 Thousand Dollars (\$5,000.00) of taxable income;

173 (b) On taxable income in excess of Five Thousand
174 Dollars (\$5,000.00) up to and including Ten Thousand Dollars
175 (\$10,000.00), or any part thereof, the rate shall be four percent
176 (4%); and

177 (c) On all taxable income in excess of Ten Thousand
178 Dollars (\$10,000.00), the rate shall be five percent (5%).

179 (2) An S corporation, as defined in Section 27-8-3(1)(g),
180 shall not be subject to the income tax imposed under this section.

181 (3) A like tax is hereby imposed to be assessed, collected
182 and paid annually, except as hereinafter provided, at the rate
183 specified in this section and as hereinafter provided, upon and
184 with respect to the entire net income, from all property owned or
185 sold, and from every business, trade or occupation carried on in
186 this state by individuals, corporations, partnerships, trusts or
187 estates, not residents of the State of Mississippi.

188 (4) In the case of taxpayers having a fiscal year beginning
189 in a calendar year with a rate in effect that is different than



190 the rate in effect for the next calendar year and ending in the
191 next calendar year, the tax due for that taxable year shall be
192 determined by:

193 (a) Computing for the full fiscal year the amount of
194 tax that would be due under the rates in effect for the calendar
195 year in which the fiscal year begins; and

196 (b) Computing for the full fiscal year the amount of
197 tax that would be due under the rates in effect for the calendar
198 year in which the fiscal year ends; and

199 (c) Applying to the tax computed under paragraph (a)
200 the ratio which the number of months falling within the earlier
201 calendar year bears to the total number of months in the fiscal
202 year; and

203 (d) Applying to the tax computed under paragraph (b)
204 the ratio which the number of months falling within the later
205 calendar year bears to the total number of months within the
206 fiscal year; and

207 (e) Adding to the tax determined under paragraph (c)
208 the tax determined under paragraph (d) the sum of which shall be
209 the amount of tax due for the fiscal year.

210 **SECTION 4.** Section 27-7-15, Mississippi Code of 1972, is
211 brought forward as follows:

212 27-7-15. (1) For the purposes of this article, except as
213 otherwise provided, the term "gross income" means and includes the
214 income of a taxpayer derived from salaries, wages, fees or



215 compensation for service, of whatever kind and in whatever form
216 paid, including income from governmental agencies and subdivisions
217 thereof; or from professions, vocations, trades, businesses,
218 commerce or sales, or renting or dealing in property, or
219 reacquired property; also from annuities, interest, rents,
220 dividends, securities, insurance premiums, reinsurance premiums,
221 considerations for supplemental insurance contracts, or the
222 transaction of any business carried on for gain or profit, or
223 gains, or profits, and income derived from any source whatever and
224 in whatever form paid. The amount of all such items of income
225 shall be included in the gross income for the taxable year in
226 which received by the taxpayer. The amount by which an eligible
227 employee's salary is reduced pursuant to a salary reduction
228 agreement authorized under Section 25-17-5 shall be excluded from
229 the term "gross income" within the meaning of this article.

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

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

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

238 (i) Prior to January 1, 2001, federal rules,
239 regulations and revenue procedures shall be followed with respect



240 to installment sales except they shall be applied and administered
241 as if H.R. 3594, the Installment Tax Correction Act of 2000 of the
242 106th Congress, had not been enacted. This provision will
243 generally affect taxpayers, reporting on the accrual method of
244 accounting, entering into installment note agreements on or after
245 December 17, 1999. Any gain or profit resulting from the casual
246 sale of property will be recognized in the year of sale.

247 (ii) From and after January 1, 2001, federal
248 rules, regulations and revenue procedures shall be followed with
249 respect to installment sales except as provided in this
250 subparagraph (ii). Gain or profit from the casual sale of
251 property shall be recognized in the year of sale. When a taxpayer
252 recognizes gain on the casual sale of property in which the gain
253 is deferred for federal income tax purposes, a taxpayer may elect
254 to defer the payment of tax resulting from the gain as allowed and
255 to the extent provided under regulations prescribed by the
256 commissioner. If the payment of the tax is made on a deferred
257 basis, the tax shall be computed based on the applicable rate for
258 the income reported in the year the payment is made. Except as
259 otherwise provided in subparagraph (iii) of this paragraph (b),
260 deferring the payment of the tax shall not affect the liability
261 for the tax. If at any time the installment note is sold,
262 contributed, transferred or disposed of in any manner and for any
263 purpose by the original note holder, or the original note holder
264 is merged, liquidated, dissolved or withdrawn from this state,



265 then all deferred tax payments under this section shall
266 immediately become due and payable.

267 (iii) If the selling price of the property is
268 reduced by any alteration in the terms of an installment note,
269 including default by the purchaser, the gain to be recognized is
270 recomputed based on the adjusted selling price in the same manner
271 as for federal income tax purposes. The tax on this amount, less
272 the previously paid tax on the recognized gain, is payable over
273 the period of the remaining installments. If the tax on the
274 previously recognized gain has been paid in full to this state,
275 the return on which the payment was made may be amended for this
276 purpose only. The statute of limitations in Section 27-7-49 shall
277 not bar an amended return for this purpose.

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

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



290 exchanges or payment for services, or require consolidated returns
291 of affiliates.

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

296 (f) **Reimbursement for expenses of moving.** There shall
297 be included in gross income (as compensation for services) any
298 amount received or accrued, directly or indirectly, by an
299 individual as a payment for or reimbursement of expenses of moving
300 from one (1) residence to another residence which is attributable
301 to employment or self-employment.

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

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

307 (a) The proceeds of life insurance policies and
308 contracts paid upon the death of the insured. However, the income
309 from the proceeds of such policies or contracts shall be included
310 in the gross income.

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



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

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

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

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

336 (g) Income received by a domestic corporation which is
337 "taxable in another state" as this term is defined in this
338 article, derived from business activity conducted outside this
339 state. Domestic corporations taxable both within and without the



340 state shall determine Mississippi income on the same basis as
341 provided for foreign corporations under the provisions of this
342 article.

