

By: Representatives Dedeaux, Bondurant

To: Public Health and Human
Services; Ways and Means

HOUSE BILL NO. 1372

1 AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF HEALTH ACCESS
2 ACCOUNTS IN THE STATE OF MISSISSIPPI; TO DEFINE CERTAIN TERMS; TO
3 PROVIDE FOR THE ADMINISTRATION OF THOSE ACCOUNTS; TO AMEND SECTION
4 27-7-17, MISSISSIPPI CODE OF 1972, TO ALLOW ELIGIBLE EMPLOYERS TO
5 DEDUCT CONTRIBUTIONS TO A HEALTH ACCESS ACCOUNT FROM INCOME TAXES;
6 TO AMEND SECTION 27-7-15, MISSISSIPPI CODE OF 1972, TO EXCLUDE
7 FROM AN ELIGIBLE EMPLOYEE'S GROSS INCOME EMPLOYER CONTRIBUTIONS TO
8 A HEALTH ACCESS ACCOUNT; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** This act shall be known as the Health Access
11 Account Act of 2006.

12 **SECTION 2.** The purpose of this act is to provide a means by
13 which employers and lower income employees may jointly participate
14 in the funding of health care service for those lower income
15 persons, thereby assisting them in becoming independent of public
16 medical assistance programs and uncompensated care.

17 **SECTION 3.** For purposes of this act, the following terms
18 shall have the meanings ascribed to them in this section:

19 (a) "Health access account" means an account managed by
20 an administrator created by an eligible employer for the benefit
21 of an eligible employee.

22 (b) "Eligible employee" means:

23 (i) Any person who is employed for more than
24 twenty (20) hours per week, who is compensated on an hourly basis
25 per week, whose annual compensation is less than one hundred fifty
26 percent (150%) of the federal poverty level for a family of two
27 (2), and who has been employed in his job for three (3)
28 consecutive months; or

29 (ii) Any salaried employee or self-employed person
30 whose annual compensation is less than one hundred fifty percent

31 (150%) of the federal poverty level for a family of two (2), who
32 has been employed in his job for three (3) consecutive months.

33 (c) "Eligible employer" means any employer who employs
34 fewer than fifty (50) employees.

35 (d) "Eligible expenses" means any medical expenses of
36 an eligible employee, his spouse or other dependents. These
37 expenses shall be limited to costs associated with visits to
38 physicians, dentists, optometrists, physical therapists,
39 chiropractors, hospitals, clinics, prescription drugs and premium
40 payments for health insurance.

41 (e) "Administrator" means any person, firm,
42 corporation, partnership or other entity with which an eligible
43 employer enters into a contract to administer a health access
44 account program.

45 **SECTION 4.** (1) Any eligible employer may establish a health
46 access program for eligible employees by complying with the
47 requirements of this act.

48 (2) Health access accounts shall include monthly
49 contributions from eligible employers and may include
50 contributions from eligible employees that may be expended for the
51 eligible expenses. However, any eligible employee who is salaried
52 as defined in paragraph (b)(ii) of Section 3 of this act shall be
53 eligible to contribute more than ten percent (10%) of his annual
54 income to the account. No eligible employer shall be limited in
55 the amount that he or she may contribute to those accounts, but
56 shall insure that each eligible employee receives an equal amount
57 for each hour worked each month. Employers shall not be required
58 to provide any other form of health care insurance coverage for
59 those employees.

60 (3) Each eligible employer choosing to establish health
61 access accounts for employees shall contract with an administrator
62 to receive and disburse funds in accordance with the requirements
63 of this act. To be eligible to serve as an administrator, a

64 person, firm, corporation, partnership or other entity, domestic
65 or foreign, must be authorized to do business in Mississippi or a
66 health insurer authorized to do business in the State of
67 Mississippi.

68 (4) An administrator shall be responsible for collecting and
69 disbursing funds to eligible employees, and shall have the
70 authority to establish criteria for documenting eligible expenses,
71 and rules for administering those accounts. Administrators shall
72 pay directly to eligible employees funds from accounts to
73 reimburse them for their eligible expenses, or may establish other
74 methods for paying providers. Only eligible expenses shall be
75 reimbursed. Administrators may contract with eligible employers
76 for reasonable fees necessary to administer accounts.

