

By: Representative Watson

To: Ways and Means

## HOUSE BILL NO. 1156

1 AN ACT TO BRING FORWARD SECTIONS 27-65-101, 27-65-103,  
2 27-65-105, 27-65-107 AND 27-65-111, MISSISSIPPI CODE OF 1972,  
3 WHICH PROVIDE FOR VARIOUS SALES TAX EXEMPTIONS, FOR THE PURPOSES  
4 OF AMENDMENT; TO BRING FORWARD SECTION 27-7-15, MISSISSIPPI CODE  
5 OF 1972, WHICH DEFINES THE TERM "GROSS INCOME" UNDER THE STATE  
6 INCOME TAX LAW, FOR THE PURPOSES OF AMENDMENT; AND FOR RELATED  
7 PURPOSES.

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

9 **SECTION 1.** Section 27-65-101, Mississippi Code of 1972, is  
10 brought forward as follows:

11 27-65-101. (1) The exemptions from the provisions of this  
12 chapter which are of an industrial nature or which are more  
13 properly classified as industrial exemptions than any other  
14 exemption classification of this chapter shall be confined to  
15 those persons or property exempted by this section or by the  
16 provisions of the Constitution of the United States or the State  
17 of Mississippi. No industrial exemption as now provided by any  
18 other section except Section 57-3-33 shall be valid as against the  
19 tax herein levied. Any subsequent industrial exemption from the  
20 tax levied hereunder shall be provided by amendment to this  
21 section. No exemption provided in this section shall apply to  
22 taxes levied by Section 27-65-15 or 27-65-21.

23 The tax levied by this chapter shall not apply to the  
24 following:

25 (a) Sales of boxes, crates, cartons, cans, bottles and  
26 other packaging materials to manufacturers and wholesalers for use  
27 as containers or shipping materials to accompany goods sold by  
28 said manufacturers or wholesalers where possession thereof will  
29 pass to the customer at the time of sale of the goods contained

30 therein and sales to anyone of containers or shipping materials  
31 for use in ships engaged in international commerce.

32 (b) Sales of raw materials, catalysts, processing  
33 chemicals, welding gases or other industrial processing gases  
34 (except natural gas) to a manufacturer for use directly in  
35 manufacturing or processing a product for sale or rental or  
36 repairing or reconditioning vessels or barges of fifty (50) tons  
37 load displacement and over. For the purposes of this exemption,  
38 electricity used directly in the electrolysis process in the  
39 production of sodium chlorate shall be considered a raw material.  
40 This exemption shall not apply to any property used as fuel except  
41 to the extent that such fuel comprises by-products which have no  
42 market value.

43 (c) The gross proceeds of sales of dry docks, offshore  
44 drilling equipment for use in oil exploitation or production,  
45 vessels or barges of fifty (50) tons load displacement and over,  
46 when sold by the manufacturer or builder thereof.

47 (d) Sales to commercial fishermen of commercial fishing  
48 boats of over five (5) tons load displacement and not more than  
49 fifty (50) tons load displacement as registered with the United  
50 States Coast Guard and licensed by the Mississippi Commission on  
51 Marine Resources.

52 (e) The gross income from repairs to vessels and barges  
53 engaged in foreign trade or interstate transportation.

54 (f) Sales of petroleum products to vessels or barges  
55 for consumption in marine international commerce or interstate  
56 transportation businesses.

57 (g) Sales and rentals of rail rolling stock (and  
58 component parts thereof) for ultimate use in interstate commerce  
59 and gross income from services with respect to manufacturing,  
60 repairing, cleaning, altering, reconditioning or improving such  
61 rail rolling stock (and component parts thereof).

62           (h) Sales of raw materials, catalysts, processing  
63 chemicals, welding gases or other industrial processing gases  
64 (except natural gas) used or consumed directly in manufacturing,  
65 repairing, cleaning, altering, reconditioning or improving such  
66 rail rolling stock (and component parts thereof). This exemption  
67 shall not apply to any property used as fuel.

68           (i) Sales of machinery or tools or repair parts  
69 therefor or replacements thereof, fuel or supplies used directly  
70 in manufacturing, converting or repairing ships of three thousand  
71 (3,000) tons load displacement and over, but not to include office  
72 and plant supplies or other equipment not directly used on the  
73 ship being built, converted or repaired.

74           (j) Sales of tangible personal property to persons  
75 operating ships in international commerce for use or consumption  
76 on board such ships. This exemption shall be limited to cases in  
77 which procedures satisfactory to the commissioner, ensuring  
78 against use in this state other than on such ships, are  
79 established.

80           (k) Sales of materials used in the construction of a  
81 building, or any addition or improvement thereon, and sales of any  
82 machinery and equipment not later than three (3) months after the  
83 completion of construction of the building, or any addition  
84 thereon, to be used therein, to qualified businesses, as defined  
85 in Section 57-51-5, which are located in a county or portion  
86 thereof designated as an enterprise zone pursuant to Sections  
87 57-51-1 through 57-51-15.

88           (l) Sales of materials used in the construction of a  
89 building, or any addition or improvement thereon, and sales of any  
90 machinery and equipment not later than three (3) months after the  
91 completion of construction of the building, or any addition  
92 thereon, to be used therein, to qualified businesses, as defined  
93 in Section 57-54-5.