343 (h) In case of insurance companies, there shall be
344 excluded from gross income such portion of actual premiums
345 received from an individual policyholder as is paid back or
346 credited to or treated as an abatement of premiums of such
347 policyholder within the taxable year.

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

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

356 (k) Amounts received as retirement allowances,
357 pensions, annuities or optional retirement allowances paid under
358 the federal Social Security Act, the Railroad Retirement Act, the
359 Federal Civil Service Retirement Act, or any other retirement
360 system of the United States government, retirement allowances paid
361 under the Mississippi Public Employees' Retirement System,
362 Mississippi Highway Safety Patrol Retirement System or any other
363 retirement system of the State of Mississippi or any political
364 subdivision thereof. The exemption allowed under this paragraph



365 (k) shall be available to the spouse or other beneficiary at the
366 death of the primary retiree.

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

378 (m) National Guard or Reserve Forces of the United
379 States compensation not to exceed the aggregate sum of Five
380 Thousand Dollars (\$5,000.00) for any taxable year through the 2005
381 taxable year, and not to exceed the aggregate sum of Fifteen
382 Thousand Dollars (\$15,000.00) for any taxable year thereafter.

383 (n) Compensation received for active service as a
384 member below the grade of commissioned officer and so much of the
385 compensation as does not exceed the maximum enlisted amount
386 received for active service as a commissioned officer in the Armed
387 Forces of the United States for any month during any part of which
388 such members of the Armed Forces (i) served in a combat zone as
389 designated by Executive Order of the President of the United



390 States or a qualified hazardous duty area as defined by federal
391 law, or both; or (ii) was hospitalized as a result of wounds,
392 disease or injury incurred while serving in such combat zone. For
393 the purposes of this paragraph (n), the term "maximum enlisted
394 amount" means and has the same definition as that term has in 26
395 USCS 112.

396 (o) The proceeds received from federal and state
397 forestry incentive programs.

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

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

412 (r) The amount deposited in a medical savings account,
413 and any interest accrued thereon, that is a part of a medical
414 savings account program as specified in the Medical Savings



415 Account Act under Sections 71-9-1 through 71-9-9; provided,
416 however, that any amount withdrawn from such account for purposes
417 other than paying eligible medical expense or to procure health
418 coverage shall be included in gross income.

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

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

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

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

435 (w) Income resulting from transactions with a related
436 member where the related member subject to tax under this chapter
437 was required to, and did in fact, add back the expense of such
438 transactions as required by Section 27-7-17(2). Under no
439 circumstances may the exclusion from income exceed the deduction



440 add-back of the related member, nor shall the exclusion apply to
441 any income otherwise excluded under this chapter.

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

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

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

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



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

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

470 (dd) Amounts received by an individual which may be
471 excluded from income as foreign earned income for federal income
472 tax purposes.

473 (ee) Amounts received by a qualified individual,
474 directly or indirectly, from an employer or nonprofit housing
475 organization that are qualified housing expenses associated with
476 an employer-assisted housing program. For purposes of this
477 paragraph (ee):

478 (i) "Qualified individual" means any individual
479 whose household income does not exceed one hundred twenty percent
480 (120%) of the area median gross income (as defined by the United
481 States Department of Housing and Urban Development), adjusted for
482 household size, for the area in which the housing is located.

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

- 487 1. Homeownership education or counseling;
488 2. The development of affordable housing; or



489 3. The development or administration of
490 employer-assisted housing programs.

491 (iii) "Employer-assisted housing program" means a
492 separate written plan of any employer (including, without
493 limitation, tax-exempt organizations and public employers) for the
494 exclusive benefit of the employer's employees to pay qualified
495 housing expenses to assist the employer's employees in securing
496 affordable housing.

497 (iv) "Qualified housing expenses" means:

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

502 2. With respect to homeownership assistance,
503 an amount not to exceed the lesser of Ten Thousand Dollars
504 (\$10,000.00) or six percent (6%) of the purchase price of the
505 employee's principal residence that is paid for the purpose of
506 assisting employees with down payments, payment of closing costs,
507 reduced interest mortgages, mortgage guarantee programs, mortgage
508 forgiveness programs, equity contribution programs, or
509 contributions to homebuyer education and/or homeownership
510 counseling of eligible employees.

511 (ff) For the 2010 taxable year and any taxable year
512 thereafter, amounts converted in accordance with the United States
513 Internal Revenue Code, as amended, from a traditional Individual



514 Retirement Account to a Roth Individual Retirement Account. The
515 exemption allowed under this paragraph (ff) shall be available to
516 the spouse or other beneficiary at the death of the primary
517 retiree.

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

520 (hh) The amount deposited in a catastrophe savings
521 account established under Sections 27-7-1001 through 27-7-1007,
522 interest income earned on the catastrophe savings account, and
523 distributions from the catastrophe savings account; however, any
524 amount withdrawn from a catastrophe savings account for purposes
525 other than paying qualified catastrophe expenses shall be included
526 in gross income, except as otherwise provided by Sections
527 27-7-1001 through 27-7-1007.

528 (ii) Interest, dividends, gains or income of any kind
529 on any account in the Mississippi Achieving a Better Life
530 Experience (ABLE) Trust Fund, as established in Chapter 28, Title
531 43, to the extent that such amounts remain on deposit in the ABLE
532 Trust Fund or are withdrawn pursuant to a qualified withdrawal, as
533 defined in Section 43-28-11.

534 (jj) Subject to the limitations provided under Section
535 27-7-1103, amounts deposited into a first-time homebuyer savings
536 account and any interest or other income earned attributable to an
537 account and monies or funds withdrawn or distributed from an
538 account for the payment of eligible costs by or on behalf of a



539 qualified beneficiary; however, any monies or funds withdrawn or
540 distributed from a first-time homebuyer savings account for any
541 purpose other than the payment of eligible costs by or on behalf
542 of a qualified beneficiary shall be included in gross income. For
543 the purpose of this paragraph (jj), the terms "first-time
544 homebuyer savings account," "eligible costs" and "qualified
545 beneficiary" mean and have the same definitions as such terms have
546 in Section 27-7-1101.

