

By: Senator(s) Minor

To: Finance

## SENATE BILL NO. 3150

1 AN ACT TO LEVY A TAX IN THE AMOUNT OF 3% UPON AMOUNTS THAT  
2 ARE SUBJECT TO WITHHOLDING AND REPORTING REQUIREMENTS BY THE  
3 INTERNAL REVENUE CODE THAT ARE PAID TO PATRONS BY LICENSED GAMING  
4 ESTABLISHMENTS; TO PROVIDE THAT SUCH TAX SHALL BE COLLECTED BY  
5 GAMING ESTABLISHMENTS; TO PROVIDE THAT NO STATE INCOME TAX CREDIT  
6 SHALL BE GIVEN TO PATRONS FOR THE AMOUNT OF THE TAX SO COLLECTED;  
7 TO AMEND SECTION 27-7-15, MISSISSIPPI CODE OF 1972, TO EXCLUDE  
8 AMOUNTS PAID TO PATRONS UPON WHICH THE TAX PROVIDED FOR IN THIS  
9 ACT IS COLLECTED FROM THE DEFINITION OF GROSS INCOME UNDER THE  
10 STATE INCOME TAX LAWS; TO AMEND SECTION 27-7-17, MISSISSIPPI CODE  
11 OF 1972, TO PROVIDE THAT LOSSES INCURRED AT LICENSED GAMING  
12 ESTABLISHMENTS SHALL NOT BE DEDUCTIBLE UNDER STATE INCOME TAX  
13 LAWS; AND FOR RELATED PURPOSES.

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

15 SECTION 1. (1) There is hereby levied, assessed and shall  
16 be collected a tax of three percent (3%) upon amounts that are  
17 paid or credited by gaming establishments licensed under the  
18 provisions of the Mississippi Gaming Control Act to their patrons.  
19 The tax shall be collected by licensed gaming establishments and  
20 remitted to the State Tax Commission in the manner provided for by  
21 regulations promulgated by the Chairman of the State Tax  
22 Commission.

23 (2) As used in this section, "amounts that are paid or  
24 credited" means amounts or credits that are subject to the  
25 withholding or reporting requirements of the Internal Revenue Code  
26 and include, but are not limited to, amounts received in cash or  
27 other remuneration from play at any game, chance for stakes,  
28 tournament award or other prize, and compensation given to patrons  
29 in gratitude for play at the licensed gaming establishment, such  
30 as free lodging, transportation, membership dues and similar  
31 compensation.

32           (3) No credit shall be allowed under the Income Tax Law of  
33 1952 for the tax collected by licensed gaming establishments  
34 pursuant to this section.

35           SECTION 2. Section 27-7-15, Mississippi Code of 1972, is  
36 amended as follows:

37           27-7-15. (1) For the purposes of this article, except as  
38 otherwise provided, the term "gross income" means and includes the  
39 income of a taxpayer derived from salaries, wages, fees or  
40 compensation for service, of whatever kind and in whatever form  
41 paid, including income from governmental agencies and subdivisions  
42 thereof; or from professions, vocations, trades, businesses,  
43 commerce or sales, or renting or dealing in property, or  
44 reacquired property; also from annuities, interest, rents,  
45 dividends, securities, insurance premiums, reinsurance premiums,  
46 considerations for supplemental insurance contracts, or the  
47 transaction of any business carried on for gain or profit, or  
48 gains, or profits, and income derived from any source whatever and  
49 in whatever form paid. The amount of all such items of income  
50 shall be included in the gross income for the taxable year in  
51 which received by the taxpayer. The amount by which an eligible  
52 employee's salary is reduced pursuant to a salary reduction  
53 agreement authorized under Section 25-17-5 shall be excluded from  
54 the term "gross income" within the meaning of this article.

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

58           (a) Dealers in property. Federal rules, regulations  
59 and revenue procedures shall be followed with respect to  
60 installment sales.

61           (b) Casual sales of property. Federal rules,  
62 regulations and revenue procedures shall be followed with respect  
63 to installment sales.

64 (i) The term "installment sale" means a  
65 disposition of property where at least one (1) payment is to be  
66 received after the close of the taxable year in which the  
67 disposition occurs.