77 (5) Eligible employees may make contributions to those
78 accounts in an amount that they deem appropriate, and shall retain
79 rights to any balances in their accounts for so long as the
80 eligible employer who creates the account employs them. Eligible
81 employees shall have no rights to any interest earned on their
82 accounts.

83 (6) Following termination of employment, an eligible
84 employee may continue to draw down on his account balances until
85 they are exhausted, but no new contributions may be made to the
86 account.

87 (7) If an eligible employee ceases to be eligible in any
88 year because of an increase in income above the level established
89 in Section 3 of this act, the eligible employee may continue to
90 draw on any amounts already deposited to the account until the
91 balance has been exhausted.

92 (8) Upon the death of an eligible employee, the
93 administrator shall distribute the principal and accumulated
94 interest of the health access account to the estate of the
95 deceased.

96 **SECTION 5.** Section 27-7-17, Mississippi Code of 1972, is
97 amended as follows:

98 27-7-17. In computing taxable income, there shall be allowed
99 as deductions:

100 (1) **Business deductions.**

101 (a) **Business expenses.** All the ordinary and necessary
102 expenses paid or incurred during the taxable year in carrying on
103 any trade or business, including a reasonable allowance for
104 salaries or other compensation for personal services actually
105 rendered; nonreimbursable traveling expenses incident to current
106 employment, including a reasonable amount expended for meals and
107 lodging while away from home in the pursuit of a trade or
108 business; and rentals or other payments required to be made as a
109 condition of the continued use or possession, for purposes of the
110 trade or business of property to which the taxpayer has not taken
111 or is not taking title or in which he had no equity. Expense
112 incurred in connection with earning and distributing nontaxable
113 income is not an allowable deduction. Limitations on
114 entertainment expenses shall conform to the provisions of the
115 Internal Revenue Code of 1986.

116 (b) **Interest.** All interest paid or accrued during the
117 taxable year on business indebtedness, except interest upon the
118 indebtedness for the purchase of tax-free bonds, or any stocks,
119 the dividends from which are nontaxable under the provisions of
120 this article; provided, however, in the case of securities
121 dealers, interest payments or accruals on loans, the proceeds of
122 which are used to purchase tax-exempt securities, shall be
123 deductible if income from otherwise tax-free securities is
124 reported as income. Investment interest expense shall be limited
125 to investment income. Interest expense incurred for the purchase
126 of treasury stock, to pay dividends, or incurred as a result of an
127 undercapitalized affiliated corporation may not be deducted unless
128 an ordinary and necessary business purpose can be established to

129 the satisfaction of the commissioner. For the purposes of this
130 paragraph, the phrase "interest upon the indebtedness for the
131 purchase of tax-free bonds" applies only to the indebtedness
132 incurred for the purpose of directly purchasing tax-free bonds and
133 does not apply to any other indebtedness incurred in the regular
134 course of the taxpayer's business. Any corporation, association,
135 organization or other entity taxable under Section 27-7-23(c)
136 shall allocate interest expense as provided in Section
137 27-7-23(c)(3)(I).

138 (c) **Taxes.** Taxes paid or accrued within the taxable
139 year, except state and federal income taxes, excise taxes based on
140 or measured by net income, estate and inheritance taxes, gift
141 taxes, cigar and cigarette taxes, gasoline taxes, and sales and
142 use taxes unless incurred as an item of expense in a trade or
143 business or in the production of taxable income. In the case of
144 an individual, taxes permitted as an itemized deduction under the
145 provisions of subsection (3)(a) of this section are to be claimed
146 thereunder.

147 (d) **Business losses.**

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

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

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

160 (f) **Depreciation.** A reasonable allowance for
161 exhaustion, wear and tear of property used in the trade or

162 business, or rental property, and depreciation upon buildings
163 based upon their reasonable value as of March 16, 1912, if
164 acquired prior thereto, and upon cost if acquired subsequent to
165 that date.