94 (m) Income from storage and handling of perishable  
95 goods by a public storage warehouse.

96 (n) The value of natural gas lawfully injected into the  
97 earth for cycling, repressuring or lifting of oil, or lawfully  
98 vented or flared in connection with the production of oil;  
99 however, if any gas so injected into the earth is sold for such  
100 purposes, then the gas so sold shall not be exempt.

101 (o) The gross collections from self-service commercial  
102 laundering, drying, cleaning and pressing equipment.

103 (p) Sales of materials used in the construction of a  
104 building, or any addition or improvement thereon, and sales of any  
105 machinery and equipment not later than three (3) months after the  
106 completion of construction of the building, or any addition  
107 thereon, to be used therein, to qualified companies, certified as  
108 such by the Mississippi Development Authority under Section  
109 57-53-1.

110 (q) Sales of component materials used in the  
111 construction of a building, or any addition or improvement  
112 thereon, sales of machinery and equipment to be used therein, and  
113 sales of manufacturing or processing machinery and equipment which  
114 is permanently attached to the ground or to a permanent foundation  
115 and which is not by its nature intended to be housed within a  
116 building structure, not later than three (3) months after the  
117 initial start-up date, to permanent business enterprises engaging  
118 in manufacturing or processing in Tier Three areas (as such term  
119 is defined in Section 57-73-21), which businesses are certified by  
120 the State Tax Commission as being eligible for the exemption  
121 granted in this paragraph (q).

122 (r) Sales of component materials used in the  
123 construction of a building, or any addition or improvement  
124 thereon, and sales of any machinery and equipment not later than  
125 three (3) months after the completion of the building, addition or  
126 improvement thereon, to be used therein, for any company

127 establishing or transferring its national or regional headquarters  
128 from within or outside the State of Mississippi and creating a  
129 minimum of thirty-five (35) jobs at the new headquarters in this  
130 state. The Tax Commission shall establish criteria and prescribe  
131 procedures to determine if a company qualifies as a national or  
132 regional headquarters for the purpose of receiving the exemption  
133 provided in this paragraph.

134 (s) The gross proceeds from the sale of semitrailers,  
135 trailers, boats, travel trailers, motorcycles and all-terrain  
136 cycles if exported from this state within forty-eight (48) hours  
137 and registered and first used in another state.

138 (t) Gross income from the storage and handling of  
139 natural gas in underground salt domes and in other underground  
140 reservoirs, caverns, structures and formations suitable for such  
141 storage.

142 (u) Sales of machinery and equipment to nonprofit  
143 organizations if the organization: (i) is tax-exempt pursuant to  
144 Section 501(c)(4) of the Internal Revenue Code of 1986, as  
145 amended; (ii) assists in the implementation of the national  
146 contingency plan or area contingency plan, and which is created in  
147 response to the requirements of Title IV, Subtitle B of the Oil  
148 Pollution Act of 1990, Public Law 101-380; and (iii) engages  
149 primarily in programs to contain, clean up and otherwise mitigate  
150 spills of oil or other substances occurring in the United States  
151 coastal and tidal waters. For purposes of this exemption,  
152 "machinery and equipment" means any ocean-going vessels, barges,  
153 booms, skimmers and other capital equipment used primarily in the  
154 operations of nonprofit organizations referred to herein.

155 (v) Sales or leases of materials and equipment to  
156 approved business enterprises as provided under the Growth and  
157 Prosperity Act.

158 (w) From and after July 1, 2001, sales of pollution  
159 control equipment to manufacturers or custom processors for

160 industrial use. For the purposes of this exemption, "pollution  
161 control equipment" means equipment, devices, machinery or systems  
162 used or acquired to prevent, control, monitor or reduce air, water  
163 or groundwater pollution, or solid or hazardous waste as required  
164 by federal or state law or regulation.

165 (x) Sales or leases to a manufacturer of motor vehicles  
166 operating a project that has been certified by the Mississippi  
167 Major Economic Impact Authority as a project as defined in Section  
168 57-75-5(f)(iv)1 of machinery and equipment; special tooling such  
169 as dies, molds, jigs and similar items treated as special tooling  
170 for federal income tax purposes; or repair parts therefor or  
171 replacements thereof; repair services thereon; fuel, supplies,  
172 electricity, coal and natural gas used directly in the manufacture  
173 of motor vehicles or motor vehicle parts or used to provide  
174 climate control for manufacturing areas.

175 (y) Sales or leases of component materials, machinery  
176 and equipment used in the construction of a building, or any  
177 addition or improvement thereon to an enterprise operating a  
178 project that has been certified by the Mississippi Major Economic  
179 Impact Authority as a project as defined in Section  
180 57-75-5(f)(iv)1 and any other sales or leases required to  
181 establish or operate such project.

182 (z) Sales of component materials and equipment to a  
183 business enterprise as provided under Section 57-64-33.

184 (aa) The gross income from the stripping and painting  
185 of commercial aircraft engaged in foreign or interstate  
186 transportation business.