68 (ii) The term "installment method" means a method  
69 under which the income recognized for any taxable year from the  
70 disposition is that proportion of the payments received in that  
71 year which the gross profit (realized or to be realized when  
72 payment is completed) bears to the total contract price.

73 (c) Reserves of insurance companies. In the case of  
74 insurance companies, any amounts in excess of the legally required  
75 reserves shall be included as gross income.

76 (d) Affiliated companies or persons. As regards sales,  
77 exchanges or payments for services from one to another of  
78 affiliated companies or persons or under other circumstances where  
79 the relation between the buyer and seller is such that gross  
80 proceeds from the sale or the value of the exchange or the payment  
81 for services are not indicative of the true value of the subject  
82 matter of the sale, exchange or payment for services, the  
83 commissioner shall prescribe uniform and equitable rules for  
84 determining the true value of the gross income, gross sales,  
85 exchanges or payment for services, or require consolidated returns  
86 of affiliates.

87 (e) Alimony and separate maintenance payments. The  
88 federal rules, regulations and revenue procedures in determining  
89 the deductibility and taxability of alimony payments shall be  
90 followed in this state.

91 (f) Reimbursement for expenses of moving. There shall  
92 be included in gross income (as compensation for services) any  
93 amount received or accrued, directly or indirectly, by an  
94 individual as a payment for or reimbursement of expenses of moving  
95 from one residence to another residence which is attributable to  
96 employment or self-employment.

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

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

102                 (a) The proceeds of life insurance policies and  
103 contracts paid upon the death of the insured. However, the income  
104 from the proceeds of such policies or contracts shall be included  
105 in the gross income.

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

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

113                 (d) Interest upon the obligations of the United States  
114 or its possessions, or securities issued under the provisions of  
115 the Federal Farm Loan Act of July 17, 1916, or bonds issued by the  
116 War Finance Corporation, or obligations of the State of  
117 Mississippi or political subdivisions thereof.

118                 (e) The amounts received through accident or health  
119 insurance as compensation for personal injuries or sickness, plus  
120 the amount of any damages received for such injuries or such  
121 sickness or injuries, or through the War Risk Insurance Act, or  
122 any law for the benefit or relief of injured or disabled members  
123 of the military or naval forces of the United States.

124                 (f) Income received by any religious denomination or by  
125 any institution or trust for moral or mental improvements,  
126 religious, Bible, tract, charitable, benevolent, fraternal,  
127 missionary, hospital, infirmary, educational, scientific,  
128 literary, library, patriotic, historical or cemetery purposes or

129 for two (2) or more of such purposes, if such income be used  
130 exclusively for carrying out one or more of such purposes.

131 (g) Income received by a domestic corporation which is  
132 "taxable in another state" as this term is defined in this  
133 article, derived from business activity conducted outside this  
134 state. Domestic corporations taxable both within and without the  
135 state shall determine Mississippi income on the same basis as  
136 provided for foreign corporations under the provisions of this  
137 article.

138 (h) In case of insurance companies, there shall be  
139 excluded from gross income such portion of actual premiums  
140 received from an individual policyholder as is paid back or  
141 credited to or treated as an abatement of premiums of such  
142 policyholder within the taxable year.

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

147 (j) Amounts paid by the United States to a person as  
148 added compensation for hazardous duty pay as a member of the Armed  
149 Forces of the United States in a combat zone designated by  
150 Executive Order of the President of the United States.

151 (k) Amounts received as retirement allowances,  
152 pensions, annuities or optional retirement allowances paid under  
153 the federal Social Security Act, the Railroad Retirement Act, the  
154 Federal Civil Service Retirement Act, or any other retirement  
155 system of the United States government, retirement allowances paid  
156 under the Mississippi Public Employees' Retirement System,  
157 Mississippi Highway Safety Patrol Retirement System or any other  
158 retirement system of the State of Mississippi or any political  
159 subdivision thereof. The exemption allowed under this paragraph  
160 (k) shall be available to the spouse or other beneficiary at the  
161 death of the primary retiree.