547 (kk) Amounts paid by an agricultural disaster program
548 as compensation to an agricultural producer, cattle farmer or
549 cattle rancher who has suffered a loss as the result of a disaster
550 or emergency, including, but not limited to, the following United
551 States Department of Agriculture programs:

- 552 (i) Livestock Forage Disaster Program;
553 (ii) Livestock Indemnity Program;
554 (iii) Emergency Assistance for Livestock, Honey
555 Bees and Farm-raised Fish Program;
556 (iv) Emergency Conservation Program;
557 (v) Noninsured Crop Disaster Assistance Program;
558 (vi) Pasture, Rangeland, Forage Pilot Insurance
559 Program;
560 (vii) Annual Forage Pilot Program;
561 (viii) Livestock Risk Protection Insurance
562 Program; and
563 (ix) Livestock Gross Margin Insurance Plan.



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

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

568 (nn) Amounts received as payments under Section
569 27-3-85.

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

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

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

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

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

584 (c) **Period of conflict.** For the purpose of this
585 subsection, the Vietnam Conflict began February 28, 1961, and ends
586 on the date designated by the President by Executive Order as the
587 date of the termination of combatant activities in Vietnam. For
588 the purpose of this subsection, an individual is in a missing



589 status as a result of the Vietnam Conflict if immediately before
590 such status began he was performing service in Vietnam or was
591 performing service in Southeast Asia in direct support of military
592 operations in Vietnam. "Southeast Asia," as used in this
593 paragraph, is defined to include Cambodia, Laos, Thailand and
594 waters adjacent thereto.

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

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

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

612 (g) "Compensation" means (i) basic pay; (ii) special
613 pay; (iii) incentive pay; (iv) basic allowance for quarters; (v)



614 basic allowance for subsistence; and (vi) station per diem
615 allowances for not more than ninety (90) days.

616 (h) If refund or credit of any overpayment of tax for
617 any taxable year resulting from the application of this subsection
618 (5) is prevented by the operation of any law or rule of law, such
619 refund or credit of such overpayment of tax may, nevertheless, be
620 made or allowed if claim therefor is filed with the Department of
621 Revenue within three (3) years after the date of the enactment of
622 this subsection.

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

625 (6) A shareholder of an S corporation, as defined in Section
626 27-8-3(1)(g), shall take into account the income, loss, deduction
627 or credit of the S corporation only to the extent provided in
628 Section 27-8-7(2).

629 **SECTION 5.** Section 27-7-27, Mississippi Code of 1972, is
630 brought forward as follows:

631 27-7-27. (1) The tax imposed under the income tax laws of
632 the State of Mississippi shall apply to the income of estates of
633 any kind or property held in trust except:

634 (a) That a trust forming part of a pension plan, stock
635 bonus plan, disability or death benefit plan or profit-sharing
636 plan of an employer for the exclusive benefit of some or all of
637 his or its employees, or their beneficiaries, to which
638 contributions are made by such employer, or employees, or both,



639 for the purpose of distributing to such employees, or their
640 beneficiaries, the earnings and principal of the fund accumulated
641 by the trust in accordance with such plan, shall not be taxable
642 under the income tax laws of the State of Mississippi provided
643 that the trust is irrevocable and no part of the trust corpus or
644 income can be used for purposes other than for the exclusive
645 benefit of employees, or their beneficiaries; but any amount
646 actually distributed or made available to any distributee shall be
647 taxable to him in the year in which so distributed or made
648 available to the extent that it exceeds amounts paid in by him.

649 (b) That all trusts of real or personal property, or
650 real and personal property combined, created under a retirement
651 plan for which provision has been made under the laws of the
652 United States of America exempting such trust from federal income
653 tax, shall be exempt from income taxation by the State of
654 Mississippi.

655 (2) Notwithstanding the provisions of subsection (1) of this
656 section, a taxpayer shall include any Mississippi unrelated
657 business taxable income in computing its taxable income under this
658 chapter. As used in this subsection "Mississippi unrelated
659 business taxable income" includes:

660 (a) "Unrelated business taxable income" as defined
661 under the provisions of the Internal Revenue Code, as amended, and
662 not otherwise inconsistent with other provisions of this chapter,
663 and



664 (b) Any income attributable to an ownership interest in
665 an S corporation.

666 (3) A trust required to include the activity of a
667 disregarded entity for federal income tax purposes shall do
668 likewise for the purpose of computing income for this state.

669 (4) Except as otherwise provided in this section, the gross
670 and net income shall be determined in the same manner as is
671 provided by law for any other taxpayer.

672 **SECTION 6.** Section 27-7-29, Mississippi Code of 1972, is
673 brought forward as follows:

674 27-7-29. (a) Except as otherwise provided in subsection (b)
675 of this section, all income received by the following
676 organizations shall be exempt from taxation under this article:

677 (1) Fraternal beneficiary societies, orders or
678 associations.

679 (2) Mutual savings banks, domestic or foreign when
680 organized and operated on a nonprofit basis and for public
681 purposes; and farm loan associations when organized and operated
682 on a nonprofit basis and for public purposes.

683 (3) Cemetery corporations; religious, charitable,
684 educational or scientific associations or institutions, including
685 any community chest, funds or foundations, organized and operated
686 exclusively for religious, charitable, scientific or educational
687 purposes, or for the prevention of cruelty to children or animals,



688 no part of the net earnings of which inures to the benefit of any
689 private stockholder or individual.

690 (4) Business leagues, labor organizations, agricultural
691 or horticultural associations, chambers of commerce, or boards of
692 trade not organized for profit, and no part of the net earnings of
693 which inures to the benefit of any private stockholder or
694 individual.

695 (5) Civic leagues and social clubs or organizations not
696 organized for profit, but operated exclusively for the promotion
697 of social welfare.

698 (6) Clubs organized and operated exclusively for
699 pleasure, recreation and other nonprofitable purposes, no part of
700 the net earnings of which inures to the benefit of any private
701 stockholder or member.