187 (bb) Sales of production items used in the production  
188 of motion pictures such as film; videotape; component building  
189 materials used in the construction of a set; makeup; fabric used  
190 as or in the making of costumes; clothing, including, shoes,  
191 accessories and jewelry used as wardrobes; materials used as set  
192 dressing; materials used as props on a set or by an actor;

193 materials used in the creation of special effects; and expendable  
194 items purchased for limited use by grip, electric and camera  
195 departments such as tape, fasteners and compressed air. For the  
196 purposes of this paragraph (aa) the term "motion picture" means a  
197 nationally distributed feature-length film, video, television  
198 series or commercial made in Mississippi, in whole or in part, for  
199 theatrical or television viewing or as a television pilot. The  
200 term "motion picture" shall not include the production of  
201 television coverage of news and athletic events, or a film, video,  
202 television series or commercial that contains any material or  
203 performance defined in Section 97-29-103.

204 (2) Sales of component materials used in the construction of  
205 a building, or any addition or improvement thereon, sales of  
206 machinery and equipment to be used therein, and sales of  
207 manufacturing or processing machinery and equipment which is  
208 permanently attached to the ground or to a permanent foundation  
209 and which is not by its nature intended to be housed within a  
210 building structure, not later than three (3) months after the  
211 initial start-up date, to permanent business enterprises engaging  
212 in manufacturing or processing in Tier Two areas and Tier One  
213 areas (as such areas are designated in accordance with Section  
214 57-73-21), which businesses are certified by the State Tax  
215 Commission as being eligible for the exemption granted in this  
216 paragraph, shall be exempt from one-half (1/2) of the taxes  
217 imposed on such transactions under this chapter.

218 (3) (a) For purposes of this subsection:

219 (i) "Telecommunications enterprises" shall have  
220 the meaning ascribed to such term in Section 57-73-21(13);

221 (ii) "Tier One areas" mean counties designated as  
222 Tier One areas pursuant to Section 57-73-21(1);

223 (iii) "Tier Two areas" mean counties designated as  
224 Tier Two areas pursuant to Section 57-73-21(1);

225 (iv) "Tier Three areas" mean counties designated  
226 as Tier Three areas pursuant to Section 57-73-21(1); and

227 (v) "Equipment used in the deployment of broadband  
228 technologies" means any equipment capable of being used for or in  
229 connection with the transmission of information at a rate, prior  
230 to taking into account the effects of any signal degradation, that  
231 is not less than three hundred eighty-four (384) kilobits per  
232 second in at least one direction, including, but not limited to,  
233 asynchronous transfer mode switches, digital subscriber line  
234 access multiplexers, routers, servers, multiplexers, fiber optics  
235 and related equipment.

236 (b) Sales of equipment to telecommunications  
237 enterprises after June 30, 2003, and before July 1, 2013, that is  
238 installed in Tier One areas and used in the deployment of  
239 broadband technologies shall be exempt from one-half (1/2) of the  
240 taxes imposed on such transactions under this chapter.

241 (c) Sales of equipment to telecommunications  
242 enterprises after June 30, 2003, and before July 1, 2013, that is  
243 installed in Tier Two and Tier Three areas and used in the  
244 deployment of broadband technologies shall be exempt from the  
245 taxes imposed on such transactions under this chapter.

246 **SECTION 2.** Section 27-65-103, Mississippi Code of 1972, is  
247 brought forward as follows:

248 27-65-103. The exemptions from the provisions of this  
249 chapter which are of an agricultural nature or which are more  
250 properly classified as agricultural exemptions than any other  
251 exemption classification of this chapter shall be confined to  
252 those persons or property exempted by this section or by  
253 provisions of the Constitution of the United States or the State  
254 of Mississippi. No agricultural exemption as now provided by any  
255 other section shall be valid as against the tax herein levied.  
256 Any subsequent agricultural exemption from the tax levied  
257 hereunder shall be provided by amendment to this section.



258 No exemption provided in this section shall apply to taxes  
259 levied by Section 27-65-15 or 27-65-21, Mississippi Code of 1972.

260 The tax levied by this chapter shall not apply to the  
261 following:

262 (a) The gross proceeds of sales of lint cotton, seed  
263 cotton, baled cotton, whether compressed or not, and cottonseed  
264 and soybeans in their original condition. Retail sales of seeds,  
265 livestock feed, poultry feed, fish feed and fertilizers. Sales of  
266 defoliants, insecticides, fungicides, herbicides and baby chicks  
267 used in growing agricultural products for market. Bagging and  
268 ties for baling cotton, hay baling wire and twine, boxes, bags and  
269 cans used in growing or preparing agricultural products for market  
270 when possession thereof will pass to the customer at the time of  
271 sale of the product contained therein. Sales of ice to commercial  
272 fishermen purchased for use in the preservation of seafood or to  
273 producers for use in the refrigeration of vegetables for market.

274 (b) The sales by producers of livestock, poultry, fish  
275 or other products of farm, grove or garden when such products are  
276 sold in the original state or condition of preparation for sale  
277 before such products are subjected to any other process within a  
278 class of business or sold by a producer through an established  
279 store, as defined in the Privilege Tax Law. Provided, however,  
280 that this exemption shall not apply to ornamental plants which  
281 bear no fruit of commercial value. All sales by agricultural  
282 cooperative associations organized under Article 9 of Chapter 7 of  
283 Title 69, or under Chapters 17 or 19 of Title 79, Mississippi Code  
284 of 1972, of agricultural products produced by members for market  
285 before such products are subjected to any manufacturing process.

286 (c) The gross proceeds of retail sales of mules, horses  
287 and other livestock.