162           (1) Amounts received as retirement allowances,  
163 pensions, annuities or optional retirement allowances paid by any  
164 public or governmental retirement system not designated in  
165 subsection (k) or any private retirement system or plan of which  
166 the recipient was a member at any time during the period of his  
167 employment. Amounts received as a distribution under a Roth  
168 individual retirement account shall be treated in the same manner  
169 as provided under the Internal Revenue Code of 1986, as amended.  
170 The exemption allowed under this paragraph (1) shall be available  
171 to the spouse or other beneficiary at the death of the primary  
172 retiree.

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

178           (n) Compensation received for active service as a  
179 member below the grade of commissioned officer and so much of the  
180 compensation as does not exceed the aggregate sum of Five Hundred  
181 Dollars (\$500.00) per month received for active service as a  
182 commissioned officer in the Armed Forces of the United States for  
183 any month during any part of which such members of the Armed  
184 Forces (i) served in a combat zone as designated by Executive  
185 Order of the President of the United States; or (ii) was  
186 hospitalized as a result of wounds, disease or injury incurred  
187 while serving in such combat zone.

188           (o) The proceeds received from federal and state  
189 forestry incentives programs.

190           (p) The amount representing the difference between the  
191 increase of gross income derived from sales for export outside the  
192 United States as compared to the preceding tax year wherein gross  
193 income from export sales was highest, and the net increase in  
194 expenses attributable to such increased exports. In the absence

195 of direct accounting the ratio of net profits to total sales may  
196 be applied to the increase in export sales. This paragraph (p)  
197 shall only apply to businesses located in this state engaging in  
198 the international export of Mississippi goods and services. Such  
199 goods or services shall have at least fifty percent (50%) of value  
200 added at a location in Mississippi.

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

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

211 (s) Amounts paid by the Mississippi Soil and Water  
212 Conservation Commission from the Mississippi Soil and Water  
213 Cost-Share Program for the installation of water quality best  
214 management practices.

215 (t) Dividends received by a holding corporation, as  
216 defined in Section 27-13-1, from a subsidiary corporation, as  
217 defined in Section 27-13-1.

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

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

227           (w) Amounts that are subject to the tax levied pursuant  
228 to Section 1, Senate Bill No. 3150, 2001 Regular Session, and are  
229 paid to patrons by gaming establishments licensed under the  
230 Mississippi Gaming Control Act.

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

232           (a) Members of the Armed Forces. Gross income does not  
233 include compensation received for active service as a member of  
234 the Armed Forces of the United States for any month during any  
235 part of which such member is in a missing status, as defined in  
236 paragraph (d) of this subsection, during the Vietnam Conflict as a  
237 result of such conflict.

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

242           (c) Period of conflict. For the purpose of this  
243 subsection, the Vietnam Conflict began February 28, 1961, and ends  
244 on the date designated by the President by Executive Order as the  
245 date of the termination of combatant activities in Vietnam. For  
246 the purpose of this subsection, an individual is in a missing  
247 status as a result of the Vietnam Conflict if immediately before  
248 such status began he was performing service in Vietnam or was  
249 performing service in Southeast Asia in direct support of military  
250 operations in Vietnam. "Southeast Asia" as used in this paragraph  
251 is defined to include Cambodia, Laos, Thailand and waters adjacent  
252 thereto.

253           (d) "Missing status" means the status of an employee or  
254 member of the Armed Forces who is in active service and is  
255 officially carried or determined to be absent in a status of (i)  
256 missing; (ii) missing in action; (iii) interned in a foreign  
257 country; (iv) captured, beleaguered or besieged by a hostile  
258 force; or (v) detained in a foreign country against his will; but  
259 does not include the status of an employee or member of the Armed

260 Forces for a period during which he is officially determined to be  
261 absent from his post of duty without authority.

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

265 (f) "Employee" means one who is a citizen or national  
266 of the United States or an alien admitted to the United States for  
267 permanent residence and is a resident of the State of Mississippi  
268 and is employed in or under a federal executive agency or  
269 department of the Armed Forces.