702 (7) Farmers and fruit growers cooperatives or other
703 like organizations organized and operated as sales agents for the
704 purpose of marketing the products of members and turning back to
705 them the proceeds of sales, less the necessary selling expenses
706 and on the basis of the quantity of produce furnished by them, and
707 other nonprofit agricultural associations organized and operated
708 under the provisions of the cooperative marketing laws of this
709 state. Corporations that are treated as cooperatives for federal
710 income tax purposes will be exempt from income taxation under this
711 chapter to the same extent as provided for federal income tax
712 purposes.



713 (8) Nonprofit cooperative electric power associations
714 or corporations, or like associations, when organized and operated
715 for public purposes and when no part of the income inures to the
716 benefit of any private stockholder or individual.

717 (9) Any nonprofit corporation that is required to be
718 organized and formed for the purpose of operating and managing the
719 state's prison industries.

720 (b) Any Mississippi unrelated business taxable income shall
721 be included in taxable income for any organization described in
722 this section. As used in this subsection "Mississippi unrelated
723 business taxable income" includes:

724 (1) "Unrelated business taxable income" as defined
725 under the provisions of the Internal Revenue Code, as amended, and
726 not otherwise inconsistent with other provisions of this chapter,
727 and

728 (2) Any income attributable to an ownership interest in
729 an S corporation.

730 **SECTION 7.** Section 27-7-33, Mississippi Code of 1972, is
731 brought forward as follows:

732 27-7-33. (1) Every partnership shall make a return for each
733 taxable year, stating specifically the items of its gross income
734 and the deductions allowed by this article, and shall include in
735 the return the names and addresses of the individuals who would be
736 entitled to share in the net income, if distributed, and the
737 amount of the distributive share of each individual. The return



738 shall contain an oath or be verified by a written declaration that
739 it is made under the penalties of perjury.

740 (2) A partnership required to include the activity of a
741 disregarded entity for federal income tax purposes shall do
742 likewise for the purpose of computing income for this state.

743 (3) A partnership taxable year is required to be the same
744 for Mississippi income tax purposes as determined for federal
745 income tax purposes.

746 **SECTION 8.** Section 27-7-41, Mississippi Code of 1972, is
747 brought forward as follows:

748 27-7-41. Except as otherwise provided in this section,
749 returns of individuals, estates, trusts and partnerships shall be
750 filed on or before the 15th day of the fourth month following the
751 close of the fiscal year; or if the return is filed on the basis
752 of a calendar year, it shall be filed on or before April 15 of
753 each year. Except as otherwise provided in this section, returns
754 of corporations shall be filed on or before the 15th day of the
755 third month following the close of the fiscal year; or if the
756 return is filed on the basis of a calendar year, it shall be filed
757 on or before March 15 of each year. For tax years beginning after
758 December 31, 2015, the date for filing a return under this section
759 shall be the same as the date provided for filing the
760 corresponding federal return.

761 If the date for filing any report, claim, tax return,
762 statement, remittance, or other document falls upon a Saturday,



763 Sunday or legal holiday, the filing shall be considered timely if
764 performed on the next business day.

765 All returns shall be made to the commissioner.

766 **SECTION 9.** Section 27-8-7, Mississippi Code of 1972, is
767 amended as follows:

768 27-8-7. (1) An S corporation shall not be subject to the
769 tax imposed by Section 27-7-5; however, for an S corporation that
770 has made an election under Section 1 of this act to be taxed as an
771 electing pass-through entity, the S corporation shall be subject
772 to and pay such tax as provided for in Section 1 of this act.

773 (2) For purposes of Section 27-7-15, each shareholder's pro
774 rata share of the S corporation's income attributable to the
775 state, and each resident shareholder's pro rata share of the S
776 corporation's income not attributable to the state, shall be taken
777 into account by the shareholder in the manner provided in Section
778 1366 of the Code.

779 (3) For purposes of determining the amounts taken into
780 account by the shareholders of an S corporation under subsection
781 (2) of this section, the amount of any tax imposed on the S
782 corporation under the Code shall not reduce the S corporation's
783 income attributable to the state and income not attributable to
784 the state.

785 **SECTION 10.** Section 27-8-3, Mississippi Code of 1972, is
786 brought forward as follows:



787 27-8-3. (1) For purposes of this chapter, the following
788 terms shall have meanings ascribed below:

789 (a) "C corporation" means a corporation which is not an
790 S corporation.

791 (b) "Code" means the Internal Revenue Code of 1986, as
792 amended and as applicable to the taxable period; references to
793 sections of the code shall be deemed to refer to corresponding
794 provisions of prior and subsequent federal tax laws.

795 (c) "Income attributable to the state" means items of
796 income, loss, deduction or credit of the S corporation apportioned
797 to this state under Section 27-7-23(c) (2) or allocated to this
798 state under Section 27-7-23(c) (3).

799 (d) "Income not attributable to the state" means all
800 items of income, loss, deduction or credit of the S corporation
801 other than income attributable to the state.

802 (e) "Post-termination transition period" means that
803 period defined in Section 1377(b) (1) of the code.

804 (f) "Pro rata share" means the portion of any item
805 attributable to an S corporation shareholder for a taxable period
806 determined in the manner provided in, and subject to any election
807 made under, Section 1377(a) or 1362(e), as the case may be, of the
808 code.

809 (g) "S corporation" means a corporation for which a
810 valid election under Section 1362(a) of the code is in effect.



811 (h) "Taxable period" means any taxable year or portion
812 of a taxable year during which a corporation is an S corporation.

813 (2) Except as otherwise expressly provided or clearly
814 appearing from the context, any term used in this chapter shall
815 have the same meaning as when used in a comparable context in the
816 code, or in any statute relating to federal income taxes, in
817 effect for the taxable period. Due consideration shall be given
818 in the interpretation of this chapter to applicable sections of
819 the code in effect from time to time and to federal rulings and
820 regulations interpreting such sections, provided such code,
821 rulings and regulations do not conflict with the provisions of
822 this chapter.