288 (d) Income from grading, excavating, ditching, dredging  
289 or landscaping activities performed for a farmer on a farm for  
290 agricultural or soil erosion purposes.

291 (e) The gross proceeds of sales of all antibiotics,  
292 hormones and hormone preparations, drugs, medicines and other  
293 medications including serums and vaccines, vitamins, minerals or  
294 other nutrients for use in the production and growing of fish,  
295 livestock and poultry by whomever sold. Such exemption shall be  
296 in addition to the exemption provided in this section for feed for  
297 fish, livestock and poultry.

298 **SECTION 3.** Section 27-65-105, Mississippi Code of 1972, is  
299 brought forward as follows:

300 27-65-105. The exemption from the provisions of this chapter  
301 which are of a governmental nature or which are more properly  
302 classified as governmental exemptions than any other exemption  
303 classification of this chapter shall be confined to those persons  
304 or property exempted by this section or by provisions of the  
305 Constitutions of the United States or the State of Mississippi.  
306 No governmental exemption as now provided by any other section  
307 shall be valid as against the tax herein levied. Any subsequent  
308 governmental exemption from the tax levied hereunder shall be  
309 provided by amendment to this section.

310 No exemption provided in this section shall apply to taxes  
311 levied by Section 27-65-15 or 27-65-21, Mississippi Code of 1972,  
312 except as provided by subsection (f) of this section.

313 The tax levied by this chapter shall not apply to the  
314 following:

315 (a) Sales of property, labor or services taxable under  
316 Sections 27-65-17, 27-65-19 and 27-65-23, when sold to and billed  
317 directly to and payment therefor is made directly by the United  
318 States government, the State of Mississippi and its departments,  
319 institutions, counties and municipalities or departments or school  
320 districts of said counties and municipalities.

321 The exemption from the tax imposed under this chapter shall  
322 not apply to sales of tangible personal property, labor or  
323 services to contractors purchasing in the performance of contracts

324 with the United States, the State of Mississippi, counties and  
325 municipalities.

326 (b) Sales to schools, when such schools are supported  
327 wholly or in part by funds provided by the State of Mississippi,  
328 provided that this exemption does not apply to sales of property  
329 which is not to be used in the ordinary operation of the school,  
330 or which is to be resold to the students or the public.

331 (c) Amounts received from the sale of school textbooks  
332 to students.

333 (d) Sales to the Mississippi Band of Choctaw Indians,  
334 but not to Indians individually.

335 (e) Sales of fire fighting equipment to governmental  
336 fire departments or volunteer fire departments for their use.

337 (f) Sales of any gas from any project, as defined in  
338 the Municipal Gas Authority of Mississippi Law, to any  
339 municipality shall not be subject to sales, use or other tax.

340 (g) Sales of home medical equipment and home medical  
341 supplies listed as eligible for payment under Title XVIII of the  
342 Social Security Act or under the state plan for medical assistance  
343 under Title XIX of the Social Security Act, prosthetics,  
344 orthotics, hearing aids, hearing devices, prescription eyeglasses,  
345 oxygen and oxygen equipment, when ordered or prescribed by a  
346 licensed physician for medical purposes of a patient, and when  
347 payment for such equipment or supplies, or both, is made under the  
348 provisions of the Medicare or Medicaid program. This exemption  
349 shall only apply to the portion of the sales price of such  
350 equipment or supplies, or both, paid for under the provisions of  
351 the Medicare or Medicaid program.

352 **SECTION 4.** Section 27-65-107, Mississippi Code of 1972, is  
353 brought forward as follows:

354 27-65-107. The exemptions from the provisions of this  
355 chapter which relate to utilities or which are more properly  
356 classified as utility exemptions than any other exemption

357 classification of this chapter shall be confined to those persons  
358 or property exempted by this section or by provisions of the  
359 Constitutions of the United States or the State of Mississippi.  
360 No utility exemption as now provided by any other section shall be  
361 valid as against the tax herein levied. Any subsequent utility  
362 exemption from the tax levied hereunder shall be provided by  
363 amendment to this section.

364 No exemption provided in this section shall apply to taxes  
365 levied by Section 27-65-15 or 27-65-21, Mississippi Code of 1972.

366 The tax levied by this chapter shall not apply to the  
367 following:

368 (a) Sales and rentals of locomotives, rail rolling  
369 stock and materials for their repair, locomotive water, when made  
370 to a railroad whose rates are fixed by the Interstate Commerce  
371 Commission or the Mississippi Public Service Commission.

372 (b) Rentals of manufacturing machinery to a  
373 manufacturer or custom processor where such manufacturer or custom  
374 processor is engaged in, and such machinery is used in, the  
375 manufacture of containers made from timber or wood for sale. The  
376 tax, likewise, shall not apply to replacement or repair parts of  
377 such machinery used in such manufacture.

378 (c) Sales of tangible personal property and services to  
379 nonprofit water associations or corporations in which no part of  
380 the net earnings inures to the benefit of any private shareholder,  
381 group or individual. Only sales of property or services which are  
382 ordinary and necessary to the operation of such organizations are  
383 exempt from tax.

384 (d) Wholesale sales of tangible personal property for  
385 resale under Section 27-65-19.