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

274 (h) If refund or credit of any overpayment of tax for  
275 any taxable year resulting from the application of subsection (5)  
276 of this section is prevented by the operation of any law or rule  
277 of law, such refund or credit of such overpayment of tax may,  
278 nevertheless, be made or allowed if claim therefor is filed with  
279 the State Tax Commission within three (3) years after the date of  
280 the enactment of this subsection.

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

283 (6) A shareholder of an S corporation, as defined in Section  
284 27-8-3(1)(g), shall take into account the income, loss, deduction  
285 or credit of the S corporation only to the extent provided in  
286 Section 27-8-7(2).

287 SECTION 3. Section 27-7-17, Mississippi Code of 1972, is  
288 amended as follows:

289 27-7-17. In computing taxable income, there shall be allowed  
290 as deductions:

291 (1) **Business deductions.**

292           (a) Business expenses. All the ordinary and necessary  
293 expenses paid or incurred during the taxable year in carrying on  
294 any trade or business, including a reasonable allowance for  
295 salaries or other compensation for personal services actually  
296 rendered; nonreimbursable traveling expenses incident to current  
297 employment, including a reasonable amount expended for meals and  
298 lodging while away from home in the pursuit of a trade or  
299 business; and rentals or other payments required to be made as a  
300 condition of the continued use or possession, for purposes of the  
301 trade or business of property to which the taxpayer has not taken  
302 or is not taking title or in which he had no equity. Expense  
303 incurred in connection with earning and distributing nontaxable  
304 income is not an allowable deduction. Limitations on  
305 entertainment expenses shall conform to the provisions of the  
306 Internal Revenue Code of 1986.

307           (b) Interest. All interest paid or accrued during the  
308 taxable year on business indebtedness, except interest upon the  
309 indebtedness for the purchase of tax-free bonds, or any stocks,  
310 the dividends from which are nontaxable under the provisions of  
311 this article; provided, however, in the case of securities  
312 dealers, interest payments or accruals on loans, the proceeds of  
313 which are used to purchase tax-exempt securities, shall be  
314 deductible if income from otherwise tax-free securities is  
315 reported as income. Investment interest expense shall be limited  
316 to investment income. Interest expense incurred for the purchase  
317 of treasury stock, to pay dividends, or incurred as a result of an  
318 undercapitalized affiliated corporation may not be deducted unless  
319 an ordinary and necessary business purpose can be established to  
320 the satisfaction of the commissioner. For the purposes of this  
321 paragraph, the phrase "interest upon the indebtedness for the  
322 purchase of tax-free bonds" applies only to the indebtedness  
323 incurred for the purpose of directly purchasing tax-free bonds and  
324 does not apply to any other indebtedness incurred in the regular

325 course of the taxpayer's business. Any corporation, association,  
326 organization or other entity taxable under Section 27-7-23(c)  
327 shall allocate interest expense as provided in Section  
328 27-7-23(c)(4)(H).

329 (c) Taxes. Taxes paid or accrued within the taxable  
330 year, except state and federal income taxes, excise taxes based on  
331 or measured by net income, estate and inheritance taxes, gift  
332 taxes, cigar and cigarette taxes, gasoline taxes, and sales and  
333 use taxes unless incurred as an item of expense in a trade or  
334 business or in the production of taxable income. In the case of  
335 an individual, taxes permitted as an itemized deduction under the  
336 provisions of subsection (2)(a) of this section are to be claimed  
337 thereunder.

338 (d) Business losses.

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

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

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

351 (f) Depreciation. A reasonable allowance for  
352 exhaustion, wear and tear of property used in the trade or  
353 business, or rental property, and depreciation upon buildings  
354 based upon their reasonable value as of March 16, 1912, if  
355 acquired prior thereto, and upon cost if acquired subsequent to  
356 that date.