823 **SECTION 11.** Section 27-8-11, Mississippi Code of 1972, is
824 brought forward as follows:

825 27-8-11. (1) The initial basis in the hands of a resident
826 shareholder of an S corporation in the stock of the S corporation
827 and any indebtedness of the S corporation to the shareholder shall
828 be determined in the manner provided under the Code and shall be
829 determined as of the date that is the latest to occur of (a) the
830 date on which the shareholder last became a resident of this
831 state, (b) the date on which the shareholder acquired the stock or
832 the indebtedness of the corporation or (c) the effective date of
833 the corporation's most recent S election under the Code. This
834 date may be before January 1, 1994.



835 (2) The initial basis of a resident shareholder in the stock
836 and indebtedness of an S corporation shall be adjusted after the
837 date specified in subsection (1) of this section in the manner and
838 to the extent required by Section 1011 of the Code except that,
839 with respect to any taxable period during which the shareholder is
840 a resident of this state,

841 (a) Any differences between state and federal taxable
842 income shall be taken into account; and

843 (b) Any adjustments made pursuant to Section 1367 of
844 the Code for a taxable period during which this state did not
845 measure the income of a shareholder of an S corporation by
846 reference to the S corporation's income shall not be taken into
847 account.

848 (3) The initial basis in the hands of a nonresident
849 shareholder of an S corporation in the stock of the S corporation
850 and any indebtedness of the S corporation to the shareholder shall
851 be zero as of the date that is the latest to occur of (a) the date
852 on which the shareholder last became a nonresident of this state,
853 (b) the date on which the shareholder acquired the stock or the
854 indebtedness of the corporation or (c) the effective date of the
855 corporation's most recent S election under the Code. This date
856 may be before January 1, 1994.

857 (4) The initial basis of a nonresident shareholder in the
858 stock and indebtedness of an S corporation shall be adjusted after
859 the date specified in subsection (3) of this section as provided



860 in Section 1367 of the Code, except that such adjustments shall be
861 limited to that portion of the income attributable to the state
862 that is taken into account by the shareholder pursuant to Section
863 27-8-7(2). In computing income attributable to the state for
864 purposes of the preceding sentence, any modification made for
865 income exempt from federal or this state's taxation shall not be
866 taken into account.

867 (5) The basis in the hands of a resident shareholder of an S
868 corporation in the stock of the S corporation shall be reduced by
869 the amount allowed as a loss or deduction pursuant to Section
870 27-8-13(4).

871 (6) The basis in the hands of a resident shareholder of an S
872 corporation in the stock of the S corporation shall be reduced by
873 the amount of any cash distribution which is not taxable to the
874 shareholder as a result of the application of Section 27-8-17(2).

875 (7) For purposes of this section, any person acquiring stock
876 or indebtedness of an S corporation by gift from a person who is a
877 resident of this state at the time of the gift shall be considered
878 to have acquired the stock or indebtedness at the time the donor
879 acquired the stock or indebtedness.

880 **SECTION 12.** Section 27-8-15, Mississippi Code of 1972, is
881 brought forward as follows:

882 27-8-15. For purposes of this chapter, if a shareholder of
883 an S corporation is both a resident and nonresident of this state
884 during any taxable period, the shareholder's pro rata share of the



885 S corporation's income attributable to the state and income not
886 attributable to the state for the taxable period shall be further
887 prorated between the shareholder's periods of residence and
888 nonresidence during the taxable period, in accordance with the
889 number of days in each period.

890 **SECTION 13.** Section 27-8-19, Mississippi Code of 1972, is
891 brought forward as follows:

892 27-8-19. (1) An S corporation which engages in activities
893 in this state that would subject a C corporation to the
894 requirement to file a return under Section 27-7-37 shall file with
895 the State Tax Commission an annual return, in the form prescribed
896 by the commission, on or before the due date prescribed for the
897 filing of C corporation returns under Section 27-7-41. The return
898 shall set forth the name, address and social security or federal
899 identification number of each shareholder; the income attributable
900 to the state and income not attributable to the state with respect
901 to each shareholder as determined under this chapter; and such
902 other information as the commission may prescribe by regulation.
903 The S corporation shall furnish, on or before the day on which
904 such return is filed, to each person who was a shareholder during
905 the year a copy of such information shown on the return as the
906 commission may prescribe by regulation. The S corporation also
907 shall maintain the accumulated adjustments account described in
908 Section 27-8-17(3)(b).



909 (2) The State Tax Commission shall permit S corporations to
910 file composite returns and to make composite payments of tax on
911 behalf of some or all of its nonresident shareholders. The
912 commission may permit composite returns and payments to be made on
913 behalf of resident shareholders.

914 (3) With respect to each of its nonresident shareholders and
915 for each taxable period, an S corporation shall (a) timely file
916 with the commission an agreement as provided in subsection (4) of
917 this section or (b) make a payment to this state as provided in
918 subsection (5) of this section. An S corporation that timely
919 files an agreement as provided in subsection (4) of this section
920 with respect to a nonresident shareholder for a taxable period
921 shall be considered to have timely filed such an agreement for
922 each subsequent taxable period. An S corporation that does not
923 timely file such an agreement for a taxable period shall not be
924 precluded from timely filing such an agreement for subsequent
925 taxable periods.

926 (4) The agreement referred to in subsection (3)(a) of this
927 section is an agreement of a nonresident shareholder of the S
928 corporation:

929 (a) To file a return and to make timely payment of all
930 taxes imposed on the shareholder by this state with respect to the
931 income of the S corporation; and

932 (b) To be subject to personal jurisdiction in this
933 state for purposes of the collection of income taxes, together



934 with related interest and penalties, imposed on the shareholder by
935 this state with respect to the income of the S corporation.

936 The agreement will be considered to be timely filed for a
937 taxable period and for all subsequent taxable periods if it is
938 filed at or before the time the annual return for such taxable
939 period is required to be filed.

940 In the event the S corporation fails to obtain an agreement
941 of a nonresident shareholder as provided in subsection (3)(a) of
942 this section or in the event a nonresident shareholder of an S
943 corporation fails to file a return and to make timely payments of
944 all taxes imposed on the shareholder by this state as provided in
945 subsection (4)(a) of this section, the S corporation shall make a
946 payment to the state as provided in subsection (5) of this
947 section.