386 (e) From and after July 1, 2003, sales of fuel used to  
387 produce electric power by a company primarily engaged in the  
388 business of producing, generating or distributing electric power  
389 for sale.

390           **SECTION 5.** Section 27-65-111, Mississippi Code of 1972, is  
391 brought forward as follows:

392           27-65-111. The exemptions from the provisions of this  
393 chapter which are not industrial, agricultural or governmental, or  
394 which do not relate to utilities or taxes, or which are not  
395 properly classified as one of the exemption classifications of  
396 this chapter, shall be confined to persons or property exempted by  
397 this section or by the Constitution of the United States or the  
398 State of Mississippi. No exemptions as now provided by any other  
399 section, except the classified exemption sections of this chapter  
400 set forth herein, shall be valid as against the tax herein levied.  
401 Any subsequent exemption from the tax levied hereunder, except as  
402 indicated above, shall be provided by amendments to this section.

403           No exemption provided in this section shall apply to taxes  
404 levied by Section 27-65-15 or 27-65-21, Mississippi Code of 1972.

405           The tax levied by this chapter shall not apply to the  
406 following:

407           (a) Sales of tangible personal property and services to  
408 hospitals or infirmaries owned and operated by a corporation or  
409 association in which no part of the net earnings inures to the  
410 benefit of any private shareholder, group or individual, and which  
411 are subject to and governed by Sections 41-7-123 through 41-7-127.

412           Only sales of tangible personal property or services which  
413 are ordinary and necessary to the operation of such hospitals and  
414 infirmaries are exempted from tax.

415           (b) Sales of daily or weekly newspapers, and  
416 periodicals or publications of scientific, literary or educational  
417 organizations exempt from federal income taxation under Section  
418 501(c)(3) of the Internal Revenue Code of 1954, as it exists as of  
419 March 31, 1975, and subscription sales of all magazines.

420           (c) Sales of coffins, caskets and other materials used  
421 in the preparation of human bodies for burial.

422           (d) Sales of tangible personal property for immediate  
423 export to a foreign country.

424           (e) Sales of tangible personal property to an  
425 orphanage, old men's or ladies' home, supported wholly or in part  
426 by a religious denomination, fraternal nonprofit organization or  
427 other nonprofit organization.

428           (f) Sales of tangible personal property, labor or  
429 services taxable under Sections 27-65-17, 27-65-19 and 27-65-23,  
430 to a YMCA, YWCA, a Boys' or Girls' Club owned and operated by a  
431 corporation or association in which no part of the net earnings  
432 inures to the benefit of any private shareholder, group or  
433 individual.

434           (g) Sales to elementary and secondary grade schools,  
435 junior and senior colleges owned and operated by a corporation or  
436 association in which no part of the net earnings inures to the  
437 benefit of any private shareholder, group or individual, and which  
438 are exempt from state income taxation, provided that this  
439 exemption does not apply to sales of property or services which  
440 are not to be used in the ordinary operation of the school, or  
441 which are to be resold to the students or the public.

442           (h) The gross proceeds of retail sales and the use or  
443 consumption in this state of drugs and medicines:

444               (i) Prescribed for the treatment of a human being  
445 by a person authorized to prescribe the medicines, and dispensed  
446 or prescription filled by a registered pharmacist in accordance  
447 with law; or

448               (ii) Furnished by a licensed physician, surgeon,  
449 dentist or podiatrist to his own patient for treatment of the  
450 patient; or

451               (iii) Furnished by a hospital for treatment of any  
452 person pursuant to the order of a licensed physician, surgeon,  
453 dentist or podiatrist; or

454                   (iv) Sold to a licensed physician, surgeon,  
455                   podiatrist, dentist or hospital for the treatment of a human  
456                   being; or

457                   (v) Sold to this state or any political  
458                   subdivision or municipal corporation thereof, for use in the  
459                   treatment of a human being or furnished for the treatment of a  
460                   human being by a medical facility or clinic maintained by this  
461                   state or any political subdivision or municipal corporation  
462                   thereof.

463                   "Medicines," as used in this paragraph (h), shall mean and  
464                   include any substance or preparation intended for use by external  
465                   or internal application to the human body in the diagnosis, cure,  
466                   mitigation, treatment or prevention of disease and which is  
467                   commonly recognized as a substance or preparation intended for  
468                   such use; provided that "medicines" do not include any auditory,  
469                   prosthetic, ophthalmic or ocular device or appliance, any dentures  
470                   or parts thereof or any artificial limbs or their replacement  
471                   parts, articles which are in the nature of splints, bandages,  
472                   pads, compresses, supports, dressings, instruments, apparatus,  
473                   contrivances, appliances, devices or other mechanical, electronic,  
474                   optical or physical equipment or article or the component parts  
475                   and accessories thereof, or any alcoholic beverage or any other  
476                   drug or medicine not commonly referred to as a prescription drug.

477                   Notwithstanding the preceding sentence of this paragraph (h),  
478                   "medicines" as used in this paragraph (h), shall mean and include  
479                   sutures, whether or not permanently implanted, bone screws, bone  
480                   pins, pacemakers and other articles permanently implanted in the  
481                   human body to assist the functioning of any natural organ, artery,  
482                   vein or limb and which remain or dissolve in the body.

483                   "Hospital," as used in this paragraph (h), shall have the  
484                   meaning ascribed to it in Section 41-9-3, Mississippi Code of  
485                   1972.

