

By: Representative Moak

To: Ways and Means

HOUSE BILL NO. 571

1 AN ACT TO ALLOW DEDUCTIONS IN COMPUTING TAXABLE INCOME FOR  
2 INCOME TAXES TO INDIVIDUALS COMPLETING HIGH SCHOOL OR COLLEGE, OR  
3 BOTH, IN THIS STATE; TO AMEND SECTION 27-7-17, MISSISSIPPI CODE OF  
4 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

6 SECTION 1. (1) For any individual, there shall be allowed  
7 as deductions in computing taxable income under this chapter, such  
8 amounts as follows:

9 (a) One Thousand Dollars (\$1,000.00) for being  
10 graduated from an accredited public or private high school in this  
11 state;

12 (b) One Thousand Dollars (\$1,000.00) for being  
13 graduated from an accredited public or private junior college or  
14 community college in this state; and

15 (c) One Thousand Dollars (\$1,000.00) for being  
16 graduated from an accredited public or private institution of  
17 higher learning in this state, except the deduction under this  
18 item (c) shall be Two Thousand Dollars (\$2,000.00) if the  
19 deduction under item (b) is inapplicable.

20 (2) The deductions described under subsection (1) of this  
21 section shall be allowed to individuals who are graduated during  
22 2001 or any year thereafter; however, the deduction for amounts  
23 under item (a), (b) or (c) of subsection (1) of this section shall  
24 be allowed to an individual only once and for one (1) taxable year  
25 only. The deduction or deductions allowed to an individual shall  
26 not be allowed for any taxable year:



27           (a) Which is more than three (3) years after such  
28 individual is graduated from an accredited public or private high  
29 school in this state; or

30           (b) Which is more than three (3) years after such  
31 individual ceases to be a full-time student at any accredited  
32 public or private institution of higher learning in this state, if  
33 within three (3) years after having been graduated from high  
34 school, such individual continues his education at an accredited  
35 public or private junior college, community college or institution  
36 of higher learning in this state.

37           The individual allowed the deduction or deductions under  
38 subsection (1) of this section may assign all deductions for which  
39 he is entitled to a parent, parents or a legal guardian.

40           An individual shall be deemed to have been graduated from an  
41 institution of higher learning on the date of final completion of  
42 all courses, hours or credits required for graduation. An  
43 individual shall be deemed to have been graduated from a junior  
44 college or community college on the date of final completion of  
45 all courses, hours or credits required for graduation. Completion  
46 of General Educational Development (GED) in this state shall be  
47 deemed to be graduation from an accredited high school in this  
48 state.

49           (3) A nonresident individual shall be allowed the same  
50 deductions under this section as are authorized for resident  
51 individuals. However, the nonresident individual is entitled only  
52 to that proportion of the deductions as his net income from  
53 sources within the State of Mississippi bears to his total or  
54 entire net income from all sources.

55           SECTION 2. Section 27-7-17, Mississippi Code of 1972, is  
56 amended as follows:

57           27-7-17. In computing taxable income, there shall be allowed  
58 as deductions:

59           (1) **Business deductions.**



60           (a) Business expenses. All the ordinary and necessary  
61 expenses paid or incurred during the taxable year in carrying on  
62 any trade or business, including a reasonable allowance for  
63 salaries or other compensation for personal services actually  
64 rendered; nonreimbursable traveling expenses incident to current  
65 employment, including a reasonable amount expended for meals and  
66 lodging while away from home in the pursuit of a trade or  
67 business; and rentals or other payments required to be made as a  
68 condition of the continued use or possession, for purposes of the  
69 trade or business of property to which the taxpayer has not taken  
70 or is not taking title or in which he had no equity. Expense  
71 incurred in connection with earning and distributing nontaxable  
72 income is not an allowable deduction. Limitations on  
73 entertainment expenses shall conform to the provisions of the  
74 Internal Revenue Code of 1986.

