

By: Hewes

To: Finance

SENATE BILL NO. 2956

1 AN ACT TO AMEND SECTION 27-7-17, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT CERTAIN SELF-EMPLOYMENT TAXES ASSESSED AGAINST  
3 SELF-EMPLOYED INDIVIDUALS SHALL BE ALLOWED AS INDIVIDUAL  
4 NONBUSINESS DEDUCTIONS IN COMPUTING TAXABLE INCOME; AND FOR  
5 RELATED PURPOSES.

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

7 SECTION 1. Section 27-7-17, Mississippi Code of 1972, is  
8 amended as follows:

9 27-7-17. In computing taxable income, there shall be allowed  
10 as deductions:

11 (1) **Business deductions.**

12 (a) Business expenses. All the ordinary and necessary  
13 expenses paid or incurred during the taxable year in carrying on  
14 any trade or business, including a reasonable allowance for  
15 salaries or other compensation for personal services actually  
16 rendered; nonreimbursable traveling expenses incident to current  
17 employment, including a reasonable amount expended for meals and  
18 lodging while away from home in the pursuit of a trade or  
19 business; and rentals or other payments required to be made as a  
20 condition of the continued use or possession, for purposes of the  
21 trade or business of property to which the taxpayer has not taken  
22 or is not taking title or in which he had no equity. Expense  
23 incurred in connection with earning and distributing nontaxable  
24 income is not an allowable deduction. Limitations on  
25 entertainment expenses shall conform to the provisions of the  
26 Internal Revenue Code of 1986.

27 (b) Interest. All interest paid or accrued during the

28 taxable year on business indebtedness, except interest upon the  
29 indebtedness for the purchase of tax-free bonds, or any stocks,  
30 the dividends from which are nontaxable under the provisions of  
31 this article; provided, however, in the case of securities  
32 dealers, interest payments or accruals on loans, the proceeds of  
33 which are used to purchase tax-exempt securities, shall be  
34 deductible if income from otherwise tax-free securities is  
35 reported as income. Investment interest expense shall be limited  
36 to investment income. Interest expense incurred for the purchase  
37 of treasury stock, to pay dividends, or incurred as a result of an  
38 undercapitalized affiliated corporation may not be deducted unless  
39 an ordinary and necessary business purpose can be established to  
40 the satisfaction of the commissioner. For the purposes of this  
41 paragraph, the phrase "interest upon the indebtedness for the  
42 purchase of tax-free bonds" applies only to the indebtedness  
43 incurred for the purpose of directly purchasing tax-free bonds and  
44 does not apply to any other indebtedness incurred in the regular  
45 course of the taxpayer's business. Any corporation, association,  
46 organization or other entity taxable under Section 27-7-23(c)  
47 shall allocate interest expense as provided in Section  
48 27-7-23(c)(4)(H).

49 (c) Taxes. Taxes paid or accrued within the taxable  
50 year, except state and federal income taxes, excise taxes based on  
51 or measured by net income, estate and inheritance taxes, gift  
52 taxes, cigar and cigarette taxes, gasoline taxes, and sales and  
53 use taxes unless incurred as an item of expense in a trade or  
54 business or in the production of taxable income. In the case of  
55 an individual, taxes permitted as an itemized deduction under the  
56 provisions of subsection (2)(a) of this section are to be claimed  
57 thereunder.

58 (d) Business losses.

59 (i) Losses sustained during the taxable year not  
60 compensated for by insurance or otherwise, if incurred in trade or

61 business, or nonbusiness transactions entered into for profit.

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

65 (e) Bad debts. Losses from debts ascertained to be  
66 worthless and charged off during the taxable year, if sustained in  
67 the conduct of the regular trade or business of the taxpayer;  
68 provided, that such losses shall be allowed only when the taxpayer  
69 has reported as income, on the accrual basis, the amount of such  
70 debt or account.

71 (f) Depreciation. A reasonable allowance for  
72 exhaustion, wear and tear of property used in the trade or  
73 business, or rental property, and depreciation upon buildings  
74 based upon their reasonable value as of March 16, 1912, if  
75 acquired prior thereto, and upon cost if acquired subsequent to  
76 that date.

77 (g) Depletion. In the case of mines, oil and gas  
78 wells, other natural deposits and timber, a reasonable allowance  
79 for depletion and for depreciation of improvements, based upon  
80 cost, including cost of development, not otherwise deducted, or  
81 fair market value as of March 16, 1912, if acquired prior to that  
82 date, such allowance to be made upon regulations prescribed by the  
83 commissioner, with the approval of the Governor.