948 (5) The payment referred to in subsection (3)(b) and (4) of
949 this section shall be in an amount equal to the highest marginal
950 tax rate in effect under Section 27-7-5 multiplied by the
951 shareholder's pro rata share of the income attributable to the
952 state reflected on the corporation's return for the taxable
953 period. An S corporation shall be entitled to recover a payment
954 made pursuant to the preceding sentence from the shareholder on
955 whose behalf the payment was made. Any such payment for a taxable
956 period must be made at or before the time the annual return for
957 such taxable period is required to be filed.



958 (6) Any amount paid by the corporation to this state under
959 subsection (2) or (5) of this section shall be considered to be a
960 payment by the shareholder on account of the income tax imposed on
961 the shareholder for the taxable period under Section 27-7-5.

962 **SECTION 14.** Section 27-8-21, Mississippi Code of 1972, is
963 brought forward as follows:

964 27-8-21. For purposes of Section 27-7-77, each resident
965 shareholder shall be considered to have paid a tax imposed on the
966 shareholder in an amount equal to the shareholder's pro rata share
967 of any net income tax paid by the S corporation to a state which
968 does not measure the income of shareholders of an S corporation by
969 reference to the income of the S corporation. For purposes of the
970 preceding sentence, the term "net income tax" means any tax
971 imposed on or measured by a corporation's net income.

972 **SECTION 15.** Section 79-29-127, Mississippi Code of 1972, is
973 brought forward as follows:

974 79-29-127. Domestic limited liability companies and foreign
975 limited liability companies shall be classified as an entity for
976 purposes of the income tax laws of this state in the same manner
977 as they are classified for federal income tax purposes.

978 **SECTION 16.** Section 25-11-109, Mississippi Code of 1972, is
979 amended as follows:

980 25-11-109. (1) Under such rules and regulations as the
981 board of trustees shall adopt, each person who becomes a member of
982 this retirement system, as provided in Section 25-11-105, on or



983 before July 1, 1953, or who became a member of the system before
984 July 1, 2007, and contributes to the system for a minimum period
985 of four (4) years, or who became a member of the system on or
986 after July 1, 2007, and contributes to the system for a minimum
987 period of eight (8) years, shall receive credit for all state
988 service rendered before February 1, 1953. To receive that credit,
989 the member shall file a detailed statement of all services as an
990 employee rendered by him in the state service before February 1,
991 1953. For any member who joined the system after July 1, 1953,
992 and before July 1, 2007, any creditable service for which the
993 member is not required to make contributions shall not be credited
994 to the member until the member has contributed to the system for a
995 minimum period of at least four (4) years. For any member who
996 joined the system on or after July 1, 2007, any creditable service
997 for which the member is not required to make contributions shall
998 not be credited to the member until the member has contributed to
999 the system for a minimum period of at least eight (8) years.

1000 (2) (a) (i) In the computation of creditable service for
1001 service rendered before July 1, 2017, under the provisions of this
1002 article, the total months of accumulative service during any
1003 fiscal year shall be calculated in accordance with the schedule as
1004 follows: ten (10) or more months of creditable service during any
1005 fiscal year shall constitute a year of creditable service; seven
1006 (7) months to nine (9) months inclusive, three-quarters (3/4) of a
1007 year of creditable service; four (4) months to six (6) months



1008 inclusive, one-half (1/2) year of creditable service; one (1)
1009 month to three (3) months inclusive, one-quarter (1/4) of a year
1010 of creditable service.

1011 (ii) In the computation of creditable service
1012 rendered on or after July 1, 2017, under the provisions of this
1013 article, service credit shall be awarded in monthly increments in
1014 a manner prescribed by regulations of the board.

1015 (b) In no case shall credit be allowed for any period
1016 of absence without compensation except for disability while in
1017 receipt of a disability retirement allowance, nor shall less than
1018 fifteen (15) days of service in any month, or service less than
1019 the equivalent of one-half (1/2) of the normal working load for
1020 the position and less than one-half (1/2) of the normal
1021 compensation for the position in any month, constitute a month of
1022 creditable service, nor shall more than one (1) year of service be
1023 creditable for all services rendered in any one (1) fiscal year;
1024 however, for a school employee, substantial completion of the
1025 legal school term when and where the service was rendered shall
1026 constitute a year of service credit. Any state or local elected
1027 official shall be deemed a full-time employee for the purpose of
1028 creditable service. However, an appointed or elected official
1029 compensated on a per diem basis only shall not be allowed
1030 creditable service for terms of office.

1031 (c) In the computation of any retirement allowance or
1032 any annuity or benefits provided in this article, any fractional



1033 period of service of less than one (1) year shall be taken into
1034 account and a proportionate amount of such retirement allowance,
1035 annuity or benefit shall be granted for any such fractional period
1036 of service.

1037 (d) (i) In the computation of unused leave for
1038 creditable service authorized in Section 25-11-103, the following
1039 shall govern for members who retire before July 1, 2017:
1040 twenty-one (21) days of unused leave shall constitute one (1)
1041 month of creditable service and in no case shall credit be allowed
1042 for any period of unused leave of less than fifteen (15) days.
1043 The number of months of unused leave shall determine the number of
1044 quarters or years of creditable service in accordance with the
1045 above schedule for membership and prior service.

1046 (ii) In the computation of unused leave for
1047 creditable service authorized in Section 25-11-103, the following
1048 shall govern for members who retire on or after July 1, 2017:
1049 creditable service for unused leave shall be calculated in monthly
1050 increments in which one (1) month of service credit shall be
1051 awarded for each twenty-one (21) days of unused leave, except that
1052 the first fifteen (15) to fifty-seven (57) days of leave shall
1053 constitute three (3) months of service for those who became a
1054 member of the system before July 1, 2017.

1055 (iii) In order for the member to receive
1056 creditable service for the number of days of unused leave under



1057 this paragraph, the system must receive certification from the
1058 governing authority.