75           (b) Interest. All interest paid or accrued during the  
76 taxable year on business indebtedness, except interest upon the  
77 indebtedness for the purchase of tax-free bonds, or any stocks,  
78 the dividends from which are nontaxable under the provisions of  
79 this article; provided, however, in the case of securities  
80 dealers, interest payments or accruals on loans, the proceeds of  
81 which are used to purchase tax-exempt securities, shall be  
82 deductible if income from otherwise tax-free securities is  
83 reported as income. Investment interest expense shall be limited  
84 to investment income. Interest expense incurred for the purchase  
85 of treasury stock, to pay dividends, or incurred as a result of an  
86 undercapitalized affiliated corporation may not be deducted unless  
87 an ordinary and necessary business purpose can be established to  
88 the satisfaction of the commissioner. For the purposes of this  
89 paragraph, the phrase "interest upon the indebtedness for the  
90 purchase of tax-free bonds" applies only to the indebtedness  
91 incurred for the purpose of directly purchasing tax-free bonds and  
92 does not apply to any other indebtedness incurred in the regular



93 course of the taxpayer's business. Any corporation, association,  
94 organization or other entity taxable under Section 27-7-23(c)  
95 shall allocate interest expense as provided in Section  
96 27-7-23(c)(4)(H).

97 (c) Taxes. Taxes paid or accrued within the taxable  
98 year, except state and federal income taxes, excise taxes based on  
99 or measured by net income, estate and inheritance taxes, gift  
100 taxes, cigar and cigarette taxes, gasoline taxes, and sales and  
101 use taxes unless incurred as an item of expense in a trade or  
102 business or in the production of taxable income. In the case of  
103 an individual, taxes permitted as an itemized deduction under the  
104 provisions of subsection (2)(a) of this section are to be claimed  
105 thereunder.

106 (d) Business losses.

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

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

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

119 (f) Depreciation. A reasonable allowance for  
120 exhaustion, wear and tear of property used in the trade or  
121 business, or rental property, and depreciation upon buildings  
122 based upon their reasonable value as of March 16, 1912, if  
123 acquired prior thereto, and upon cost if acquired subsequent to  
124 that date.



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

132           (h) Contributions or gifts. Except as otherwise  
133 provided in subsection (2)(a) of this section for individuals,  
134 contributions or gifts made by corporations within the taxable  
135 year to corporations, organizations, associations or institutions,  
136 including Community Chest funds, foundations and trusts created  
137 solely and exclusively for religious, charitable, scientific or  
138 educational purposes, or for the prevention of cruelty to children  
139 or animals, no part of the net earnings of which inure to the  
140 benefit of any private stockholder or individual. This deduction  
141 shall be allowed in an amount not to exceed twenty percent (20%)  
142 of the net income. Such contributions or gifts shall be allowable  
143 as deductions only if verified under rules and regulations  
144 prescribed by the commissioner, with the approval of the Governor.  
145 Contributions made in any form other than cash shall be allowed as  
146 a deduction, subject to the limitations herein provided, in an  
147 amount equal to the actual market value of the contributions at  
148 the time the contribution is actually made and consummated.

149           (i) Reserve funds - insurance companies. In the case  
150 of insurance companies the net additions required by law to be  
151 made within the taxable year to reserve funds when such reserve  
152 funds are maintained for the purpose of liquidating policies at  
153 maturity.

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



157           (k) Contributions to employee pension plans.  
158 Contributions made by an employer to a plan or a trust forming  
159 part of a pension plan, stock bonus plan, disability or  
160 death-benefit plan, or profit-sharing plan of such employer for  
161 the exclusive benefit of some or all of his, their, or its  
162 employees, or their beneficiaries, shall be deductible from his,  
163 their, or its income only to the extent that, and for the taxable  
164 year in which, the contribution is deductible for federal income  
165 tax purposes under the Internal Revenue Code of 1986 and any other  
166 provisions of similar purport in the Internal Revenue Laws of the  
167 United States, and the rules, regulations, rulings and  
168 determinations promulgated thereunder, provided that:

169                   (i) The plan or trust be irrevocable.