84 (h) Contributions or gifts. Except as otherwise  
85 provided in subsection (2)(a) of this section for individuals,  
86 contributions or gifts made by corporations within the taxable  
87 year to corporations, organizations, associations or institutions,  
88 including Community Chest funds, foundations and trusts created  
89 solely and exclusively for religious, charitable, scientific or  
90 educational purposes, or for the prevention of cruelty to children  
91 or animals, no part of the net earnings of which inure to the  
92 benefit of any private stockholder or individual. This deduction  
93 shall be allowed in an amount not to exceed twenty percent (20%)

94 of the net income. Such contributions or gifts shall be allowable  
95 as deductions only if verified under rules and regulations  
96 prescribed by the commissioner, with the approval of the Governor.

97 Contributions made in any form other than cash shall be allowed  
98 as a deduction, subject to the limitations herein provided, in an  
99 amount equal to the actual market value of the contributions at  
100 the time the contribution is actually made and consummated.

101 (i) Reserve funds - insurance companies. In the case  
102 of insurance companies the net additions required by law to be  
103 made within the taxable year to reserve funds when such reserve  
104 funds are maintained for the purpose of liquidating policies at  
105 maturity.

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

109 (k) Contributions to employee pension plans.  
110 Contributions made by an employer to a plan or a trust forming  
111 part of a pension plan, stock bonus plan, disability or  
112 death-benefit plan, or profit-sharing plan of such employer for  
113 the exclusive benefit of some or all of his, their, or its  
114 employees, or their beneficiaries, shall be deductible from his,  
115 their, or its income only to the extent that, and for the taxable  
116 year in which, the contribution is deductible for federal income  
117 tax purposes under the Internal Revenue Code of 1986 and any other  
118 provisions of similar purport in the Internal Revenue Laws of the  
119 United States, and the rules, regulations, rulings and  
120 determinations promulgated thereunder, provided that:

121 (i) The plan or trust be irrevocable.

122 (ii) The plan or trust constitute a part of a  
123 pension plan, stock bonus plan, disability or death-benefit plan,  
124 or profit-sharing plan for the exclusive benefit of some or all of  
125 the employer's employees and/or officers, or their beneficiaries,  
126 for the purpose of distributing the corpus and income of the plan

127 or trust to such employees and/or officers, or their  
128 beneficiaries.

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

132 Contributions to all plans or to all trusts of real or  
133 personal property (or real and personal property combined) or to  
134 insured plans created under a retirement plan for which provision  
135 has been made under the laws of the United States of America,  
136 making such contributions deductible from income for federal  
137 income tax purposes, shall be deductible only to the same extent  
138 under the Income Tax Laws of the State of Mississippi.

139 (1) Net operating loss carrybacks and carryovers.  
140 A net operating loss for any taxable year ending after December  
141 31, 1993, and taxable years thereafter, shall be a net operating  
142 loss carryback to each of the three (3) taxable years preceding  
143 the taxable year of the loss. If the net operating loss for any  
144 taxable year is not exhausted by carrybacks to the three (3)  
145 taxable years preceding the taxable year of the loss, then there  
146 shall be a net operating loss carryover to each of the fifteen  
147 (15) taxable years following the taxable year of the loss  
148 beginning with any taxable year after December 31, 1991.

149 For any taxable year ending after December 31, 1997, the  
150 period for net operating loss carrybacks and net operating loss  
151 carryovers shall be the same as those established by the Internal  
152 Revenue Code and the rules, regulations, rulings and  
153 determinations promulgated thereunder.

154 The term "net operating loss," for the purposes of this  
155 paragraph, shall be the excess of the deductions allowed over the  
156 gross income; provided, however, the following deductions shall  
157 not be allowed in computing same:

158 (i) No net operating loss deduction shall be  
159 allowed.

160                   (ii) No personal exemption deduction shall be  
161 allowed.

162                   (iii) Allowable deductions which are not  
163 attributable to taxpayer's trade or business shall be allowed only  
164 to the extent of the amount of gross income not derived from such  
165 trade or business.