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

173 (h) **Contributions or gifts.** Except as otherwise
174 provided in subsection (3)(a) of this section for individuals,
175 contributions or gifts made by corporations within the taxable
176 year to corporations, organizations, associations or institutions,
177 including Community Chest funds, foundations and trusts created
178 solely and exclusively for religious, charitable, scientific or
179 educational purposes, or for the prevention of cruelty to children
180 or animals, no part of the net earnings of which inure to the
181 benefit of any private stockholder or individual. This deduction
182 shall be allowed in an amount not to exceed twenty percent (20%)
183 of the net income. Such contributions or gifts shall be allowable
184 as deductions only if verified under rules and regulations
185 prescribed by the commissioner, with the approval of the Governor.
186 Contributions made in any form other than cash shall be allowed as
187 a deduction, subject to the limitations herein provided, in an
188 amount equal to the actual market value of the contributions at
189 the time the contribution is actually made and consummated.

190 (i) **Reserve funds - insurance companies.** In the case
191 of insurance companies the net additions required by law to be
192 made within the taxable year to reserve funds when such reserve
193 funds are maintained for the purpose of liquidating policies at
194 maturity.

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

198 (k) **Contributions to employee pension plans.**
199 Contributions made by an employer to a plan or a trust forming
200 part of a pension plan, stock bonus plan, disability or
201 death-benefit plan, or profit-sharing plan of such employer for
202 the exclusive benefit of some or all of his, their, or its
203 employees, or their beneficiaries, shall be deductible from his,
204 their, or its income only to the extent that, and for the taxable
205 year in which, the contribution is deductible for federal income
206 tax purposes under the Internal Revenue Code of 1986 and any other
207 provisions of similar purport in the Internal Revenue Laws of the
208 United States, and the rules, regulations, rulings and
209 determinations promulgated thereunder, provided that:

210 (i) The plan or trust be irrevocable.

211 (ii) The plan or trust constitute a part of a
212 pension plan, stock bonus plan, disability or death-benefit plan,
213 or profit-sharing plan for the exclusive benefit of some or all of
214 the employer's employees and/or officers, or their beneficiaries,
215 for the purpose of distributing the corpus and income of the plan
216 or trust to such employees and/or officers, or their
217 beneficiaries.

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

221 Contributions to all plans or to all trusts of real or
222 personal property (or real and personal property combined) or to
223 insured plans created under a retirement plan for which provision
224 has been made under the laws of the United States of America,
225 making such contributions deductible from income for federal
226 income tax purposes, shall be deductible only to the same extent
227 under the Income Tax Laws of the State of Mississippi.

228 (1) **Net operating loss carrybacks and carryovers.** A
229 net operating loss for any taxable year ending after December 31,
230 1993, and taxable years thereafter, shall be a net operating loss
231 carryback to each of the three (3) taxable years preceding the
232 taxable year of the loss. If the net operating loss for any
233 taxable year is not exhausted by carrybacks to the three (3)
234 taxable years preceding the taxable year of the loss, then there
235 shall be a net operating loss carryover to each of the fifteen
236 (15) taxable years following the taxable year of the loss
237 beginning with any taxable year after December 31, 1991.

238 For any taxable year ending after December 31, 1997, the
239 period for net operating loss carrybacks and net operating loss
240 carryovers shall be the same as those established by the Internal
241 Revenue Code and the rules, regulations, rulings and
242 determinations promulgated thereunder as in effect at the taxable
243 year end or on December 31, 2000, whichever is earlier.

244 A net operating loss for any taxable year ending after
245 December 31, 2001, and taxable years thereafter, shall be a net
246 operating loss carryback to each of the two (2) taxable years
247 preceding the taxable year of the loss. If the net operating loss
248 for any taxable year is not exhausted by carrybacks to the two (2)
249 taxable years preceding the taxable year of the loss, then there
250 shall be a net operating loss carryover to each of the twenty (20)
251 taxable years following the taxable year of the loss beginning
252 with any taxable year after the taxable year of the loss.