170                   (ii) The plan or trust constitute a part of a  
171 pension plan, stock bonus plan, disability or death-benefit plan,  
172 or profit-sharing plan for the exclusive benefit of some or all of  
173 the employer's employees and/or officers, or their beneficiaries,  
174 for the purpose of distributing the corpus and income of the plan  
175 or trust to such employees and/or officers, or their  
176 beneficiaries.

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

180           Contributions to all plans or to all trusts of real or  
181 personal property (or real and personal property combined) or to  
182 insured plans created under a retirement plan for which provision  
183 has been made under the laws of the United States of America,  
184 making such contributions deductible from income for federal  
185 income tax purposes, shall be deductible only to the same extent  
186 under the Income Tax Laws of the State of Mississippi.

187           (1) Net operating loss carrybacks and carryovers. A  
188 net operating loss for any taxable year ending after December 31,  
189 1993, and taxable years thereafter, shall be a net operating loss



190 carryback to each of the three (3) taxable years preceding the  
191 taxable year of the loss. If the net operating loss for any  
192 taxable year is not exhausted by carrybacks to the three (3)  
193 taxable years preceding the taxable year of the loss, then there  
194 shall be a net operating loss carryover to each of the fifteen  
195 (15) taxable years following the taxable year of the loss  
196 beginning with any taxable year after December 31, 1991.

197 For any taxable year ending after December 31, 1997, the  
198 period for net operating loss carrybacks and net operating loss  
199 carryovers shall be the same as those established by the Internal  
200 Revenue Code and the rules, regulations, rulings and  
201 determinations promulgated thereunder.

202 The term "net operating loss," for the purposes of this  
203 paragraph, shall be the excess of the deductions allowed over the  
204 gross income; provided, however, the following deductions shall  
205 not be allowed in computing same:

206 (i) No net operating loss deduction shall be  
207 allowed.

208 (ii) No personal exemption deduction shall be  
209 allowed.

210 (iii) Allowable deductions which are not  
211 attributable to taxpayer's trade or business shall be allowed only  
212 to the extent of the amount of gross income not derived from such  
213 trade or business.

214 Any taxpayer entitled to a carryback period as provided by  
215 this paragraph may elect to relinquish the entire carryback period  
216 with respect to a net operating loss for any taxable year ending  
217 after December 31, 1991. The election shall be made in the manner  
218 prescribed by the State Tax Commission and shall be made by the  
219 due date, including extensions of time, for filing the taxpayer's  
220 return for the taxable year of the net operating loss for which  
221 the election is to be in effect. The election, once made for any  
222 taxable year, shall be irrevocable for that taxable year.



223 (m) Amortization of pollution or environmental control  
224 facilities.

225 Allowance of deduction. Every taxpayer, at his election,  
226 shall be entitled to a deduction for pollution or environmental  
227 control facilities to the same extent as that allowed under the  
228 Internal Revenue Code and the rules, regulations, rulings and  
229 determinations promulgated thereunder.

230 (n) Dividend distributions - real estate investment  
231 trusts. "Real estate investment trust" (hereinafter referred to  
232 as REIT) shall have the meaning ascribed to such term in Section  
233 856 of the federal Internal Revenue Code of 1986, as amended. A  
234 REIT is allowed a dividend distributed deduction if the dividend  
235 distributions meet the requirements of Section 857 or are  
236 otherwise deductible under Section 858 or 860, federal Internal  
237 Revenue Code of 1986, as amended. In addition:

238 (i) A dividend distributed deduction shall only be  
239 allowed for dividends paid by a publicly traded REIT. A qualified  
240 REIT subsidiary shall be allowed a dividend distributed deduction  
241 if its owner is a publicly traded REIT.