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

364           (h) Contributions or gifts. Except as otherwise  
365 provided in subsection (2)(a) of this section for individuals,  
366 contributions or gifts made by corporations within the taxable  
367 year to corporations, organizations, associations or institutions,  
368 including Community Chest funds, foundations and trusts created  
369 solely and exclusively for religious, charitable, scientific or  
370 educational purposes, or for the prevention of cruelty to children  
371 or animals, no part of the net earnings of which inure to the  
372 benefit of any private stockholder or individual. This deduction  
373 shall be allowed in an amount not to exceed twenty percent (20%)  
374 of the net income. Such contributions or gifts shall be allowable  
375 as deductions only if verified under rules and regulations  
376 prescribed by the commissioner, with the approval of the Governor.  
377 Contributions made in any form other than cash shall be allowed as  
378 a deduction, subject to the limitations herein provided, in an  
379 amount equal to the actual market value of the contributions at  
380 the time the contribution is actually made and consummated.

381           (i) Reserve funds - insurance companies. In the case  
382 of insurance companies the net additions required by law to be  
383 made within the taxable year to reserve funds when such reserve  
384 funds are maintained for the purpose of liquidating policies at  
385 maturity.

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

389           (k) Contributions to employee pension plans.  
390 Contributions made by an employer to a plan or a trust forming  
391 part of a pension plan, stock bonus plan, disability or  
392 death-benefit plan, or profit-sharing plan of such employer for  
393 the exclusive benefit of some or all of his, their, or its  
394 employees, or their beneficiaries, shall be deductible from his,  
395 their, or its income only to the extent that, and for the taxable  
396 year in which, the contribution is deductible for federal income  
397 tax purposes under the Internal Revenue Code of 1986 and any other  
398 provisions of similar purport in the Internal Revenue Laws of the  
399 United States, and the rules, regulations, rulings and  
400 determinations promulgated thereunder, provided that:

401                   (i) The plan or trust be irrevocable.

402                   (ii) The plan or trust constitute a part of a  
403 pension plan, stock bonus plan, disability or death-benefit plan,  
404 or profit-sharing plan for the exclusive benefit of some or all of  
405 the employer's employees and/or officers, or their beneficiaries,  
406 for the purpose of distributing the corpus and income of the plan  
407 or trust to such employees and/or officers, or their  
408 beneficiaries.

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

412           Contributions to all plans or to all trusts of real or  
413 personal property (or real and personal property combined) or to  
414 insured plans created under a retirement plan for which provision  
415 has been made under the laws of the United States of America,  
416 making such contributions deductible from income for federal  
417 income tax purposes, shall be deductible only to the same extent  
418 under the Income Tax Laws of the State of Mississippi.

419           (1) Net operating loss carrybacks and carryovers. A  
420 net operating loss for any taxable year ending after December 31,  
421 1993, and taxable years thereafter, shall be a net operating loss

422 carryback to each of the three (3) taxable years preceding the  
423 taxable year of the loss. If the net operating loss for any  
424 taxable year is not exhausted by carrybacks to the three (3)  
425 taxable years preceding the taxable year of the loss, then there  
426 shall be a net operating loss carryover to each of the fifteen  
427 (15) taxable years following the taxable year of the loss  
428 beginning with any taxable year after December 31, 1991.

429 For any taxable year ending after December 31, 1997, the  
430 period for net operating loss carrybacks and net operating loss  
431 carryovers shall be the same as those established by the Internal  
432 Revenue Code and the rules, regulations, rulings and  
433 determinations promulgated thereunder.

434 The term "net operating loss," for the purposes of this  
435 paragraph, shall be the excess of the deductions allowed over the  
436 gross income; provided, however, the following deductions shall  
437 not be allowed in computing same:

438 (i) No net operating loss deduction shall be  
439 allowed.

440 (ii) No personal exemption deduction shall be  
441 allowed.

442 (iii) Allowable deductions which are not  
443 attributable to taxpayer's trade or business shall be allowed only  
444 to the extent of the amount of gross income not derived from such  
445 trade or business.

446 Any taxpayer entitled to a carryback period as provided by  
447 this paragraph may elect to relinquish the entire carryback period  
448 with respect to a net operating loss for any taxable year ending  
449 after December 31, 1991. The election shall be made in the manner  
450 prescribed by the State Tax Commission and shall be made by the  
451 due date, including extensions of time, for filing the taxpayer's  
452 return for the taxable year of the net operating loss for which  
453 the election is to be in effect. The election, once made for any  
454 taxable year, shall be irrevocable for that taxable year.