1059 (e) For the purposes of this subsection, members of the
1060 system who retire on or after July 1, 2010, shall receive credit
1061 for one-half (1/2) day of leave for each full year of membership
1062 service accrued after June 30, 2010. The amount of leave received
1063 by a member under this paragraph shall be added to the lawfully
1064 credited unused leave for which creditable service is provided
1065 under Section 25-11-103(i).

1066 (f) For the purpose of this subsection, for members of
1067 the system who are elected officers and who retire on or after
1068 July 1, 1987, the following shall govern:

1069 (i) For service before July 1, 1984, the members
1070 shall receive credit for leave (combined personal and major
1071 medical) for service as an elected official before that date at
1072 the rate of thirty (30) days per year.

1073 (ii) For service on and after July 1, 1984, the
1074 member shall receive credit for personal and major medical leave
1075 beginning July 1, 1984, at the rates authorized in Sections
1076 25-3-93 and 25-3-95, computed as a full-time employee.

1077 (iii) If a member is employed in a covered
1078 nonelected position and a covered elected position simultaneously,
1079 that member may not receive service credit for accumulated unused
1080 leave for both positions at retirement for the period during which
1081 the member was dually employed. During the period during which



1082 the member is dually employed, the member shall only receive
1083 credit for leave as provided for in this paragraph for an elected
1084 official.

1085 (3) Subject to the above restrictions and to such other
1086 rules and regulations as the board may adopt, the board shall
1087 verify, as soon as practicable after the filing of such statements
1088 of service, the services therein claimed.

1089 (4) Upon verification of the statement of prior service, the
1090 board shall issue a prior service certificate certifying to each
1091 member the length of prior service for which credit shall have
1092 been allowed on the basis of his statement of service. So long as
1093 membership continues, a prior service certificate shall be final
1094 and conclusive for retirement purposes as to such service,
1095 provided that any member may within five (5) years from the date
1096 of issuance or modification of such certificate request the board
1097 of trustees to modify or correct his prior service certificate.
1098 Any modification or correction authorized shall only apply
1099 prospectively.

1100 When membership ceases, such prior service certificates shall
1101 become void. Should the employee again become a member, he shall
1102 enter the system as an employee not entitled to prior service
1103 credit except as provided in Sections 25-11-105(I), 25-11-113 and
1104 25-11-117.

1105 (5) Creditable service at retirement, on which the
1106 retirement allowance of a member shall be based, shall consist of



1107 the membership service rendered by him since he last became a
1108 member, and also, if he has a prior service certificate that is in
1109 full force and effect, the amount of the service certified on his
1110 prior service certificate.

1111 (6) Any member who served on active duty in the Armed Forces
1112 of the United States, who served in the Commissioned Corps of the
1113 United States Public Health Service before 1972 or who served in
1114 maritime service during periods of hostility in World War II,
1115 shall be entitled to creditable service at no cost for his service
1116 on active duty in the Armed Forces, in the Commissioned Corps of
1117 the United States Public Health Service before 1972 or in such
1118 maritime service, provided he entered state service after his
1119 discharge from the Armed Forces or entered state service after he
1120 completed such maritime service. The maximum period for such
1121 creditable service for all military service as defined in this
1122 subsection (6) shall not exceed four (4) years unless positive
1123 proof can be furnished by such person that he was retained in the
1124 Armed Forces during World War II or in maritime service during
1125 World War II by causes beyond his control and without opportunity
1126 of discharge. The member shall furnish proof satisfactory to the
1127 board of trustees of certification of military service or maritime
1128 service records showing dates of entrance into active duty service
1129 and the date of discharge. From and after July 1, 1993, no
1130 creditable service shall be granted for any military service or
1131 maritime service to a member who qualifies for a retirement



1132 allowance in another public retirement system administered by the
1133 Board of Trustees of the Public Employees' Retirement System
1134 based, in whole or in part, on such military or maritime service.
1135 In no case shall the member receive creditable service if the
1136 member received a dishonorable discharge from the Armed Forces of
1137 the United States.

1138 (7) (a) Any member of the Public Employees' Retirement
1139 System whose membership service is interrupted as a result of
1140 qualified military service within the meaning of Section 414(u) (5)
1141 of the Internal Revenue Code, and who has received the maximum
1142 service credit available under subsection (6) of this section,
1143 shall receive creditable service for the period of qualified
1144 military service that does not qualify as creditable service under
1145 subsection (6) of this section upon reentering membership service
1146 in an amount not to exceed five (5) years if:

1147 (i) The member pays the contributions he would
1148 have made to the retirement system if he had remained in
1149 membership service for the period of qualified military service
1150 based upon his salary at the time his membership service was
1151 interrupted;

1152 (ii) The member returns to membership service
1153 within ninety (90) days of the end of his qualified military
1154 service; and

1155 (iii) The employer at the time the member's
1156 service was interrupted and to which employment the member returns



1157 pays the contributions it would have made into the retirement
1158 system for such period based on the member's salary at the time
1159 the service was interrupted.

1160 (b) The payments required to be made in paragraph
1161 (a) (i) of this subsection may be made over a period beginning with
1162 the date of return to membership service and not exceeding three
1163 (3) times the member's qualified military service; however, in no
1164 event shall such period exceed five (5) years.

1165 (c) The member shall furnish proof satisfactory to the
1166 board of trustees of certification of military service showing
1167 dates of entrance into qualified service and the date of discharge
1168 as well as proof that the member has returned to active employment
1169 within the time specified.