253 The term "net operating loss," for the purposes of this
254 paragraph, shall be the excess of the deductions allowed over the
255 gross income; provided, however, the following deductions shall
256 not be allowed in computing same:

257 (i) No net operating loss deduction shall be
258 allowed.

259 (ii) No personal exemption deduction shall be
260 allowed.

261 (iii) Allowable deductions which are not
262 attributable to taxpayer's trade or business shall be allowed only
263 to the extent of the amount of gross income not derived from such
264 trade or business.

265 Any taxpayer entitled to a carryback period as provided by
266 this paragraph may elect to relinquish the entire carryback period
267 with respect to a net operating loss for any taxable year ending
268 after December 31, 1991. The election shall be made in the manner
269 prescribed by the State Tax Commission and shall be made by the
270 due date, including extensions of time, for filing the taxpayer's
271 return for the taxable year of the net operating loss for which
272 the election is to be in effect. The election, once made for any
273 taxable year, shall be irrevocable for that taxable year.

274 (m) **Amortization of pollution or environmental control**
275 **facilities.** Allowance of deduction. Every taxpayer, at his
276 election, shall be entitled to a deduction for pollution or
277 environmental control facilities to the same extent as that
278 allowed under the Internal Revenue Code and the rules,
279 regulations, rulings and determinations promulgated thereunder.

280 (n) **Dividend distributions - real estate investment**
281 **trusts.** "Real estate investment trust" (hereinafter referred to
282 as REIT) shall have the meaning ascribed to such term in Section
283 856 of the federal Internal Revenue Code of 1986, as amended. A
284 REIT is allowed a dividend distributed deduction if the dividend
285 distributions meet the requirements of Section 857 or are
286 otherwise deductible under Section 858 or 860, federal Internal
287 Revenue Code of 1986, as amended. In addition:

288 (i) A dividend distributed deduction shall only be
289 allowed for dividends paid by a publicly traded REIT. A qualified
290 REIT subsidiary shall be allowed a dividend distributed deduction
291 if its owner is a publicly traded REIT.

292 (ii) Income generated from real estate contributed
293 or sold to a REIT by a shareholder or related party shall not give

294 rise to a dividend distributed deduction, unless the shareholder
295 or related party would have received the dividend distributed
296 deduction under this chapter.

297 (iii) A holding corporation receiving a dividend
298 from a REIT shall not be allowed the deduction in Section
299 27-7-15(4)(t).

300 (iv) Any REIT not allowed the dividend distributed
301 deduction in the federal Internal Revenue Code of 1986, as
302 amended, shall not be allowed a dividend distributed deduction
303 under this chapter.

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

308 (o) **Contributions to college savings trust fund**
309 **accounts.** Contributions or payments to a Mississippi Affordable
310 College Savings Program account are deductible as provided under
311 Section 37-155-113. Payments made under a prepaid tuition
312 contract entered into under the Mississippi Prepaid Affordable
313 College Tuition Program are deductible as provided under Section
314 37-155-17.

315 (p) **Employer contributions to health access accounts.**
316 Eligible employers as defined in Section 3 of this act may deduct
317 all contributions made to health access accounts for the benefit
318 of eligible employees.

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

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

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

323 1. Expenses, losses and costs for, related
324 to, or in connection directly or indirectly with the direct or
325 indirect acquisition, use, maintenance or management, ownership,
326 sale, exchange or any other disposition of intangible property to

327 the extent such amounts are allowed as deductions or costs in
328 determining taxable income under this chapter;

329 2. Expenses or losses related to or incurred
330 in connection directly or indirectly with factoring transactions
331 or discounting transactions;

332 3. Royalty, patent, technical and copyright
333 fees;

334 4. Licensing fees; and

335 5. Other similar expenses and costs.

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

339 (iii) "Interest expenses and cost" means amounts
340 directly or indirectly allowed as deductions for purposes of
341 determining taxable income under this chapter to the extent such
342 interest expenses and costs are directly or indirectly for,
343 related to, or in connection with the direct or indirect
344 acquisition, maintenance, management, ownership, sale, exchange or
345 disposition of intangible property.