486           Insulin furnished by a registered pharmacist to a person for  
487 treatment of diabetes as directed by a physician shall be deemed  
488 to be dispensed on prescription within the meaning of this  
489 paragraph (h).

490           (i) Retail sales of automobiles, trucks and  
491 truck-tractors if exported from this state within forty-eight (48)  
492 hours and registered and first used in another state.

493           (j) Sales of tangible personal property or services to  
494 the Salvation Army and the Muscular Dystrophy Association, Inc.

495           (k) From July 1, 1985, through December 31, 1992,  
496 retail sales of "alcohol blended fuel" as such term is defined in  
497 Section 75-55-5. The gasoline-alcohol blend or the straight  
498 alcohol eligible for this exemption shall not contain alcohol  
499 distilled outside the State of Mississippi.

500           (l) Sales of tangible personal property or services to  
501 the Institute for Technology Development.

502           (m) The gross proceeds of retail sales of food and  
503 drink for human consumption made through vending machines serviced  
504 by full line vendors from and not connected with other taxable  
505 businesses.

506           (n) The gross proceeds of sales of motor fuel.

507           (o) Retail sales of food for human consumption  
508 purchased with food stamps issued by the United States Department  
509 of Agriculture, or other federal agency, from and after October 1,  
510 1987, or from and after the expiration of any waiver granted  
511 pursuant to federal law, the effect of which waiver is to permit  
512 the collection by the state of tax on such retail sales of food  
513 for human consumption purchased with food stamps.

514           (p) Sales of cookies for human consumption by the Girl  
515 Scouts of America no part of the net earnings from which sales  
516 inures to the benefit of any private group or individual.

517           (q) Gifts or sales of tangible personal property or  
518 services to public or private nonprofit museums of art.



519 (r) Sales of tangible personal property or services to  
520 alumni associations of state-supported colleges or universities.

521 (s) Sales of tangible personal property or services to  
522 chapters of the National Association of Junior Auxiliaries, Inc.

523 (t) Sales of tangible personal property or services to  
524 domestic violence shelters which qualify for state funding under  
525 Sections 93-21-101 through 93-21-113.

526 (u) Sales of tangible personal property or services to  
527 the National Multiple Sclerosis Society, Mississippi Chapter.

528 (v) Retail sales of food for human consumption  
529 purchased with food instruments issued the Mississippi Band of  
530 Choctaw Indians under the Women, Infants and Children Program  
531 (WIC) funded by the United States Department of Agriculture.

532 (w) Sales of tangible personal property or services to  
533 a private company, as defined in Section 57-61-5, which is making  
534 such purchases with proceeds of bonds issued under Section 57-61-1  
535 et seq., the Mississippi Business Investment Act.

536 (x) The gross collections from the operation of  
537 self-service, coin-operated car washing equipment and sales of the  
538 service of washing motor vehicles with portable high-pressure  
539 washing equipment on the premises of the customer.

540 (y) Sales of tangible personal property or services to  
541 the Mississippi Technology Alliance.

542 **SECTION 6.** Section 27-7-15, Mississippi Code of 1972, is  
543 brought forward as follows:

544 27-7-15. (1) For the purposes of this article, except as  
545 otherwise provided, the term "gross income" means and includes the  
546 income of a taxpayer derived from salaries, wages, fees or  
547 compensation for service, of whatever kind and in whatever form  
548 paid, including income from governmental agencies and subdivisions  
549 thereof; or from professions, vocations, trades, businesses,  
550 commerce or sales, or renting or dealing in property, or  
551 reacquired property; also from annuities, interest, rents,

552 dividends, securities, insurance premiums, reinsurance premiums,  
553 considerations for supplemental insurance contracts, or the  
554 transaction of any business carried on for gain or profit, or  
555 gains, or profits, and income derived from any source whatever and  
556 in whatever form paid. The amount of all such items of income  
557 shall be included in the gross income for the taxable year in  
558 which received by the taxpayer. The amount by which an eligible  
559 employee's salary is reduced pursuant to a salary reduction  
560 agreement authorized under Section 25-17-5 shall be excluded from  
561 the term "gross income" within the meaning of this article.

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

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

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

570 (i) Prior to January 1, 2001, federal rules,  
571 regulations and revenue procedures shall be followed with respect  
572 to installment sales except they shall be applied and administered  
573 as if H.R. 3594, the Installment Tax Correction Act of 2000 of the  
574 106th Congress, had not been enacted. This provision will  
575 generally affect taxpayers, reporting on the accrual method of  
576 accounting, entering into installment note agreements on or after  
577 December 17, 1999. Any gain or profit resulting from the casual  
578 sale of property will be recognized in the year of sale.

579 (ii) From and after January 1, 2001, federal  
580 rules, regulations and revenue procedures shall be followed with  
581 respect to installment sales except as provided in this  
582 subparagraph (ii). Gain or profit from the casual sale of  
583 property shall be recognized in the year of sale. When a taxpayer  
584 recognizes gain on the casual sale of property in which the gain

585 is deferred for federal income tax purposes, a taxpayer may elect  
586 to defer the payment of tax resulting from the gain as allowed and  
587 to the extent provided under regulations prescribed by the  
588 commissioner. If the payment of the tax is made on a deferred  
589 basis, the tax shall be computed based on the applicable rate for  
590 the income reported in the year the payment is made. Except as  
591 otherwise provided in subparagraph (iii) of this paragraph (b),  
592 deferring the payment of the tax shall not affect the liability  
593 for the tax. If at any time the installment note is sold,  
594 contributed, transferred or disposed of in any manner and for any  
595 purpose by the original note holder, or the original note holder  
596 is merged, liquidated, dissolved or withdrawn from this state,  
597 then all deferred tax payments under this section shall  
598 immediately become due and payable.