166           Any taxpayer entitled to a carryback period as provided by  
167 this paragraph may elect to relinquish the entire carryback period  
168 with respect to a net operating loss for any taxable year ending  
169 after December 31, 1991. The election shall be made in the manner  
170 prescribed by the State Tax Commission and shall be made by the  
171 due date, including extensions of time, for filing the taxpayer's  
172 return for the taxable year of the net operating loss for which  
173 the election is to be in effect. The election, once made for any  
174 taxable year, shall be irrevocable for that taxable year.

175                   (m) Amortization of pollution or environmental control  
176 facilities.

177           Allowance of deduction. Every taxpayer, at his election,  
178 shall be entitled to a deduction for pollution or environmental  
179 control facilities to the same extent as that allowed under the  
180 Internal Revenue Code and the rules, regulations, rulings and  
181 determinations promulgated thereunder.

182                   (n) Dividend distributions - investment trusts.  
183 Dividends distributed by an investment trust defined in Section  
184 79-15-3, if the dividend distributions meet the requirements of  
185 Section 857 or are otherwise deductible under Section 858 or 860,  
186 federal Internal Revenue Code of 1986, as amended. The deductions  
187 allowed in this paragraph shall be effective for the 1985 taxable  
188 year of the investment trust and for each taxable year thereafter.

189           (2) Individual nonbusiness deductions.

190                   (a) (i) The amount allowable for individual  
191 nonbusiness itemized deductions for federal income tax purposes,  
192 except the deduction for state income taxes paid, where the

193 individual is eligible to elect, for the taxable year, to itemize  
194 deductions on his federal return, and (ii) in the case of a  
195 self-employed individual, an amount equal to one-half (1/2) of the  
196 self-employment taxes imposed on such individual for the taxable  
197 year. However, for the 1999 calendar year, the deduction  
198 authorized by this subparagraph (ii) shall not exceed one-third  
199 (1/3) of the one-half (1/2) of such self-employment taxes; for the  
200 2000 calendar year, the deduction authorized by this subparagraph  
201 (ii) shall not exceed two-thirds (2/3) of the one-half (1/2) of  
202 such self-employment taxes; and for the 2001 calendar year, and  
203 each calendar year thereafter, the deduction authorized by this  
204 subparagraph (ii) shall be an amount equal to one-half (1/2) of  
205 such self-employment taxes.

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

211 (i) Three Thousand Four Hundred Dollars  
212 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred  
213 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand  
214 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter  
215 in the case of married individuals filing a joint or combined  
216 return;

217 (ii) One Thousand Seven Hundred Dollars  
218 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred  
219 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand  
220 Three Hundred Dollars (\$2,300.00) for each calendar year  
221 thereafter in the case of married individuals filing separate  
222 returns;

223 (iii) Three Thousand Four Hundred Dollars  
224 (\$3,400.00) in the case of a head of family; or

225 (iv) Two Thousand Three Hundred Dollars

226 (\$2,300.00) in the case of an individual who is not married.

227         In the case of a husband and wife living together, having  
228 separate incomes, and filing combined returns, the standard  
229 deduction authorized may be divided in any manner they choose. In  
230 the case of separate returns by a husband and wife, the standard  
231 deduction shall not be allowed to either if the taxable income of  
232 one of the spouses is determined without regard to the standard  
233 deduction.

234         (c) A nonresident individual shall be allowed the same  
235 individual nonbusiness deductions as are authorized for resident  
236 individuals in paragraph (a) or (b) of this subsection; however,  
237 the nonresident individual is entitled only to that proportion of  
238 the individual nonbusiness deductions as his net income from  
239 sources within the State of Mississippi bears to his total or  
240 entire net income from all sources.

241         (3) Nothing in this section shall permit the same item to be  
242 deducted more than once, either in fact or in effect.

243         SECTION 2. Nothing in this act shall affect or defeat any  
244 claim, assessment, appeal, suit, right or cause of action for  
245 taxes due or accrued under the income tax laws before the date on  
246 which this act becomes effective, whether such claims,  
247 assessments, appeals, suits or actions have been begun before the  
248 date on which this act becomes effective or are begun thereafter;  
249 and the provisions of the income tax laws are expressly continued  
250 in full force, effect and operation for the purpose of the  
251 assessment, collection and enrollment of liens for any taxes due  
252 or accrued and the execution of any warrant under such laws before  
253 the date on which this act becomes effective, and for the  
254 imposition of any penalties, forfeitures or claims for failure to  
255 comply with such laws.

256         SECTION 3. This act shall take effect and be in force from  
257 and after January 1, 2000.