346 (iv) "Related member" means an entity or person
347 that, with respect to the taxpayer during all or any portion of
348 the taxable year, is a related entity, a component member as
349 defined in the Internal Revenue Code, or is an entity or a person
350 to or from whom there is attribution of stock ownership in
351 accordance with Section 1563(e) of the Internal Revenue Code.

352 (v) "Related entity" means:

353 1. A stockholder who is an individual or a
354 member of the stockholder's family, as defined in regulations
355 prescribed by the commissioner, if the stockholder and the members
356 of the stockholder's family own, directly, indirectly,
357 beneficially or constructively, in the aggregate, at least fifty
358 percent (50%) of the value of the taxpayer's outstanding stock;

359 2. A stockholder, or a stockholder's
360 partnership, limited liability company, estate, trust or
361 corporation, if the stockholder and the stockholder's
362 partnerships, limited liability companies, estates, trusts and
363 corporations own, directly, indirectly, beneficially or
364 constructively, in the aggregate, at least fifty percent (50%) of
365 the value of the taxpayer's outstanding stock;

366 3. A corporation, or a party related to the
367 corporation in a manner that would require an attribution of stock
368 from the corporation to the party or from the party to the
369 corporation, if the taxpayer owns, directly, indirectly,
370 beneficially or constructively, at least fifty percent (50%) of
371 the value of the corporation's outstanding stock under regulation
372 prescribed by the commissioner;

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

376 (b) In computing net income, a taxpayer shall add back
377 otherwise deductible interest expenses and costs and intangible
378 expenses and costs directly or indirectly paid, accrued to or
379 incurred, in connection directly or indirectly with one or more
380 direct or indirect transactions with one or more related members.

381 (c) The adjustments required by this subsection shall
382 not apply to such portion of interest expenses and costs and
383 intangible expenses and costs that the taxpayer can establish
384 meets one (1) of the following:

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

388 (ii) The transaction giving rise to the interest
389 expenses and costs or intangible expenses and costs between the
390 taxpayer and related member was done primarily for a valid
391 business purpose other than the avoidance of taxes, and the

392 related member is not primarily engaged in the acquisition, use,
393 maintenance or management, ownership, sale, exchange or any other
394 disposition of intangible property.

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

399 (e) The commissioner may prescribe such regulations as
400 necessary or appropriate to carry out the purposes of this
401 subsection, including, but not limited to, clarifying definitions
402 of terms, rules of stock attribution, factoring and discount
403 transactions.

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

405 (a) The amount allowable for individual nonbusiness
406 itemized deductions for federal income tax purposes where the
407 individual is eligible to elect, for the taxable year, to itemize
408 deductions on his federal return except the following:

409 (i) The deduction for state income taxes paid or
410 other taxes allowed for federal purposes in lieu of state income
411 taxes paid;

412 (ii) The deduction for gaming losses from gaming
413 establishments;

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

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

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

423 (i) Three Thousand Four Hundred Dollars
424 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred

425 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand
426 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter
427 in the case of married individuals filing a joint or combined
428 return;

429 (ii) One Thousand Seven Hundred Dollars
430 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred
431 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand
432 Three Hundred Dollars (\$2,300.00) for each calendar year
433 thereafter in the case of married individuals filing separate
434 returns;

435 (iii) Three Thousand Four Hundred Dollars
436 (\$3,400.00) in the case of a head of family; or

437 (iv) Two Thousand Three Hundred Dollars
438 (\$2,300.00) in the case of an individual who is not married.

439 In the case of a husband and wife living together, having
440 separate incomes, and filing combined returns, the standard
441 deduction authorized may be divided in any manner they choose. In
442 the case of separate returns by a husband and wife, the standard
443 deduction shall not be allowed to either if the taxable income of
444 one of the spouses is determined without regard to the standard
445 deduction.

446 (c) A nonresident individual shall be allowed the same
447 individual nonbusiness deductions as are authorized for resident
448 individuals in paragraph (a) or (b) of this subsection; however,
449 the nonresident individual is entitled only to that proportion of
450 the individual nonbusiness deductions as his net income from
451 sources within the State of Mississippi bears to his total or
452 entire net income from all sources.