242 (ii) Income generated from real estate contributed  
243 or sold to a REIT by a shareholder or related party shall not give  
244 rise to a dividend distributed deduction, unless the shareholder  
245 or related party would have received the dividend distributed  
246 deduction under this chapter.

247 (iii) A holding corporation receiving a dividend  
248 from a REIT shall not be allowed the deduction in Section  
249 27-7-15(4)(t).

250 (iv) Any REIT not allowed the dividend distributed  
251 deduction in the federal Internal Revenue Code of 1986, as  
252 amended, shall not be allowed a dividend distributed deduction  
253 under this chapter.

254 The commissioner is authorized to promulgate rules and  
255 regulations consistent with the provisions in Section 269 of the





256 federal Internal Revenue Code of 1986, as amended, so as to  
257 prevent the evasion or avoidance of state income tax.

258 (o) Contributions to college savings trust fund  
259 accounts. Contributions or payments to a Mississippi Affordable  
260 College Savings Program account are deductible as provided under  
261 Section 37-155-113. Payments made under a prepaid tuition  
262 contract entered into under the Mississippi Prepaid Affordable  
263 College Tuition Program are deductible as provided under Section  
264 37-155-17.

265 (2) **Individual nonbusiness deductions.**

266 (a) The amount allowable for individual nonbusiness  
267 itemized deductions for federal income tax purposes, except the  
268 deduction for state income taxes paid, where the individual is  
269 eligible to elect, for the taxable year, to itemize deductions on  
270 his federal return; or

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

276 (i) Three Thousand Four Hundred Dollars  
277 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred  
278 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand  
279 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter  
280 in the case of married individuals filing a joint or combined  
281 return;

282 (ii) One Thousand Seven Hundred Dollars  
283 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred  
284 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand  
285 Three Hundred Dollars (\$2,300.00) for each calendar year  
286 thereafter in the case of married individuals filing separate  
287 returns;



288 (iii) Three Thousand Four Hundred Dollars  
289 (\$3,400.00) in the case of a head of family; or  
290 (iv) Two Thousand Three Hundred Dollars  
291 (\$2,300.00) in the case of an individual who is not married.

292 In the case of a husband and wife living together, having  
293 separate incomes, and filing combined returns, the standard  
294 deduction authorized may be divided in any manner they choose. In  
295 the case of separate returns by a husband and wife, the standard  
296 deduction shall not be allowed to either if the taxable income of  
297 one of the spouses is determined without regard to the standard  
298 deduction.

299 (c) A nonresident individual shall be allowed the same  
300 individual nonbusiness deductions as are authorized for resident  
301 individuals in paragraph (a) or (b) of this subsection; however,  
302 the nonresident individual is entitled only to that proportion of  
303 the individual nonbusiness deductions as his net income from  
304 sources within the State of Mississippi bears to his total or  
305 entire net income from all sources.

306 (d) The amount allowable under Section 1 of House Bill  
307 No. \_\_\_\_\_, 2001 Regular Session, for being graduated from an  
308 accredited public or private high school, junior college or  
309 community college or institution of higher learning in this state.

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

312 SECTION 3. Nothing in this act shall affect or defeat any  
313 claim, assessment, appeal, suit, right or cause of action for  
314 taxes due or accrued under the income tax laws before the date on  
315 which this act becomes effective, whether such claims,  
316 assessments, appeals, suits or actions have been begun before the  
317 date on which this act becomes effective or are begun thereafter;  
318 and the provisions of the income tax laws are expressly continued  
319 in full force, effect and operation for the purpose of the  
320 assessment, collection and enrollment of liens for any taxes due



321 or accrued and the execution of any warrant under such laws before  
322 the date on which this act becomes effective, and for the  
323 imposition of any penalties, forfeitures or claims for failure to  
324 comply with such laws.

325 SECTION 4. Section 1 of this act shall be codified as a  
326 separate Code section in Chapter 7, Title 27, Mississippi Code of  
327 1972.

328 SECTION 5. This act shall take effect and be in force from  
329 and after January 1, 2001.