455           (m) Amortization of pollution or environmental control  
456 facilities. Allowance of deduction. Every taxpayer, at his  
457 election, shall be entitled to a deduction for pollution or  
458 environmental control facilities to the same extent as that  
459 allowed under the Internal Revenue Code and the rules,  
460 regulations, rulings and determinations promulgated thereunder.

461           (n) Dividend distributions - real estate investment  
462 trusts. "Real estate investment trust" (hereinafter referred to  
463 as REIT) shall have the meaning ascribed to such term in Section  
464 856 of the federal Internal Revenue Code of 1986, as amended. A  
465 REIT is allowed a dividend distributed deduction if the dividend  
466 distributions meet the requirements of Section 857 or are  
467 otherwise deductible under Section 858 or 860, federal Internal  
468 Revenue Code of 1986, as amended. In addition:

469           (i) A dividend distributed deduction shall only be  
470 allowed for dividends paid by a publicly traded REIT. A qualified  
471 REIT subsidiary shall be allowed a dividend distributed deduction  
472 if its owner is a publicly traded REIT.

473           (ii) Income generated from real estate contributed  
474 or sold to a REIT by a shareholder or related party shall not give  
475 rise to a dividend distributed deduction, unless the shareholder  
476 or related party would have received the dividend distributed  
477 deduction under this chapter.

478           (iii) A holding corporation receiving a dividend  
479 from a REIT shall not be allowed the deduction in Section  
480 27-7-15(4)(t).

481           (iv) Any REIT not allowed the dividend distributed  
482 deduction in the federal Internal Revenue Code of 1986, as  
483 amended, shall not be allowed a dividend distributed deduction  
484 under this chapter.

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

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

489 (o) Contributions to college savings trust fund  
490 accounts. Contributions or payments to a Mississippi Affordable  
491 College Savings Program account are deductible as provided under  
492 Section 37-155-113. Payments made under a prepaid tuition  
493 contract entered into under the Mississippi Prepaid Affordable  
494 College Tuition Program are deductible as provided under Section  
495 37-155-17.

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

497 (a) The amount allowable for individual nonbusiness  
498 itemized deductions for federal income tax purposes \* \* \* where  
499 the individual is eligible to elect, for the taxable year, to  
500 itemize deductions on his federal return except the following:

501 (i) The deduction for state income taxes paid;

502 (ii) The deduction for gaming losses from gaming  
503 establishments licensed under the Mississippi Gaming Control Act;

504 (iii) The deduction for taxes collected by  
505 licensed gaming establishments pursuant to Section 1, Senate Bill  
506 No. 3150, 2001 Regular Session. \* \* \*

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

512 (i) Three Thousand Four Hundred Dollars  
513 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred  
514 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand  
515 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter  
516 in the case of married individuals filing a joint or combined  
517 return;

518 (ii) One Thousand Seven Hundred Dollars  
519 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred

520 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand  
521 Three Hundred Dollars (\$2,300.00) for each calendar year  
522 thereafter in the case of married individuals filing separate  
523 returns;

524 (iii) Three Thousand Four Hundred Dollars  
525 (\$3,400.00) in the case of a head of family; or

526 (iv) Two Thousand Three Hundred Dollars  
527 (\$2,300.00) in the case of an individual who is not married.

528 In the case of a husband and wife living together, having  
529 separate incomes, and filing combined returns, the standard  
530 deduction authorized may be divided in any manner they choose. In  
531 the case of separate returns by a husband and wife, the standard  
532 deduction shall not be allowed to either if the taxable income of  
533 one of the spouses is determined without regard to the standard  
534 deduction.

535 (c) A nonresident individual shall be allowed the same  
536 individual nonbusiness deductions as are authorized for resident  
537 individuals in paragraph (a) or (b) of this subsection; however,  
538 the nonresident individual is entitled only to that proportion of  
539 the individual nonbusiness deductions as his net income from  
540 sources within the State of Mississippi bears to his total or  
541 entire net income from all sources.

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

544 SECTION 4. This act shall take effect and be in force from  
545 and after January 1, 2002.