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

455 **SECTION 6.** Section 27-7-15, Mississippi Code of 1972, is
456 amended as follows:

457 27-7-15. (1) For the purposes of this article, except as
458 otherwise provided, the term "gross income" means and includes the
459 income of a taxpayer derived from salaries, wages, fees or
460 compensation for service, of whatever kind and in whatever form
461 paid, including income from governmental agencies and subdivisions
462 thereof; or from professions, vocations, trades, businesses,
463 commerce or sales, or renting or dealing in property, or
464 reacquired property; also from annuities, interest, rents,
465 dividends, securities, insurance premiums, reinsurance premiums,
466 considerations for supplemental insurance contracts, or the
467 transaction of any business carried on for gain or profit, or
468 gains, or profits, and income derived from any source whatever and
469 in whatever form paid. The amount of all such items of income
470 shall be included in the gross income for the taxable year in
471 which received by the taxpayer. The amount by which an eligible
472 employee's salary is reduced pursuant to a salary reduction
473 agreement authorized under Section 25-17-5 shall be excluded from
474 the term "gross income" within the meaning of this article.

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

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

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

483 (i) Prior to January 1, 2001, federal rules,
484 regulations and revenue procedures shall be followed with respect
485 to installment sales except they shall be applied and administered
486 as if H.R. 3594, the Installment Tax Correction Act of 2000 of the
487 106th Congress, had not been enacted. This provision will
488 generally affect taxpayers, reporting on the accrual method of
489 accounting, entering into installment note agreements on or after

490 December 17, 1999. Any gain or profit resulting from the casual
491 sale of property will be recognized in the year of sale.

492 (ii) From and after January 1, 2001, federal
493 rules, regulations and revenue procedures shall be followed with
494 respect to installment sales except as provided in this
495 subparagraph (ii). Gain or profit from the casual sale of
496 property shall be recognized in the year of sale. When a taxpayer
497 recognizes gain on the casual sale of property in which the gain
498 is deferred for federal income tax purposes, a taxpayer may elect
499 to defer the payment of tax resulting from the gain as allowed and
500 to the extent provided under regulations prescribed by the
501 commissioner. If the payment of the tax is made on a deferred
502 basis, the tax shall be computed based on the applicable rate for
503 the income reported in the year the payment is made. Except as
504 otherwise provided in subparagraph (iii) of this paragraph (b),
505 deferring the payment of the tax shall not affect the liability
506 for the tax. If at any time the installment note is sold,
507 contributed, transferred or disposed of in any manner and for any
508 purpose by the original note holder, or the original note holder
509 is merged, liquidated, dissolved or withdrawn from this state,
510 then all deferred tax payments under this section shall
511 immediately become due and payable.

512 (iii) If the selling price of the property is
513 reduced by any alteration in the terms of an installment note,
514 including default by the purchaser, the gain to be recognized is
515 recomputed based on the adjusted selling price in the same manner
516 as for federal income tax purposes. The tax on this amount, less
517 the previously paid tax on the recognized gain, is payable over
518 the period of the remaining installments. If the tax on the
519 previously recognized gain has been paid in full to this state,
520 the return on which the payment was made may be amended for this
521 purpose only. The statute of limitations in Section 27-7-49 shall
522 not bar an amended return for this purpose.

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

526 (d) **Affiliated companies or persons.** As regards sales,
527 exchanges or payments for services from one to another of
528 affiliated companies or persons or under other circumstances where
529 the relation between the buyer and seller is such that gross
530 proceeds from the sale or the value of the exchange or the payment
531 for services are not indicative of the true value of the subject
532 matter of the sale, exchange or payment for services, the
533 commissioner shall prescribe uniform and equitable rules for
534 determining the true value of the gross income, gross sales,
535 exchanges or payment for services, or require consolidated returns
536 of affiliates.

537 (e) **Alimony and separate maintenance payments.** The
538 federal rules, regulations and revenue procedures in determining
539 the deductibility and taxability of alimony payments shall be
540 followed in this state.