599 (iii) If the selling price of the property is  
600 reduced by any alteration in the terms of an installment note,  
601 including default by the purchaser, the gain to be recognized is  
602 recomputed based on the adjusted selling price in the same manner  
603 as for federal income tax purposes. The tax on this amount, less  
604 the previously paid tax on the recognized gain, is payable over  
605 the period of the remaining installments. If the tax on the  
606 previously recognized gain has been paid in full to this state,  
607 the return on which the payment was made may be amended for this  
608 purpose only. The statute of limitations in Section 27-7-49 shall  
609 not bar an amended return for this purpose.

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

613 (d) **Affiliated companies or persons.** As regards sales,  
614 exchanges or payments for services from one to another of  
615 affiliated companies or persons or under other circumstances where  
616 the relation between the buyer and seller is such that gross  
617 proceeds from the sale or the value of the exchange or the payment

618 for services are not indicative of the true value of the subject  
619 matter of the sale, exchange or payment for services, the  
620 commissioner shall prescribe uniform and equitable rules for  
621 determining the true value of the gross income, gross sales,  
622 exchanges or payment for services, or require consolidated returns  
623 of affiliates.

624 (e) **Alimony and separate maintenance payments.** The  
625 federal rules, regulations and revenue procedures in determining  
626 the deductibility and taxability of alimony payments shall be  
627 followed in this state.

628 (f) **Reimbursement for expenses of moving.** There shall  
629 be included in gross income (as compensation for services) any  
630 amount received or accrued, directly or indirectly, by an  
631 individual as a payment for or reimbursement of expenses of moving  
632 from one residence to another residence which is attributable to  
633 employment or self-employment.

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

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

639 (a) The proceeds of life insurance policies and  
640 contracts paid upon the death of the insured. However, the income  
641 from the proceeds of such policies or contracts shall be included  
642 in the gross income.

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

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

650           (d) Interest upon the obligations of the United States  
651 or its possessions, or securities issued under the provisions of  
652 the Federal Farm Loan Act of July 17, 1916, or bonds issued by the  
653 War Finance Corporation, or obligations of the State of  
654 Mississippi or political subdivisions thereof.

655           (e) The amounts received through accident or health  
656 insurance as compensation for personal injuries or sickness, plus  
657 the amount of any damages received for such injuries or such  
658 sickness or injuries, or through the War Risk Insurance Act, or  
659 any law for the benefit or relief of injured or disabled members  
660 of the military or naval forces of the United States.

661           (f) Income received by any religious denomination or by  
662 any institution or trust for moral or mental improvements,  
663 religious, Bible, tract, charitable, benevolent, fraternal,  
664 missionary, hospital, infirmary, educational, scientific,  
665 literary, library, patriotic, historical or cemetery purposes or  
666 for two (2) or more of such purposes, if such income be used  
667 exclusively for carrying out one or more of such purposes.

668           (g) Income received by a domestic corporation which is  
669 "taxable in another state" as this term is defined in this  
670 article, derived from business activity conducted outside this  
671 state. Domestic corporations taxable both within and without the  
672 state shall determine Mississippi income on the same basis as  
673 provided for foreign corporations under the provisions of this  
674 article.

675           (h) In case of insurance companies, there shall be  
676 excluded from gross income such portion of actual premiums  
677 received from an individual policyholder as is paid back or  
678 credited to or treated as an abatement of premiums of such  
679 policyholder within the taxable year.

680           (i) Income from dividends that has already borne a tax  
681 as dividend income under the provisions of this article, when such

682 dividends may be specifically identified in the possession of the  
683 recipient.

684 (j) Amounts paid by the United States to a person as  
685 added compensation for hazardous duty pay as a member of the Armed  
686 Forces of the United States in a combat zone designated by  
687 Executive Order of the President of the United States.

688 (k) Amounts received as retirement allowances,  
689 pensions, annuities or optional retirement allowances paid under  
690 the federal Social Security Act, the Railroad Retirement Act, the  
691 Federal Civil Service Retirement Act, or any other retirement  
692 system of the United States government, retirement allowances paid  
693 under the Mississippi Public Employees' Retirement System,  
694 Mississippi Highway Safety Patrol Retirement System or any other  
695 retirement system of the State of Mississippi or any political  
696 subdivision thereof. The exemption allowed under this paragraph  
697 (k) shall be available to the spouse or other beneficiary at the  
698 death of the primary retiree.

699 (l) Amounts received as retirement allowances,  
700 pensions, annuities or optional retirement allowances paid by any  
701 public or governmental retirement system not designated in  
702 paragraph (k) or any private retirement system or plan of which  
703 the recipient was a member at any time during the period of his  
704 employment. Amounts received as a distribution under a Roth  
705 Individual Retirement Account shall be treated in the same manner  
706 as provided under the Internal Revenue Code of 1986, as amended.  
707 The exemption allowed under this paragraph (l) shall be available  
708 to the spouse or other beneficiary at the death of the primary  
709 retiree.