1170 (8) Any member of the Public Employees' Retirement System
1171 who became a member of the system before July 1, 2007, and who has
1172 at least four (4) years of membership service credit, or who
1173 became a member of the system on or after July 1, 2007, and who
1174 has at least eight (8) years of membership service credit, shall
1175 be entitled to receive a maximum of five (5) years' creditable
1176 service for service rendered in another state as a public employee
1177 of such other state, or a political subdivision, public education
1178 system or other governmental instrumentality thereof, or service
1179 rendered as a teacher in American overseas dependent schools
1180 conducted by the Armed Forces of the United States for children of



1181 citizens of the United States residing in areas outside the
1182 continental United States, provided that:

1183 (a) The member shall furnish proof satisfactory to the
1184 board of trustees of certification of such services from the
1185 state, public education system, political subdivision or
1186 retirement system of the state where the services were performed
1187 or the governing entity of the American overseas dependent school
1188 where the services were performed; and

1189 (b) The member is not receiving or will not be entitled
1190 to receive from the public retirement system of the other state or
1191 from any other retirement plan, including optional retirement
1192 plans, sponsored by the employer, a retirement allowance including
1193 such services; and

1194 (c) The member shall pay to the retirement system on
1195 the date he or she is eligible for credit for such out-of-state
1196 service or at any time thereafter before the date of retirement
1197 the actuarial cost as determined by the actuary for each year of
1198 out-of-state creditable service. The provisions of this
1199 subsection are subject to the limitations of Section 415 of the
1200 Internal Revenue Code and regulations promulgated under that
1201 section.

1202 (9) Any member of the Public Employees' Retirement System
1203 who became a member of the system before July 1, 2007, and has at
1204 least four (4) years of membership service credit, or who became a
1205 member of the system on or after July 1, 2007, and has at least



1206 eight (8) years of membership service credit, and who receives, or
1207 has received, professional leave without compensation for
1208 professional purposes directly related to the employment in state
1209 service shall receive creditable service for the period of
1210 professional leave without compensation provided:

1211 (a) The professional leave is performed with a public
1212 institution or public agency of this state, or another state or
1213 federal agency;

1214 (b) The employer approves the professional leave
1215 showing the reason for granting the leave and makes a
1216 determination that the professional leave will benefit the
1217 employee and employer;

1218 (c) Such professional leave shall not exceed two (2)
1219 years during any ten-year period of state service;

1220 (d) The employee shall serve the employer on a
1221 full-time basis for a period of time equivalent to the
1222 professional leave period granted immediately following the
1223 termination of the leave period;

1224 (e) The contributing member shall pay to the retirement
1225 system the actuarial cost as determined by the actuary for each
1226 year of professional leave. The provisions of this subsection are
1227 subject to the regulations of the Internal Revenue Code
1228 limitations;



1229 (f) Such other rules and regulations consistent
1230 herewith as the board may adopt and in case of question, the board
1231 shall have final power to decide the questions.

1232 Any actively contributing member participating in the School
1233 Administrator Sabbatical Program established in Section 37-9-77
1234 shall qualify for continued participation under this subsection
1235 (9).

1236 (10) Any member of the Public Employees' Retirement System
1237 who became a member of the system before July 1, 2007, and has at
1238 least four (4) years of credited membership service, or who became
1239 a member of the system on or after July 1, 2007, and has at least
1240 eight (8) years of credited membership service, shall be entitled
1241 to receive a maximum of ten (10) years creditable service for:

1242 (a) Any service rendered as an employee of any
1243 political subdivision of this state, or any instrumentality
1244 thereof, that does not participate in the Public Employees'
1245 Retirement System; or

1246 (b) Any service rendered as an employee of any
1247 political subdivision of this state, or any instrumentality
1248 thereof, that participates in the Public Employees' Retirement
1249 System but did not elect retroactive coverage; or

1250 (c) Any service rendered as an employee of any
1251 political subdivision of this state, or any instrumentality
1252 thereof, for which coverage of the employee's position was or is
1253 excluded; provided that the member pays into the retirement system



1254 the actuarial cost as determined by the actuary for each year, or
1255 portion thereof, of such service. After a member has made full
1256 payment to the retirement system for all or any part of such
1257 service, the member shall receive creditable service for the
1258 period of such service for which full payment has been made to the
1259 retirement system.

1260 (11) Any member of the Public Employees' Retirement System
1261 who became a member of the system before July 1, 2007, and who has
1262 at least five (5) years of membership service credit, or who
1263 became a member of the system on or after July 1, 2007, and who
1264 has at least eight (8) years of membership service credit, shall
1265 be entitled to receive a maximum of five (5) years of creditable
1266 service for service rendered as an employee of any public or
1267 private employer that does not participate in the Public
1268 Employees' Retirement System, provided that:

1269 (a) The member shall furnish proof satisfactory to the
1270 board of trustees of certification of that service from the
1271 employer for which the service was performed; and

1272 (b) The member is not receiving or will not be entitled
1273 to receive a retirement allowance that includes that service from
1274 any public or private retirement system or plan sponsored by the
1275 employer; and

1276 (c) The member may receive no more years of creditable
1277 service under this subsection (11) than an amount that, when
1278 combined with all other creditable service, excluding unused



1279 leave, would cause the member to become eligible to receive a
1280 retirement allowance under Section 25-11-111; and

1281 (d) The member shall pay to the retirement system on
1282 the date he or she is eligible for credit for that service or at
1283 any time thereafter before the date of retirement the actuarial
1284 cost as determined by the actuary for each year, or portion
1285 thereof, of creditable service. However, if the member makes
1286 payment to the retirement system for any portion of that service
1287 within one (1) month after the service is rendered, the amount of
1288 the payment by the member shall be the sum of the contribution
1289 rates for the employer and the employee times the member's earned
1290 compensation for the last fiscal year that the member was an
1291 active member of the retirement system, and not the actuarial cost
1292 for that service.

1293 After a member has made full payment to the retirement system
1294 for all or any part of that service, the member shall receive
1295 creditable service for the period of that service for which full
1296 payment has been made to the retirement system. Compensation
1297 earned by the member for service rendered as an employee of any
1298 public or private employer in this state that does not participate
1299 in the Public Employees' Retirement System shall not be included
1300 for the purpose of determining the member's earned compensation or
1301 average compensation.

1302 **SECTION 17.** Section 1 of this act shall be codified as a new
1303 section in Chapter 7, Title 27, Mississippi Code of 1972.



1304 **SECTION 18.** Section 16 of this act shall take effect and be
1305 in force from and after July 1, 2022, and the remainder of this
1306 act shall take effect and be in force from and after January 1,
1307 2022.