541 (f) **Reimbursement for expenses of moving.** There shall
542 be included in gross income (as compensation for services) any
543 amount received or accrued, directly or indirectly, by an
544 individual as a payment for or reimbursement of expenses of moving
545 from one residence to another residence which is attributable to
546 employment or self-employment.

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

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

552 (a) The proceeds of life insurance policies and
553 contracts paid upon the death of the insured. However, the income
554 from the proceeds of such policies or contracts shall be included
555 in the gross income.

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

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

563 (d) Interest upon the obligations of the United States
564 or its possessions, or securities issued under the provisions of
565 the Federal Farm Loan Act of July 17, 1916, or bonds issued by the
566 War Finance Corporation, or obligations of the State of
567 Mississippi or political subdivisions thereof.

568 (e) The amounts received through accident or health
569 insurance as compensation for personal injuries or sickness, plus
570 the amount of any damages received for such injuries or such
571 sickness or injuries, or through the War Risk Insurance Act, or
572 any law for the benefit or relief of injured or disabled members
573 of the military or naval forces of the United States.

574 (f) Income received by any religious denomination or by
575 any institution or trust for moral or mental improvements,
576 religious, Bible, tract, charitable, benevolent, fraternal,
577 missionary, hospital, infirmary, educational, scientific,
578 literary, library, patriotic, historical or cemetery purposes or
579 for two (2) or more of such purposes, if such income be used
580 exclusively for carrying out one or more of such purposes.

581 (g) Income received by a domestic corporation which is
582 "taxable in another state" as this term is defined in this
583 article, derived from business activity conducted outside this
584 state. Domestic corporations taxable both within and without the
585 state shall determine Mississippi income on the same basis as
586 provided for foreign corporations under the provisions of this
587 article.

588 (h) In case of insurance companies, there shall be
589 excluded from gross income such portion of actual premiums
590 received from an individual policyholder as is paid back or
591 credited to or treated as an abatement of premiums of such
592 policyholder within the taxable year.

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

597 (j) Amounts paid by the United States to a person as
598 added compensation for hazardous duty pay as a member of the Armed
599 Forces of the United States in a combat zone designated by
600 Executive Order of the President of the United States.

601 (k) Amounts received as retirement allowances,
602 pensions, annuities or optional retirement allowances paid under
603 the federal Social Security Act, the Railroad Retirement Act, the
604 Federal Civil Service Retirement Act, or any other retirement
605 system of the United States government, retirement allowances paid
606 under the Mississippi Public Employees' Retirement System,
607 Mississippi Highway Safety Patrol Retirement System or any other
608 retirement system of the State of Mississippi or any political
609 subdivision thereof. The exemption allowed under this paragraph
610 (k) shall be available to the spouse or other beneficiary at the
611 death of the primary retiree.

612 (l) Amounts received as retirement allowances,
613 pensions, annuities or optional retirement allowances paid by any
614 public or governmental retirement system not designated in
615 paragraph (k) or any private retirement system or plan of which
616 the recipient was a member at any time during the period of his
617 employment. Amounts received as a distribution under a Roth
618 Individual Retirement Account shall be treated in the same manner
619 as provided under the Internal Revenue Code of 1986, as amended.
620 The exemption allowed under this paragraph (l) shall be available

621 to the spouse or other beneficiary at the death of the primary
622 retiree.

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

628 (n) Compensation received for active service as a
629 member below the grade of commissioned officer and so much of the
630 compensation as does not exceed the maximum enlisted amount
631 received for active service as a commissioned officer in the Armed
632 Forces of the United States for any month during any part of which
633 such members of the Armed Forces (i) served in a combat zone as
634 designated by Executive Order of the President of the United
635 States or a qualified hazardous duty area as defined by federal
636 law, or both; or (ii) was hospitalized as a result of wounds,
637 disease or injury incurred while serving in such combat zone. For
638 the purposes of this paragraph (n), the term "maximum enlisted
639 amount" means and has the same definition as that term has in 26
640 USCS 112.

641 (o) The proceeds received from federal and state
642 forestry incentives programs.