710 (m) Compensation not to exceed the aggregate sum of  
711 Five Thousand Dollars (\$5,000.00) for any taxable year received by  
712 a member of the National Guard or Reserve Forces of the United  
713 States as payment for inactive duty training, active duty training  
714 and state active duty.

715           (n) Compensation received for active service as a  
716 member below the grade of commissioned officer and so much of the  
717 compensation as does not exceed the maximum enlisted amount  
718 received for active service as a commissioned officer in the Armed  
719 Forces of the United States for any month during any part of which  
720 such members of the Armed Forces (i) served in a combat zone as  
721 designated by Executive Order of the President of the United  
722 States or a qualified hazardous duty area as defined by federal  
723 law, or both; or (ii) was hospitalized as a result of wounds,  
724 disease or injury incurred while serving in such combat zone. For  
725 the purposes of this paragraph (n), the term "maximum enlisted  
726 amount" means and has the same definition as that term has in 26  
727 USCS 112.

728           (o) The proceeds received from federal and state  
729 forestry incentives programs.

730           (p) The amount representing the difference between the  
731 increase of gross income derived from sales for export outside the  
732 United States as compared to the preceding tax year wherein gross  
733 income from export sales was highest, and the net increase in  
734 expenses attributable to such increased exports. In the absence  
735 of direct accounting the ratio of net profits to total sales may  
736 be applied to the increase in export sales. This paragraph (p)  
737 shall only apply to businesses located in this state engaging in  
738 the international export of Mississippi goods and services. Such  
739 goods or services shall have at least fifty percent (50%) of value  
740 added at a location in Mississippi.

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

744           (r) The amount deposited in a medical savings account,  
745 and any interest accrued thereon, that is a part of a medical  
746 savings account program as specified in the Medical Savings  
747 Account Act under Sections 71-9-1 through 71-9-9; provided,

748 however, that any amount withdrawn from such account for purposes  
749 other than paying eligible medical expense or to procure health  
750 coverage shall be included in gross income.

751 (s) Amounts paid by the Mississippi Soil and Water  
752 Conservation Commission from the Mississippi Soil and Water  
753 Cost-Share Program for the installation of water quality best  
754 management practices.

755 (t) Dividends received by a holding corporation, as  
756 defined in Section 27-13-1, from a subsidiary corporation, as  
757 defined in Section 27-13-1.

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

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

767 (w) Income resulting from transactions with a related  
768 member where the related member subject to tax under this chapter  
769 was required to, and did in fact, add back the expense of such  
770 transactions as required by Section 27-7-17(2). Under no  
771 circumstances may the exclusion from income exceed the deduction  
772 add-back of the related member, nor shall the exclusion apply to  
773 any income otherwise excluded under this chapter.

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

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



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

782 (a) **Members of the Armed Forces.** Gross income does not  
783 include compensation received for active service as a member of  
784 the Armed Forces of the United States for any month during any  
785 part of which such member is in a missing status, as defined in  
786 paragraph (d) of this subsection, during the Vietnam Conflict as a  
787 result of such conflict.

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

792 (c) **Period of conflict.** For the purpose of this  
793 subsection, the Vietnam Conflict began February 28, 1961, and ends  
794 on the date designated by the President by Executive Order as the  
795 date of the termination of combatant activities in Vietnam. For  
796 the purpose of this subsection, an individual is in a missing  
797 status as a result of the Vietnam Conflict if immediately before  
798 such status began he was performing service in Vietnam or was  
799 performing service in Southeast Asia in direct support of military  
800 operations in Vietnam. "Southeast Asia," as used in this  
801 paragraph, is defined to include Cambodia, Laos, Thailand and  
802 waters adjacent thereto.

803 (d) "Missing status" means the status of an employee or  
804 member of the Armed Forces who is in active service and is  
805 officially carried or determined to be absent in a status of (i)  
806 missing; (ii) missing in action; (iii) interned in a foreign  
807 country; (iv) captured, beleaguered or besieged by a hostile  
808 force; or (v) detained in a foreign country against his will; but  
809 does not include the status of an employee or member of the Armed  
810 Forces for a period during which he is officially determined to be  
811 absent from his post of duty without authority.

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

815           (f) "Employee" means one who is a citizen or national  
816 of the United States or an alien admitted to the United States for  
817 permanent residence and is a resident of the State of Mississippi  
818 and is employed in or under a federal executive agency or  
819 department of the Armed Forces.

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

824           (h) If refund or credit of any overpayment of tax for  
825 any taxable year resulting from the application of subsection (5)  
826 of this section is prevented by the operation of any law or rule  
827 of law, such refund or credit of such overpayment of tax may,  
828 nevertheless, be made or allowed if claim therefor is filed with  
829 the State Tax Commission within three (3) years after the date of  
830 the enactment of this subsection.

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

833           (6) A shareholder of an S corporation, as defined in Section  
834 27-8-3(1)(g), shall take into account the income, loss, deduction  
835 or credit of the S corporation only to the extent provided in  
836 Section 27-8-7(2).

837           **SECTION 7.** This act shall take effect and be in force from  
838 and after July 1, 2005.