643 (p) The amount representing the difference between the
644 increase of gross income derived from sales for export outside the
645 United States as compared to the preceding tax year wherein gross
646 income from export sales was highest, and the net increase in
647 expenses attributable to such increased exports. In the absence
648 of direct accounting the ratio of net profits to total sales may
649 be applied to the increase in export sales. This paragraph (p)
650 shall only apply to businesses located in this state engaging in
651 the international export of Mississippi goods and services. Such
652 goods or services shall have at least fifty percent (50%) of value
653 added at a location in Mississippi.

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

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

664 (s) Amounts paid by the Mississippi Soil and Water
665 Conservation Commission from the Mississippi Soil and Water
666 Cost-Share Program for the installation of water quality best
667 management practices.

668 (t) Dividends received by a holding corporation, as
669 defined in Section 27-13-1, from a subsidiary corporation, as
670 defined in Section 27-13-1.

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

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

680 (w) Income resulting from transactions with a related
681 member where the related member subject to tax under this chapter
682 was required to, and did in fact, add back the expense of such
683 transactions as required by Section 27-7-17(2). Under no
684 circumstances may the exclusion from income exceed the deduction
685 add-back of the related member, nor shall the exclusion apply to
686 any income otherwise excluded under this chapter.

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

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

694 (z) Interest, dividends, gains or income of any kind on
695 any account in a qualified tuition program and amounts received as
696 distributions under a qualified tuition program shall be treated
697 in the same manner as provided under the United States Internal
698 Revenue Code, as amended. For the purposes of this paragraph (z),
699 the term "qualified tuition program" means and has the same
700 definition as that term has in 26 USCS 529.

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

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

712 (cc) Amounts received as a "qualified Hurricane Katrina
713 distribution" as defined in the United States Internal Revenue
714 Code, as amended.

715 (dd) Employer contributions made to an eligible
716 employee's health access account established under Sections 1
717 through 4 of this act shall be excludable from the employee's
718 gross income.

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

720 (a) **Members of the Armed Forces.** Gross income does not
721 include compensation received for active service as a member of
722 the Armed Forces of the United States for any month during any
723 part of which such member is in a missing status, as defined in
724 paragraph (d) of this subsection, during the Vietnam Conflict as a
725 result of such conflict.

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

730 (c) **Period of conflict.** For the purpose of this
731 subsection, the Vietnam Conflict began February 28, 1961, and ends
732 on the date designated by the President by Executive Order as the
733 date of the termination of combatant activities in Vietnam. For
734 the purpose of this subsection, an individual is in a missing
735 status as a result of the Vietnam Conflict if immediately before
736 such status began he was performing service in Vietnam or was
737 performing service in Southeast Asia in direct support of military
738 operations in Vietnam. "Southeast Asia," as used in this
739 paragraph, is defined to include Cambodia, Laos, Thailand and
740 waters adjacent thereto.

741 (d) "Missing status" means the status of an employee or
742 member of the Armed Forces who is in active service and is
743 officially carried or determined to be absent in a status of (i)
744 missing; (ii) missing in action; (iii) interned in a foreign
745 country; (iv) captured, beleaguered or besieged by a hostile
746 force; or (v) detained in a foreign country against his will; but
747 does not include the status of an employee or member of the Armed
748 Forces for a period during which he is officially determined to be
749 absent from his post of duty without authority.

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

753 (f) "Employee" means one who is a citizen or national
754 of the United States or an alien admitted to the United States for
755 permanent residence and is a resident of the State of Mississippi
756 and is employed in or under a federal executive agency or
757 department of the Armed Forces.

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

762 (h) If refund or credit of any overpayment of tax for
763 any taxable year resulting from the application of subsection (5)
764 of this section is prevented by the operation of any law or rule
765 of law, such refund or credit of such overpayment of tax may,
766 nevertheless, be made or allowed if claim therefor is filed with
767 the State Tax Commission within three (3) years after the date of
768 the enactment of this subsection.

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

771 (6) A shareholder of an S corporation, as defined in Section
772 27-8-3(1)(g), shall take into account the income, loss, deduction
773 or credit of the S corporation only to the extent provided in
774 Section 27-8-7(2).

775 **SECTION 7.** This act shall take effect and be in force from
776 and after January 1, 2007.